

ORDINANCE NO. 750

AN ORDINANCE OF THE TOWN OF NACHES, WASHINGTON, AMENDING CHAPTERS 3.24 Utility Taxes, 3.28 Admissions Tax, 5.04 Business License Fees, 17.04 Zoning Introductory Provisions and Definitions, and 17.34 Home Occupations

WHEREAS, the Town of Naches has received suggested changes to Chapters of its Municipal Code related to Business License Fees from the Washington State Business Licensing Service (BLS); and

WHEREAS, proposed changes to Chapter 5.04 Business License Fees requires conforming changes referencing Chapter 5.04 in Chapter 3.24 Utility Taxes, 3.28 Admissions Tax, 17.04 Zoning Introductory Provisions and Definitions and 17.34 Home Occupations; and

WHEREAS, the Town Council deems it to be in the best interests of the residents of the Town of Naches to update and amend its Business Licenses and Regulations in conformity with the recommendations suggested by the State BLS and to make the conforming Code Changes suggested;

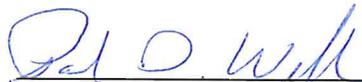
NOW, THEREFORE,

The Town Council of the Town of Naches, Washington, does ordain as follows:

That the attached, red-lined changes proposed to the Naches Municipal Code, Chapters 3.24 Utility Taxes, 3.28 Admissions Tax, 5.04 Business License Fees, 17.04 Zoning Introductory Provisions and Definitions, and 17.34 Home Occupations, be and hereby are adopted, with instructions to the compiler of the Naches Municipal Code to incorporate all such changes into the current version of the Naches Municipal Code, effective immediately.

PASSED BY THE TOWN COUNCIL, of the Town of Naches, Washington this 10th day of August, 2020.

September



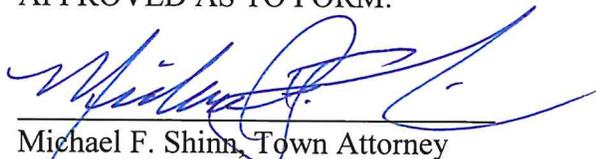
Paul Williams, Mayor

ATTEST:



Elvira Birrueta, Town Clerk/Treasurer

APPROVED AS TO FORM:



Michael F. Shinn, Town Attorney

PREFACE

The Naches, Washington Municipal Code, originally published by Book Publishing Company in 1999, was revised and republished in 2002 by Matthew Bender & Company, Inc., its successor in interest.

Beginning with Supplement No. 8, Municipal Code Corporation will be keeping this code current by regular supplementation.

During original codification, the ordinances were compiled, edited and indexed by the editorial staff of Book Publishing Company under the direction of Linda Mead, town clerk/treasurer, and Kevin Roy, from the law offices of Roy and Boutillier.

The code is organized by subject matter under an expandable three-factor decimal numbering system which is designed to facilitate supplementation without disturbing the numbering of existing provisions. Each section number designates, in sequence, the numbers of the Title, chapter, and section. Thus, Section 2.12.040 is Section .040, located in Chapter 2.12 of Title 2. In most instances, sections are numbered by tens (.010, .020, .030, etc.), leaving nine vacant positions between original sections to accommodate future provisions. Similarly, chapters and titles are numbered to provide for internal expansion.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section. This legislative history is complemented by an ordinance disposition table, following the text of the code, listing by number all ordinances, their subjects, and where they appear in the codification; and beginning with Supplement No. 8, legislation can be tracked using the "Code Comparative Table and Disposition List."

A subject-matter index, with complete cross-referencing, locates specific code provisions by individual section numbers.

This supplement brings the Code up to date through **Ordinance 684, passed May 13, 2013***.

* See also the note at the start of Chapter 5.04 NMC

TITLE 3
REVENUE AND FINANCE

Chapters:

- 3.04 - FUND ACCOUNTS
- 3.08 - CLAIMS AND DEMANDS AGAINST THE TOWN
- 3.12 - REAL ESTATE EXCISE TAX
- 3.16 - SALES AND USE TAX
- 3.20 - ADDITIONAL SALES AND USE TAX
- 3.24 - UTILITY TAXES
- 3.28 - ADMISSIONS TAX
- 3.32 - LODGING TAX
- 3.36 - MISCELLANEOUS FINANCIAL PROVISIONS

Chapter 3.24
UTILITY TAXES

Sections:

- 3.24.010 Exercise of license revenue power.
- 3.24.020 Definitions.

