ORDINANCE NO. 1423

AN ORDINANCE OF THE CITY OF WOODLAND, WASHINGTON, AMENDING SECTIONS OF CHAPTER 5
OF THE WOODLAND MUNICIPAL CODE RE: BUSINESS LICENSES AND AUTHORIZE PUBLICATION BY
SUMMARY

WHEREAS, ESB (engrossed house bill) 2005 amended RCW 35.90 relating to business licensing and,

WHEREAS, RCW 35.90 requires cities with business licenses to establish a workgroup to create a model
business license with a licensing threshold by July 2018 for adoption by all business license cities by
January 1, 2019 (October 17, 2018 for BLS partner cities); and

WHEREAS, Requires all cities with business license to administer their business license through the
state’s Business Licensing System (BLS) by 2022 or FileLocal by 2020; and

WHEREAS, Establishes a task force on local B&O tax service apportionment under RCW 35.102.130 to
report to the Legislature by October 31, 2018.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODLAND,
WASHINGTON AS FOLLOWS:

SECTION 1.
CURRENT LANGUAGE:
Section 5.04.020 of the WOODLAND Municipal Code which reads as follows:
5.04.020 Definitions.

The following terms when used in this chapter shall have the meanings designated below:

"Business" means professions, trades, occupations, shops, and all and every kind of calling carried
on for profit, livelihood, or financial gain, but not including, however, the following:

1. Suppliers and those engage solely in wholesale selling to licensed retailers, who do not have a
place of business in the city;
2. Producers of farm products raised in Washington, produced by themselves or their immediate
families, who sell such products in the city by themselves or their immediate families;
3. Any person transacting and carrying on any business which is exempt from a license fee by
virtue of the Constitution of the United States, the Constitution of the state of Washington, or the
laws of the United States or the state of Washington;
4. Any individual who rents or leases two or fewer living units in his place of residence, provided
such place of residence is a single-family dwelling;
5. Any governmental or legally chartered nonprofit organization;
6. Rummage sales, bake sales and sale of secondhand merchandise and/or services conducted
by nonprofit, charitable, religious or civic organizations;
7. Sales of secondhand merchandise, conducted from residences, and designated as "garage sales," "yard sales," "moving sales" or similar titles; provided, however, that no such sales shall be conducted for more than twelve calendar days during any calendar year or more than three successive days per sales event.

"Person" means all individuals, partnerships, domestic and foreign corporations, associations, syndicates, joint ventures, and societies transacting and carrying on any business in the city.

**IS HEREBY AMENDED TO READ AS FOLLOWS:**

**5.04.020 Engaging in Business definitions.**
The following terms when used in this chapter shall have the meanings designated below:

**A. 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. "Business" means professions, trades, occupations, shops, and all and every kind of calling carried on for profit, livelihood, or financial gain

3. "Person" means all individuals, partnerships, domestic and foreign corporations, associations, syndicates, joint ventures, and societies transacting and carrying on any business in the city.

4. This section sets forth examples of activities that constitute engaging in business in the CITY, and establishes safe harbors for certain activities so that a person who meets the criteria may engage in de minimus (lacking in significance or importance) business activities in the CITY without having to pay a business license fee but are required to register with the City and obtain a business license. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (A)(1) of this section. 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.

5. Without being all inclusive, any one of the following activities conducted 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 incorporated CITY limits.

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

   (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, and /or 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 incorporated CITY limits, 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.

SECTION 2. There is hereby added a NEW section 5.04.022 of the WOODLAND Municipal Code the following which reads as follows:

5.04.022 Exemptions.

The following need not register and obtain a business license.

1. 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 constitution of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits for the activity that constituted the original nexus generating contact or subsequent contacts.
2. Producers of farm products raised in Washington, produced by themselves or their immediate families, who sell such products in the city by themselves or their immediate families;

3. Any person transacting and carrying on any business which is exempt from a license fee by virtue of the Constitution of the United States, the Constitution of the state of Washington, or the laws of the United States or the state of Washington;

4. Any individual who rents or leases two or fewer living units in his place of residence, provided such place of residence is a single-family dwelling;

5. Any governmental or legally chartered nonprofit organization, however registration is required but no fee;

6. Rummage sales, bake sales and sale of secondhand merchandise and/or services conducted by nonprofit, charitable, religious or civic organizations;

7. Sales of secondhand merchandise, conducted from residences, and designated as "garage sales," "yard sales," "moving sales" or similar Titles; provided, however, that no such sales shall be conducted for more than twelve calendar days during any calendar year nor more than three successive days per sales event.

8. Meeting with suppliers of goods, and services as a customer.

9. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.

10. 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.

11. Attending, but not participating in a “trade show” or “multiple vendor events”. Persons participating at a trade show shall review the CITYs trade show or multiple vendor event ordinances.

13. Conducting advertising through the mail.

14. Soliciting sales by phone from a location outside the CITY.

15. 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
$2,000.00 and who does not maintain a place of business within the CITY, shall submit a business license registration to the Clerk-Treasurer or designee. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.

SECTION 3.

5.04.050 Current Language:

5.04.050 - License—Issuance.

All licenses shall be issued by the clerk-treasurer. Normally, such license shall be issued within seven days of the date application is made; provided, however, when, in the opinion of the city clerk-treasurer, there exists sufficient question regarding the appropriateness of approving an application, the application shall be referred to the city council for consideration at its next regular council meeting. All licenses and permits are subject to revocation at any time by the council for cause.

