City of East Wenatchee, Washington

Ordinance No. 2018-09


Una Ordenanza de la Ciudad de East Wenatchee actualizando el proceso de regular las tarifas de licencias comerciales por parte de la Ciudad al enmendar la Sección 5.04.020 del Código Municipal de East Wenatchee y al enmendar la Sección 5.04.060 del Código Municipal de East Wenatchee.

1. Alternate format.
   
   1.1. Para leer este documento en otro formato (español, Braille, leer en voz alta, etc.), póngase en contacto con el vendedor de la ciudad al alternatformat@east-wenatchee.com, al (509) 884-9515 o al 711 (TTY).

   1.2. To read this document in an alternate format (Spanish, Braille, read aloud, etc.), please contact the City Clerk at alternatformat@east-wenatchee.com, at (509) 884-9515, or at 711 (TTY).

2. Recitals.

   2.1. The City of East Wenatchee ("City") is a non-charter code City duly incorporated and operating under the laws of the State of Washington.

   2.2. The legislature recently enacted RCW 35.90.080. The effective date of this statute is 7/23/17.

   2.3. Working with the Association of Washington Cities, the Department of Revenue composed a model ordinance to regulate general business licenses.

   2.4. RCW 35.90.080 requires the City to adopt the mandatory provisions of the model ordinance.
2.5. The first mandatory provision of the model ordinance requires the City to adopt the model ordinance's definition of "engaging in business.

2.6. The second mandatory provision of the model ordinance requires the City to adopt a uniform minimum licensing threshold under which a person would be relieved of the requirement to obtain a city's general business license.

2.7. Because the City has partnered with the Business Licensing Services provided by the Department of Revenue, the City's deadline for adopting the mandatory provisions of the model ordinance is October 17, 2018.

2.8. RCW 35.90.090 states, "A city that has not complied with the requirements of this section by January 1, 2019, may not enforce its general business licensing requirements on any person until the date that the mandatory provisions of the model ordinance take effect within the city."

3. Authority.

3.1. RCW 35A.11.020 and RCW 35A.12.190 authorize the City Council to adopt ordinances of all kinds to regulate its municipal affairs and appropriate to the good government of the City.

3.2. RCW 35.90.080 requires the City to adopt the mandatory provisions of the model ordinance composed by the Department of Revenue.
THE CITY COUNCIL OF THE CITY OF EAST WENATCHEE DO
ORDAIN AS FOLLOWS:

4. **Purpose.** The purpose of this ordinance is to update the City Clerk
powers, duties, and responsibilities.

5. **Amendment.** The City Council amends Section 5.04.020D of the East
Wenatchee Municipal Code to read:

D. "Engaging in business"

1. The term "engaging in business" means commencing, conducting, or
continuing in business, and also the exercise of corporate or franchise
powers, as well as liquidating a business when the liquidators thereof hold
themselves out to the public as conducting such business.

2. This section sets forth examples of activities that constitute engaging
in business in the City, and establishes safe harbors for certain of those
activities so that a person who meets the criteria may engage in de minimus
business activities in the City without having to pay a business license fee.
The activities listed in this section are illustrative only and are not intended
to narrow the definition of "engaging in business" in subsection 1. If an
activity is not listed, whether it constitutes engaging in business in the City
shall be determined by considering all the facts and circumstances and
applicable law.

3. Without being all inclusive, any one of the following activities
carried out within the City by a person, or its employee, agent,
representative, independent contractor, broker or another acting on its
behalf constitutes engaging in business and requires a person to register
and obtain a business license.

(a) Owning, renting, leasing, maintaining, or having the right to
use, or using, tangible personal property, intangible personal
property, or real property permanently or temporarily located in
the City.

(b) Owning, renting, leasing, using, or maintaining, an office, place
of business, or other establishment in the City.

(c) Soliciting sales.
(d) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

(e) Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

(f) Installing, constructing, or supervising installation or construction of, real or tangible personal property.

(g) Soliciting, negotiating, or approving franchise, license, or other similar agreements.

(h) Collecting current or delinquent accounts.

(i) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

(j) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

(k) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.

(l) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.

(m) Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.

(n) Investigating, resolving, or otherwise assisting in resolving customer complaints.
(o) In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.

(p) Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

4. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person’s behalf, engages in no other activities in or with the City but the following, it need not register 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.

(d) Renting tangible or intangible property as a customer when the property is not used in the City.

(e) Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City’s trade show or multiple vendor event ordinances.

(f) Conducting advertising through the mail.

(g) Soliciting sales by phone from a location outside the City.

5. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection 4.
6. The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

6. Amendment. The City Council amends Section 5.04.060 of the East Wenatchee Municipal Code to read:

The license and license fee provisions of this chapter do not apply to the following persons, sales, or services, unless otherwise indicated:

A. A governmental entity including public and private elementary, secondary, high schools, and universities;

B. A person who delivers newspapers or periodicals;

C. A person soliciting orders from retail establishments for the delivery and sale of goods, wares and merchandise to retailers for resale unless located within the city;

D. A person or organization conducting a nonprofit enterprise when the enterprise is operated without private profit, for a public, charitable, educational, literary, fraternal or religious purpose is exempt only from the city license fee required by this chapter, but must comply with the business licensing requirement as outlined in EWMC 5.04.120;

E. A person under the age of 18 engaged in babysitting;

F. A person selling his or her own produce;

G. A person that the city is forbidden to tax by law;

H. A person engaged in the casual sale of items of personal property where the person conducting such sale is not regularly engaged in the business of selling items of personal property (for example, garage sales and bake sales);

I. A landlord; and
J. A person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than $2,000 and who does not maintain a place of business within the city. However, a person or business who qualifies for this exemption must still submit a business license registration to the Director or designee. The fee for this submission is $0.00. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.

7. **Severability.** If a court of competent jurisdiction declares any provision in this Ordinance to be contrary to law, such declaration shall not affect the validity of the other provisions of this Ordinance.

8. **Publication.** The City Council directs the City Clerk to publish a summary of this Ordinance. The summary shall consist of the title of this Ordinance. The City Council directs the City Clerk to publish a copy of this Ordinance on the City’s website.

9. **Effective Date.** This Ordinance becomes effective five days after the date its summary is published.

Passed by the City Council of East Wenatchee, at a regular meeting thereof on this 24 day of July, 2018.

The City of East Wenatchee,
Washington

By __________________________

Steven C. Lacy, Mayor
Summary of
City of East Wenatchee, Washington
Ordinance No. 2018-09

On the 24 day of July, 2018, the City Council of the City of East Wenatchee, Washington approved Ordinance No. 2018-09, the main point of which may be summarized by its title as follows:

An Ordinance of the City of East Wenatchee updating the City’s the process of regulating business-license fees by amending Section 5.04.020 of the East Wenatchee Municipal Code and by amending Section 5.04.060 of the East Wenatchee Municipal Code.

The full text of this Ordinance is available at www.east-wenatchee.com.

Dated this 24th day of July, 2018.

Maria Holman, City Clerk
City of East Wenatchee, Washington

Ordinance No. 2018-09


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continuing in any business, and also the exercise of corporate or
franchise powers, as well as liquidating a business when the
liquidators hold themselves out to the public as conducting such
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circumstances and applicable law.

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(g) Soliciting, negotiating, or approving franchise, license, or other similar agreements.

(h) Collecting current or delinquent accounts.

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(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.
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   F. A person selling his or her own produce;

   G. A person that the city is forbidden to tax by law;
H. A person engaged in the casual sale of items of personal property where the person conducting such sale is not regularly engaged in the business of selling items of personal property (for example, garage sales and bake sales); and

I. A landlord; and

J. A person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than $2,000 and who does not maintain a place of business within the city. However, a person or business who qualifies for this exemption must still submit a business license registration to the Director or designee. The fee for this submission is $0.00. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.

7. **Severability.** If a court of competent jurisdiction declares any provision in this Ordinance to be contrary to law, such declaration shall not affect the validity of the other provisions of this Ordinance.

8. **Publication.** The City Council directs the City Clerk to publish a summary of this Ordinance. The summary shall consist of the title of this Ordinance. The City Council directs the City Clerk to publish a copy of this Ordinance on the City’s website.

9. **Effective Date.** This Ordinance becomes effective five days after the date its summary is published.

Passed by the City Council of East Wenatchee, at a regular meeting thereof on this ________ day of __________________________, 2018.

The City of East Wenatchee,
Washington

By ______________________________
Steven C. Lacy, Mayor
Authenticated:

______________________________
Maria Holman, City Clerk

Approved as to form only:

______________________________
Devin Poulson, City Attorney

Filed with the City Clerk:  _________
Passed by the City Council:  _________
Published:  _________
Effective Date:  _________
Summary of
City of East Wenatchee, Washington
Ordinance No. 2018-09

On the _____ day of _______________________________, 2018, the City Council of the City of East Wenatchee, Washington approved Ordinance No. 2018-09, the main point of which may be summarized by its title as follows:

An Ordinance of the City of East Wenatchee updating the City’s the process of regulating business-license fees by amending Section 5.04.020 of the East Wenatchee Municipal Code and by amending Section 5.04.060 of the East Wenatchee Municipal Code.

The full text of this Ordinance is available at www.east-wenatchee.com.

Dated this _____ day of _______________________________, 2018.

__________________________________________
Maria Holman, City Clerk