

An ordinance establishing business licenses, and the rules associated with said licenses, for the operation of businesses in the City of Forks

Whereas, the City Council has determined that it is in need of data regarding the businesses that operate within the City of Forks;

Whereas, the City Council believes that there is a need to ensure that businesses operating in the City do so in a manner that complies with existing health, fire, building, zoning, and other codes of the City;

NOW, The City Council of the City of Forks do ordain as follows:

Section 1. Creation of a new chapter in the Forks Municipal Code. A new chapter is hereby created in the Forks Municipal Code entitled “Business Licenses” and shall be codified in a manner consistent with the Forks Municipal Code’s Title Five.

Section 2. Purpose. The purpose of this chapter is as follows:

“This chapter is enacted in order for the City to have a means of ensuring that businesses operating in the City do so in a manner that complies with existing health, fire, building, zoning, and other codes of the City; and, further for the City to have a means of obtaining public information and compiling statistical information regarding the business activity within the City as it relates to new and existing businesses.”

Section 3. Definitions. Unless the context clearly requires otherwise, the following definitions shall apply to this chapter:

- A. Business – Includes all activities engaged in with the objective of gain, benefit or advantage, direct or indirect, to the licensee or to another person and/or class of people.
- B. Home Based Business – Business activity engaged in by the licensee from their residence and may include such things as catalog based sales, internet sales, professional services, art studios, etc.
- C. Engage in business – Commencing, conducting, or continuing in business or carrying on of any form of activity for gain, profit or advantage, whether direct or indirect.
- D. Person – Any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnerships, joint venture, club, company, joint stock company, business trust, corporation, association, 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.

Section 4. Business License Required. It shall be unlawful for any person to conduct, operate, and/or engage in business as defined herein, unless

found to be exempt pursuant to this Chapter, without having first obtained a business license from the City of Forks.

Section 5. Exemptions.

- A. The provisions of this chapter shall not apply to:
 - 1. Delivery persons, suppliers of goods delivered by said suppliers and/or their agents to be resold by other businesses located within the community, contractors with the United States Post Office engaged in the delivery of the U.S. mail;
 - 2. Minors doing business or operating a business concern where no other person is employed by the minor, or minors engaged in fund raising for charitable, educational, or sports related activities;
 - 3. Sales and services exempt from taxation pursuant to federal statutes regarding “internet” business activity, until such time as those sales and services become subject to local licensing and taxing;
 - 4. People engaged in business with less than one thousand dollars in annual total gross sales/services;
 - 5. Vendors participating in bazaar’s, farmer’s markets, etc., in association with a sponsored activity by an entity listed within Section 5, Paragraph B of this ordinance;
 - 6. The United States or any instrumentality thereof and the state of Washington or any municipal subdivision thereof.
- B. The license requirements shall not apply to the following activities:
 - 1. Fraternal benefit associations or societies as defined within RCW 48.36.010;
 - 2. Non-profit religious organizations;
 - 3. Non-profit associations, clubs or corporations maintained for the purpose of organized sports, arts, education, charity, public school-related activities or municipal corporate-related activities (including police, fire, ambulance, emergency medical, and search & rescue, reserve organizations);

Section 6. Issuance of the Licenses.

- A. All licenses shall be issued by the City Clerk/Treasurer in a form and manner prescribed and approved by the Council. A license shall only be issued upon the Clerk/Treasurer’s receipt of a written application made to the City. The Clerk/Treasurer shall maintain a register of the licenses issued that will be maintained in a manner approved by the Mayor.
- B. The application submitted to the City Clerk/Treasurer shall:
 - 1. be signed by the person, or an officer authorized to so sign, who intends to engage in business;
 - 2. state the location and nature of the business for which the license is being sought;
 - 3. include any other information required in the application by the City Council; and,