3.24.030 Occupation license required.

- 3.24.040 Occupation license posted.
- 3.24.050 Occupation subject to tax— Amount.
- 3.24.060 License tax year.
- 3.24.070 Customer tax base limit.
- 3.24.080 Exception and deductions.
- 3.24.090 Remittance required quarterly.
- 3.24.100 Remittance authorized for public funds.
- 3.24.110 Remittance upon sale or transfer of business.
- 3.24.120 Taxpayer records.
- 3.24.130 Applications and returns confidential.
- 3.24.140 Enforcement.
- 3.24.150 Failure to make returns or pay full tax.
- 3.24.160 Overpayment or underpayment of tax.
- 3.24.170 Delinquent payment— Penalty.
- 3.24.180 Taxes, penalties and fees constitute debt to municipality.
- 3.24.190 Limitation on right to recovery.
- 3.24.200 False returns.
- 3.24.210 Noncompliance—Penalty.
- 3.24.220 Appeals to council.

3.24.030 Occupation license required.

No person, firm or corporation shall engage in or carry on any business, occupation, pursuit or privilege for which a license fee or tax is imposed by this chapter without first having obtained, and being the holder of, a valid and subsisting license to do so, to be known as a utility occupation license. Each person, firm or corporation shall promptly apply to the town clerk/treasurer for a license upon the appropriate form provided by the town clerk/treasurer, giving such information as reasonably necessary to enable the administration and enforcement of this chapter; and upon acceptance, the town clerk/treasurer shall thereupon issue such a license to the applicant. A utility occupation license shall be personal and nontransferable. The license required by this chapter is separate from and in addition to the business license issued under Chapter 5.04 NMC, which may also be required when applicable.

(Ord. 476 § 4, 1998)

Chapter 3.28
ADMISSIONS TAX

Sections:

- 3.28.010 Admissions tax levied.
- 3.28.020 Determination of an admission.
- 3.28.030 Responsibility for collection of tax.
- 3.28.040 Monthly statement.
- 3.28.050 Remittance.
- 3.28.060 Owner responsibility.

3.28.070 License required.

- 3.28.080 Violation—Penalty.

3.28.070 License required.

No person, firm, association, group of persons, lodge, club or corporation shall charge or collect admissions within the town without first having obtained a license so to do. The fee for such license shall be one dollar (\$1.00) a year, and application therefor shall be made in writing to the town clerk, setting out such information as may by the clerk be required relative to the estimated number of such occasions where admissions are to be charged and the locations where such functions are to be held; provided, however, that such license shall not be required of any school district or school organization, but such exception shall not be construed as relieving such school district or organization from the payment of such admission taxes. The license required by this chapter is separate from and in addition to the business license issued under Chapter 5.04 NMC, which may also be required when applicable.

(Ord. 130 § 7, 1948)

TITLE 5
BUSINESS LICENSES AND REGULATIONS

Chapters:

Chapter 5.04 - BUSINESS LICENSE FEES

Chapter 5.08 - ALCOHOLIC BEVERAGE LICENSES

Chapter 5.12 - GAMBLING AND GAMES

Chapter 5.04
BUSINESS LICENSE FEES

This supplement brings the Code up to date through **Ordinance 684, passed May 13, 2013**^{*}.

***BLS NOTE:**

Prior to BLS suggesting any revisions for Chapter 5.04, the changes introduced by Ordinances #701 (Dec. 2014), and #740 (Nov. 2018) were first applied to the chapter, in respective order, to ensure the full, and current text was reviewed.

Sections:

- 5.04.010 Definitions.
- 5.04.020 Authority.
- 5.04.025 Purpose.
- 5.04.028 Examples of activities constituting Engaging in Business.
- 5.04.030 Business license required.
- 5.04.035 Threshold for Fee-free Business License Nonprofit organizations.
- 5.04.040 Application procedure.
- 5.04.050 License application—Additional permits.
- 5.04.060 Term of license—Procedure for renewing license.
- 5.04.070 Building and premises.
- 5.04.080 Inspections.
- 5.04.090 Posting license.
- 5.04.100 Temporary license.
- 5.04.110 Fees—Time for payment.
- 5.04.120 Sale or transfer of business—New license required.
- 5.04.125 New business location – New license required.
- 5.04.128 Automatic termination of license.
- 5.04.130 Fees collected by court.
- 5.04.140 Ineligible activities.
- 5.04.150 Revocation or suspension of license—Grounds.
- 5.04.160 Violations—Penalties.
- 5.04.170 Appeals.