5.04.050 IS HEREBY AMENDED TO READ AS follows:

A. All licenses shall be issued by the clerk-treasurer. Normally, such license shall be issued within seven days of the date application is made; provided, however, when, in the opinion of the city clerk-treasurer, there exists sufficient question regarding the appropriateness of approving an application, the application shall be referred to the city administrator for consideration. All licenses and permits are subject to revocation at any time by the city administrator for cause.

B. If an application is refused, the reason for refusal shall be set forth in writing to the applicant. The applicant may appeal such refusal to the city administrator by filing a notice of appeal within fourteen days of written notification by the director of the notice of refusal. Upon receipt of a notice of appeal, the city shall provide for a hearing thereon as is provided in Chapter 17 WMC for hearing on revocation or suspension of license.

SECTION 4.

5.04.060 Current Language:

5.04.060

The application, as created by the City, for such license shall contain the following information:

A. The name of the applicant, with a statement of all persons having an interest in the business, either as proprietors or owners of the business;
B. The location of the place where the business is conducted;
C. A description of the trade, shop, business, profession, occupation, or calling to be carried on within the city;
D. Where applicable, the number of equivalent employees, rental units, and mobile home/trailer spaces;
E. The amount of money tendered with the application;
F. The date of the application;
G. The signature of the applicant.

5.04.060 IS HEREBY AMENDED TO READ AS FOLLOWS:

Application. Application for a business license shall be made to the City Clerk-Treasurer until such time as the Washington State Department of Revenue assumes the licensing function upon forms furnished by that office. The information provided by the applicant shall include, at a minimum:

A. The name of the applicant, with a statement of all persons having an interest in the business, either as proprietors or owners of the business;
B. The addresses of the business including mailing, physical location, email address, phone number;
C. The location of the place where the business is conducted;
D. A description of the type of business, trade, shop, profession, occupation, or calling to be carried on within the city and the number of employees;
E. An emergency notification name and address;
F. Indicate if in-city or outside city limits;
G. Other information as requested by the Clerk-Treasurer;
H. The date of the application;
I. The signature of the applicant or electronic signature.

SECTION 5.

5.04.120 Current Language:

5.04.120 - License fee—Additional fees.
In addition to the basic license fee, the following fees are specified:

A. If a business is carried on by more than one individual and/or employee, the amount as prescribed by resolution shall be paid per individual and/or employee.
B. In arriving at the number of individuals and/or employees carrying on a business, the appropriate individual responsible for each business shall certify, annually, to the city clerk-treasurer, the number of individuals and/or employees employed on a regular basis for the calendar year preceding the license period. Annual hours of part-time employment shall be totaled, divided by two thousand, and added to the number of regular employees;
C. For motels, auto courts, hotels, boardinghouses, and mobile home parks, in an amount as prescribed by resolution;
D. Any person engaged as a landlord in leasing or renting property, except as noted in subsection (A) of Section 5.04.020, shall be deemed to be doing business within the city if such person leases or rents one or more separate rental units, whether it is land or buildings, or both, or residential or commercial, or both: for each unit, a fee of one dollar.
5.04.120 IS HEREBY AMENDED TO READ AS FOLLOWS:

A. For motels, auto courts, hotels, boardinghouses, and mobile home parks, a fee in an amount as prescribed by resolution;

B. Any person engaged as a landlord in leasing or renting property, except as noted in subsection (A) of Section 5.04.020, shall be deemed to be doing business within the city if such person leases or rents one or more separate rental units, whether it is land or buildings, or both, or residential or commercial, or both: for each unit, a fee in an amount as prescribed by resolution.

SECTION 6.

5.04.220 (E) Current Language:

5.04.220 - Violations—Penalties.
E. Any person violating any of the provisions of this chapter shall, upon the conviction thereof, be punished by a fine not to exceed one hundred dollars, or by confinement in the city jail for not to exceed five days, or by both fine and imprisonment. Each day any person shall conduct any business within the city for which a license is required by this chapter without having paid the license fee shall constitute a separate offense.

5.04.220 (E) IS HEREBY AMENDED TO READ AS FOLLOWS:

E. Any person as defined in this chapter and the officers, directors, managing agents or partners of any corporation, firm, partnership or other organization or business violating or failing to comply with any provisions of this chapter shall be subject to a Class 4 Civil Infraction pursuant to Chapter 1.12.020 WMC. Each day of violation shall constitute a separate offense.

SECTION 7. 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 7. Effective date

This ordinance shall take effect five days from and after its passage and publication as required by law.
PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR AT ITS REGULAR MEETING
this 17th day of December, 2018.

William A. Finn

ATTEST:

Mari E. Ripp, Clerk-Treasurer

APPROVED AS TO FORM:

Frank F. Randolph, City Attorney
SUMMARY OF ORDINANCE NO. 1423
OF THE CITY OF WOODLAND, WASHINGTON

On December 17, 2018 the City Council of the City of Woodland, Washington, approved Ordinance No. 1423 the main point of which may be summarized by its title as follows:

AN ORDINANCE OF THE CITY OF WOODLAND, WASHINGTON, AMENDING SECTIONS OF CHAPTER 5 OF THE WOODLAND MUNICIPAL CODE RE: BUSINESS LICENSES AND AUTHORIZE PUBLICATION BY SUMMARY.

The full text of this Ordinance will be mailed upon request.

APPROVED by the City Council at their regular meeting of December 17, 2018.

Mari E. Ripp, Clerk-Treasurer

Published: December 26, 2018
Effective: December 31, 2018