4. include the required license fee.
- C. **Review of New Applications.** The City Clerk/Treasurer shall have all new applications for a business license reviewed by appropriate officials to ensure that the proposed business in the specified location complies with the existing zoning code, sign code, development codes, etc. If it is determined that the proposed business would require additional permits to ensure compliance with City codes, this information shall be provided to the applicant and the business license application returned to the applicant. If it is determined that the proposed business would be in compliance with applicable City codes, the license shall be granted within a period of time not to exceed 21 days from the date the application was submitted to the City for review.
- D. **Renewal of existing license.** Business licenses are required to be renewed in January of each year. If any license is not renewed on or before the 31st of January of the following year, the City Clerk/Treasurer may require a new application be made for a business license to be accompanied by the applicable fee noted below. A person may renew a license for up to a total of no more than two years at any one time.
- E. **Persons with multiple businesses or subsidiaries operating within the City.** If a person is operating multiple subsidiary businesses at different locations within the City, one set of business licenses may be issued by the Clerk/Treasurer as well as a license for each subsidiary business provided that the person complete an application for each business entity operating within the City. The person shall pay the multiple business location fee for this set of licenses.

Section 7. License

- A. **Term of License.** All business licenses, except vendor permits, issued pursuant to this chapter shall be valid until December 31st of the year for which they are issued, and all renewals thereafter shall be for a period of one calendar year commencing January 1st of the year for which the license is issued and terminating on December 31st of the same year, unless the license(s) is/are being renewed for two consecutive years, in which case the termination date of the renewal will be the 31st of December of the second year of the renewal.
- B. **Posting of License.** Each person who has obtained a business license pursuant to this chapter shall ensure, when able to do so, that at all times said license is posted in the place of business for which the license was issued.
- C. **Non-transferable.** When the place of business of a person required to obtain a license pursuant to this chapter is changed, the person shall, if possible, return the license to the City Clerk/Treasurer and a new license shall be issued for the new place of business to that person without charge for the balance of the license year. Should a business be sold or its ownership transferred to another person, the new owner of said business shall apply for a new business license as provided in this chapter.

Section 8. Fees. The following fee structure shall apply to licenses issued pursuant to this chapter:

- A. **Home based businesses.** An initial license fee of \$20 shall be collected for licenses issued to a home based business, with the renewal of said license being \$10 per year thereafter;
- B. **Temporary Vendors Permit.** A fee of \$20 shall be collected for a temporary vendors permit issued for a period of not longer than seven consecutive days. Said permits are not subject to renewal and a person requiring an additional period of time shall apply for a new permit.
- C. **Standard business license.** A fee of \$30 shall be collected for a standard business license, with the renewal of said license being \$20 per year thereafter.
- D. **Multiple businesses or locations license.** A fee of \$50 shall be collected for a set of licenses issued to a corporation, person or entity operating subsidiaries and/or separate businesses in multiple locations within the City, with the renewal of said license being \$30 per year thereafter.
- E. **Late renewal fee.** An additional \$15 shall be added to the renewal fee for those people that renew a license after the 15th of February and prior to the sending of a notice of revocation of the license due to delinquency in payment of fee.
- F. **Reinstatement of Revoked License.** A fee of \$50 shall be added to any other applicable fees to be paid by the person seeking to reinstate a revoked license.

Section 9. Proof of De minimus Business Activities. The Clerk/Treasurer may request of a person engaged in business in the City of Forks, and believed to be exempt from the provisions of this license due to de minimus gross annual sales/service activities, proof in some reasonable manner of the claimed exemption. Such a request shall be made by the Clerk/Treasurer to the person claiming the exemption in writing and with a reasonable period to respond. Any determination by the Clerk/Treasurer regarding the application of the exemption shall be communicated to the person claiming the exemption in writing.

Section 10. Fraudulent use of business license. No person obtaining a license pursuant to this chapter shall allow any other person for whom a separate license is required to operate under or display the original licensee's license. No person may maintain a business license obtained through a false or fraudulent application or through making any false statement or representation in connection with applying for or renewing such license. Individuals engaged in the fraudulent use of a business license as described within this section shall be subject to the penalties noted elsewhere within this ordinance.