5.04.010 Definitions.

In construing the provisions of this chapter, unless otherwise specified or clearly apparent from the context, the definitions set forth in this section shall apply:

"Business" means and includes all activities engaged with the object of gain, benefit or advantage to the licensee, or to another person or class, directly or indirectly.

"Business Licensing Service" or "BLS" means the office within the Washington State Department of Revenue providing business licensing services to the Town.

"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.

"Person" or "company" herein used interchangeably in this chapter means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartner-ship, 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, provided a valid license fee may be levied upon or collection therefrom under the provisions of this chapter.

"Taxpayer" means and includes any person who engages in business or who is required to have a business license hereunder, or who performs any acts for which a license fee or tax is imposed by this chapter.

"Town" means the town of Naches, Washington.

"Year" means the calendar year from January 1st to and including the succeeding December 31st.

(Ord. 491 § 2, 1999)

5.04.020 Authority.

The provisions of this chapter shall be deemed an exercise of the authority and power of the town to license, for the purpose of revenue regulation, each and every kind of business authorized by law to operate within the corporate limits of the town, as provided by RCW 35A.82.020.

(Ord. 491 § 3, 1999)

5.04.025 Purpose.

The purpose of this title is to provide minimum standards to safeguard the health, property and general public welfare by regulating and controlling business licensing and regulating of certain businesses as outlined in this title.

(Ord. 701 § 11, 2014)

5.04.028 Examples of activities constituting Engaging in Business.

A. 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 Section 5.04.010. If any 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.

Commented [ZC(1): Please Note: Ordinance #701 already added a new section 5.04.025 in 2014. The new section added by Ordinance #740 in 2018 has apparently inadvertently duplicated the section numbering and need to be renumbered. 5.04.028 is being suggested for the 2018 section's renumbering.

B. 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.

- (1) 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.
- (2) Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the Town.
- (3) Soliciting sales.
- (4) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
- (5) 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.
- (6) Installing, constructing, or supervising installation or construction of, real or tangible personal property.
- (7) Soliciting, negotiating, or approving franchise, license, or other similar agreements.
- (8) Collecting current or delinquent accounts.
- (9) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
- (10) 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.
- (11) 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.
- (12) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
- (13) 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.
- (14) Investigating, resolving, or otherwise assisting in resolving customer complaints.
- (15) 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.
- (16) Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

C. 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.

- (1) Meeting with suppliers of goods and services as a customer.

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

(3) 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.

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

(5) 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.

(6) Conducting advertising through the mail.

(7) Soliciting sales by phone from a location outside the Town.

D. 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 C.

E. 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.

F. A home occupation is required to obtain a business license to obtain a business license in the same manner as any other business and must pay the same fees.

(Ord. 740 § 1, 2018)

5.04.030 Business license required.

It is unlawful for any person, company, association or corporation to conduct, operate, engage in or practice any business within the Town without having first obtained a business license from the Town. If more than one business is conducted on a single premises, a separate license shall be required for each separate business conducted, operated, engaged in or practiced.

(Ord. 740 § 2, 2018; Ord. 701 § 1, 2014; Ord. 491 § 4, 1999)

5.04.035 Threshold for Fee-free Business License Nonprofit organizations.

A. For purposes of license requirements under this chapter, any person or business whose annual value of products, gross proceeds of sale, or gross income of the business in the Town is equal to or less than \$2,000 and who does not maintain a place of business within the Town, shall ~~must~~ submit a business license registration to the Town, but not be charged a Town business license fee therefore.

B. Nonprofit organizations obtain a business license from the Town, provided that such nonprofit organizations will be exempt from the Town business license fee therefore if having provided proof of their federal tax-exempt status under a provision of 26 USC § 501(c), and, provided further, religious organizations as defined in 26 USC § 501(c)3 are fully exempt from all licensing requirements of this chapter without providing such proof, when conducting only their core religious activities and no other business in the Town. However, businesses covered by this section shall not be charged a license fee by

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the Town. A nonprofit corporation must provide proof of internal Revenue Service nonprofit status prior to waiver of the license fee.

