

ORDINANCE 427

AN ORDINANCE FOR THE TOWN OF WILSON CREEK, WASHINGTON, AMENDING THE CHAPTER OF THE WILSON CREEK MUNICIPAL CODE RELATING TO BUSINESS LICENSES.

WHEREAS, EHB (Engrossed House Bill) 2005 was recently passed by State Legislature; and

WHEREAS, EHB 2005 amends RCW (Revised Code of Washington) 35.90 relating to business licensing; and

WHEREAS, these changes are required in town municipal codes;

NOW THEREFORE, the Council for the Town of Wilson Creek ordains as follows:

Section I, Business Defined

Section II, Exemptions

Section III, Severability

Section IV, Effective Date

Section I, Business Defined

1. The term 'engaging in business' means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
2. This section sets forth examples of activities that constitute engaging in business in the Town, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the Town without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1). If an activity is not listed, whether it constitutes engaging in business in the Town shall be determined by considering all the facts and circumstances and applicable law.
3. Without being all inclusive, any one of the following activities conducted within the Town by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.
 - a. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the Town.
 - b. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the Town.
 - c. Soliciting sales.

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- d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
 - e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.
 - f. Installing, constructing, or supervising installation or construction of, real or tangible personal property.
 - g. Soliciting, negotiating, or approving franchise, license, or other similar agreements.
 - h. Collecting current or delinquent accounts.
 - i. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
 - j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.
 - k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.
 - l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
 - m. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the Town, acting on its behalf, or for customers or potential customers.
 - n. Investigating, resolving, or otherwise assisting in resolving customer complaints.
 - o. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.
 - p. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.
4. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the Town but the following, it need not register and obtain a business license.
- a. Meeting with suppliers of goods and services as a customer.
 - b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
 - c. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.

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- d. Renting tangible or intangible property as a customer when the property is not used in the Town.
 - e. Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the Town's trade show or multiple vendor event ordinances.
 - f. Conducting advertising through the mail.
 - g. Soliciting sales by phone from a location outside the Town.
5. A seller located outside the Town merely delivering goods into the Town by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the Town. Such activities do not include those in subsection (4).

The Town expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

Section II, Exemptions

To the extent set forth in this section, the following persons and businesses shall be exempt from the registration, license and/or license fee requirements as outlined in this chapter: Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the Town is equal to or less than \$2,000.00 and who does not maintain a place of business within the Town shall be exempt from the general business license requirements in this chapter. The exemption does not apply to regulatory license requirements or activities that require a specialized permit.

Section III, Severability

This ordinance is severable and if any portion of it shall be declared invalid or unconstitutional, the remaining portion shall remain valid and enforceable.

Section IV, Effective Date

This ordinance shall take effect from, and after, its passage, approval, and publication as provided by law.

Passed by the Council of the Town of Wilson Creek this **13th** day of **December 2018**.

Signed: _____
Kevin Newland, Mayor

Attest: _____
Kaci Anderson, Clerk/Treasurer