Section 11. Code Compliance. Notwithstanding any contrary provision hereof, a license issued under this chapter may not be issued to any person who

at the time of applying for the license would be using or occupying any real property in violation of the provisions of the Forks zoning code, building code, fire code, and any and all amendments thereto. Unless grandfathered-in pursuant to the zoning code, or other applicable codes, subsequent operation of a licensed business shall be in compliance with all applicable codes and regulations of the City of Forks.

Section 12. Revocation.

- A. The Mayor may revoke the license of any person required to obtain a business license who is in default of any payment of any license fee or who shall fail to comply with any of the provisions of this chapter. Such a revocation may only occur after notice of the revocation is sent by certified mail by the City Clerk/Treasurer to the person in writing that on or after a date specified therein the person's license will be revoked. Said notice shall also specify the reasons for the revocation. On or after the date mentioned within the notice, any person who continues to engage in business shall be deemed to be operating without a license and shall be subject to any or all penalties provided for in this chapter.
- B. **Revocation for delinquency of payment of fees.** If on the 1st of March, a person has not renewed their license with the Clerk/Treasurer, the Clerk/Treasurer shall send said person notice of the City's intent to revoke the person's license due to delinquency of payment of license fees with a revocation date effective the 15th of March. If the person receiving such a letter seeks to renew said license, the Clerk/Treasurer may require the completion of a new application. In addition, if renewal is sought prior to the 15th of March, the person shall pay to the City the license fee, and two times the late fee. If a license is not renewed by the 15th of March, the license shall be revoked and any person who continues to engage in business shall be deemed to be operating without a license and shall be subject to any or all penalties provided for in this chapter. A person seeking to continue operating the business for which a license was revoked due to delinquency of fees shall be required to make a new application for a business license and pay a reinstatement fee of \$50 in addition to the license fee.
- C. It shall be unlawful for a person engaged in business to continue in such business after revocation of their license has occurred pursuant to this chapter and such a person shall be subject to the penalties noted elsewhere within this chapter.

Section 13. Authority to Stop Work. Whenever any business is being conducted, or any work done by persons engaged in business, in violation of the licensing requirements of this chapter, the Mayor or their designee is authorized to order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, or engaging in such business, and any such persons shall forthwith stop such work until a business licenses is obtained as provided herein. Where certain business activities are subject to County and State

regulations, and where the City is provided notice of the business' failure to comply with said County and/or State regulations, the Mayor may base an order to stop work upon that information provided in good faith by those other regulatory agencies. Failure to stop such work shall be deemed to be engaging in business without a license and shall be subject to any or all penalties provided for in this chapter.

Section 14. Specific License Requirement for Certain Businesses. Whereas certain businesses affect the health and well being of the community, they are required to comply not only with the general provisions of this chapter, but also the following specific requirements.

A. **Restaurant/Food Service.** A person engaged in business which involves a deli, restaurant, snack bar, or similar such business, shall provide proof of the following when applying for a license or renewing an existing license:

1. Applicable licenses and/or permits required for the operation of such a business from the County Health Department; and
2. Installation of, inspection of, and proof of cleaning and proper disposal of materials removed from a grease trap; or some alternative means of proper disposal. If a grease trap, or alternative method of disposal is utilized, said item shall be subject to inspection by the City at any time during the course of the operating of the business. ***Proof of cleaning and disposal of materials cleaned shall be done in writing and provided at the time of renewal.*** Cleaning of such devices may be done by the person obtaining the license, provided, that materials cleaned from the device are not disposed of in such a manner as to introduce them to the City's stormwater drainage or sanitary sewer system.

B. **Serving of and/or sale of alcoholic beverages.** A person who is engaged in business which involves the serving of and/or sale of alcoholic beverages shall be required to provide proof of their being so licensed by the state at the time of application for a business license or upon renewal of the business license. If a person is pursuing such state licensing, they shall state that in their application for a business license or its renewal. Failure to obtain proper state licenses shall be grounds for revocation of a business license. In addition, repeated noncompliance with state laws associated with the sale and or serving of alcoholic beverages may be grounds for revocation of the person's license.

C. **HAZMAT Plans.** Businesses that have or are required to have plans for the handling of hazardous materials used in their regular line of business must indicate this on their application for a license. The City will forward a copy of the application to the local emergency service providers thereby allowing said entities the opportunity to contact the business owner/operator about locations of said materials, response requirements, etc.

- D. The Mayor may designate specific City departments to conduct inspections associated with these specific conditions, and/or rely upon the reports of County and State officials already empowered to undertake inspections regarding said activities.

Section 15. Notice of noncompliance – revocation – final action. A pending application for renewal under this chapter shall be deemed in compliance with this chapter unless the person is notified by the City Clerk/Treasurer in writing that said application may not be granted because of noncompliance with provisions of this chapter. In the event such notice is given, the applicant shall have sixty (60) days from the date of such notice to comply with any section violated hereunder prior to final action upon such application for renewal unless an extension for compliance is granted by the City Council. This section shall not apply to issues associated with the payment of fees for renewal as covered elsewhere within this chapter.

Section 16. Appeal to City Council. Any person aggrieved under the provisions of this chapter may appeal to the City Council any action taken by the Mayor and/or the City Clerk/Treasurer within fifteen days from the time the person was mailed notice of noncompliance with the provisions of this chapter. The person seeking an appeal shall state the reason for the appeal in writing and provide said writing and an appeal fee of \$50 to the Clerk/Treasurer within the specified appeal period. The Clerk/Treasurer shall, as soon as practical, fix a time and place for the hearing of such an appeal, within 30 days from receipt by the Clerk/Treasurer for such an appeal. Notice of the time and location of the appeal shall be either mailed, via certified mail, to the person requesting the appeal or hand delivered to said person. The person making the appeal shall be permitted during the hearing to introduce evidence on their behalf. The city may, before the appeal is to be heard, by subpoena, require the attendance at such hearing of any person and may require such person to produce any pertinent books and records. Any person served with such a subpoena shall appear at the time and place therein stated and produce the books and records required, if any, and shall testify truthfully under oath administered by the mayor, or person in charge of the hearing on appeal as to any matter required of such person pertinent to the appeal and it shall be unlawful for such person to fail or refuse to do so. Within 20 days following the hearing, the City Council shall make a decision upon specific findings and notify the appellant thereof by mail. Action taken by the City Council on the appeal shall be final unless within 30 days thereof an appeal has been filed with the Clallam County Superior Court by writ of certiorari. If the person filing the appeal is successful making their plea, the appeal fee shall be returned to the appellant within 15 days of the final decision.

Section 17. Violations. Violations of this chapter shall be as follows:

- A. **Failure to obtain a vendor's permit.** The first offense by a person failing to obtain such a permit shall be the payment of a civil penalty of \$20. A second offense by the same person shall be the payment of a civil penalty of \$40 dollars. A third offense and subsequent offense by the same person shall be the payment of a civil penalty of \$80.
- B. **Person engaged in business without a license when no license has been applied for.** A person found to be engaged in business without a license, and not having applied for a license, shall be given a warning by the Mayor and/or their designees and the opportunity to obtain said license within thirty days from the date of the warning. Failure to obtain such a license following the expiration of the thirty day period, and continuing to engage in business without a license shall be subject to a civil penalty on the first offense of \$50 and on subsequent offenses of not more than \$200.
- C. **Engaging in business after revocation of license.** Any person engaging in business after the revocation of their license pursuant to this chapter shall be subject to a civil penalty of no less than \$100 and no more than \$500. Any person who engages in business after the revocation of their license pursuant to this chapter shall be guilty of a separate violation of this chapter for each day during which the person is so engaged in business in violation of this chapter.
- D. **Any other violation of this chapter** shall be subject to a civil penalty which shall not to exceed \$300. Any person who engages in any business subject to the provisions of this chapter and is found to have violated the provisions of this chapter shall be guilty of a separate violation of this chapter for each day during which the person is so engaged in business in violation of this chapter.
- E. **Violation of this Chapter may result in forfeiture of license.** A person subject to this Chapter and found to have violated this chapter may be subject to revocation of the person's business license.

Passed this ___ day of _____, 2004.

Nedra Reed, Mayor

Attested to and Authenticated by:

R. Daniel Leinan
Clerk/Treasurer

Approved as to Form:

William R. Fleck
Attorney/Planner

Application for a Business License

Name of Applicant: _____

Address of Applicant: _____

Name of business
if different from Applicant: _____

Physical Location of Business: _____
Contact person in case of emergencies: _____

Type of Business License being sought:
Standard Business License (\$30) Temporary Vendor Permit (\$20)
Home-based Business License (\$20) Multiple businesses/locations (\$50
application needed for each location)

Description of business activities: _____

Does the business activities include:

Restaurant/Food Services (YES) (NO)

If yes, please provide copies of applicable county health permits. Also, please provide a copy of City inspection of grease trap if applicable to business.

Sale and/or serving of alcoholic beverages (YES) (NO)

If yes, please provide copies of applicable state licenses.

Does this business operation require having a HAZMAT plan? (YES) (NO)

General Information:

Please provide the number of employees employed by or expected to be employed by the business: _____

Gross sq. ft. associated with business activities _____

Type of Business – check the box that is indicative of the business’ primary activities:

- | | | |
|---|---|---|
| <input type="checkbox"/> Retail Sales | <input type="checkbox"/> Medical, Legal, Accounting | <input type="checkbox"/> Banking |
| <input type="checkbox"/> Hotel, Motel, B&B, RV | <input type="checkbox"/> Timber harvesting | <input type="checkbox"/> Fuel sales |
| <input type="checkbox"/> Wood product manufact. | <input type="checkbox"/> Services _____ | <input type="checkbox"/> Restaurant |
| <input type="checkbox"/> Construction | <input type="checkbox"/> Real Estate/Property Mgmt | <input type="checkbox"/> Vehicle Repair |
| <input type="checkbox"/> Day care/nursery | <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Other _____ |

(For initial applications)

Number of years in business in the City? _____ Number of years at this location? _____

Renewal of Business License

One Year Renewal

Two Year Renewal

Please answer the following questions and return this form, along with any additional materials, and the required renewal

Owner: _____

Mailing Address of Owner: _____

Name of business on license
if different from Owner: _____

Physical Location of Business: _____
Contact person in case of emergencies: _____

Description of business activities: _____

Does the business activities include:

Restaurant/Food Services (YES) (NO)

If yes, please provide copies of applicable county health permits. Also, please provide a copy of City inspection of grease trap if applicable to business.

Sale and/or serving of alcoholic beverages (YES) (NO)

If yes, please provide copies of applicable state licenses.

Does this business operation require having a HAZMAT plan? (YES) (NO)

General Information:

Please provide the number of employees employed by or expected to be employed by the business during the renewal period: _____

Gross sq. ft. associated with business activities _____

Type of Business – check the box that is indicative of the business' primary activities:

- | | | |
|---|---|---|
| <input type="checkbox"/> Retail Sales | <input type="checkbox"/> Medical, Legal, Accounting | <input type="checkbox"/> Banking |
| <input type="checkbox"/> Hotel, Motel, B&B, RV | <input type="checkbox"/> Forest product harvesting | <input type="checkbox"/> Fuel sales |
| <input type="checkbox"/> Wood product manufact. | <input type="checkbox"/> Services _____ | <input type="checkbox"/> Restaurant |
| <input type="checkbox"/> Construction | <input type="checkbox"/> Real Estate/Property Mgmt | <input type="checkbox"/> Vehicle Repair |
| <input type="checkbox"/> Day care/nursery | <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Other _____ |

Number of years in business in the City: _____

Number of years at this location: _____