C. This section does not apply to regulatory license requirements or activities that require a specialized permit.

(Ord. 740 § 3, 2018)

5.04.040 Application procedure.

A. No business license shall be issued or renewed except upon written application to the town clerk. Such application shall be signed by the person who intends to conduct, operate or engage in the business for which the license is to be issued, and shall state the following: the nature of the business to be conducted; the name under which the business is to be conducted; the address of the business or businesses; the name of the applicant; the residence address of the applicant; the business's UBI number and Application for a Town business license is made through the Business Licensing Service (BLS) and must include all information required for all licenses requested, the total fees due for all licenses, and the application handling fee required by RCW 19.02.075. The Town Clerk may request from the applicant such additional information as may be needed for the proper guidance of the town officials in the issuing review and approval of the license applied for. ~~A The Town's business license application fee is nonrefundable, however if application fee in an amount equal to the first annual license fee for the business for which the license is sought shall accompany the application. In the event that the license shall be granted, the application fee shall will be credited to the payment of the first annual Town license fee.~~

B. If the applicant is a partnership, the application must be made and signed by one of the partners; if a corporation, by one of the officers thereof, if a foreign corporation, partnership or nonresident individual, by the resident agent or local manager of the corporation, partnership or individual.

C. ~~Before~~ By virtue of submitting an application may be issued, the applicant must certify certifies that, to the best of his or her knowledge, that the premises and building where the business is to be conducted are in substantial compliance with all town ordinances, including, but not limited to the building code and zoning code of the Town of Naches.

D. ~~The town clerk shall must approve or deny the license issuance after review of the application by and receipt of a decision by from the town administrator. The town administrator shall indicate on the license application whether the proposed business meets all current zoning and building code requirements. If an application the town clerk denies the license issuance is denied by the town clerk, the reason for denial shall will be stated provided to the applicant. An application shall be reviewed and a decision made within ten (10) business days of receipt of an the application information from the Business Licensing Service. A license may be denied for any of the following reasons:~~

1. The applicant is ~~not~~ less than eighteen years of age at the time of application and does not have written consent for the conduct of a business, and a guarantee that all laws will be followed from his or her parent(s) or guardian(s).
2. The applicant had a prior license revoked or suspended in this or any other jurisdiction.
3. The applicant is in violation of state, federal or local law.
4. The applicant seeks a license to practice some illegal act or any act injurious to the public health and safety.
5. Complaints are received that if substantiated, would give good cause for denial of a license. Any person, including town officials, may submit such objections regarding the application for a license. All information will be investigated and considered prior to issuing, denying or renewing any license.

~~E~~D. Neither the filing of an application for a license, or the renewal thereof, nor the payment of any application or renewal fee, shall authorize a person to conduct, operate or engage in a business until such license has been granted or renewed.

(Ord. 701 § 2, 2014; Ord. 491 § 5, 1999)

5.04.050 License application form—Additional permits provision.

~~The~~ By virtue of submitting a business license application, the applicant shall ~~contain~~ acknowledge the provision that upon review of the application, the town clerk may determine additional town permits may be necessary before the owner can commence business ~~may commence in the town.~~

(Ord. 491 § 6, 1999)

5.04.060 Term of license—Procedure for renewing license.

A. ~~All~~ The town business licenses issued through the Business Licensing Service (BLS), pursuant to the provisions of this chapter, shall be valid until December 31st of the year for which they are issued ~~will expire on the date established by BLS, and must be renewed on or before that date to continue to engage in business in the town under that license after that date.~~ All renewals thereafter shall ~~will~~ be issued for a period of one year commencing on January 1st of the year for which the license is issued and terminating and expiring on December 31st of the same year ~~unless otherwise prorated, as provided for in this section.~~

B. The town clerk shall mail to licensees of the town a notice of expiration of the license held by the licensee at least thirty (30) days prior to the date of such expiration; provided, that a failure to send out such notice, or the failure of the licensee to receive it, shall not excuse the licensee from a failure to obtain a new license, or renewal thereof, nor shall it be a defense in an action for operating without a license.

C. All licenses to be issued pursuant to the provisions of this chapter shall be renewed by following the same procedure as required for the original application. ~~Application for renewal of the town business license is made through the Business Licensing Service (BLS).~~

1. The renewal application must include all information required to renew all licenses involved, the total fees due for all licenses, and the renewal application handling fee required by RCW 19.02.075.

2. The term of the license, and the respective fee amount may be prorated as necessary to synchronize the license expiration with the expiration of the license account maintained by BLS.

3. Failure to complete the license renewal by the expiration date will incur the late renewal penalty fee required by RCW 19.02.085, in addition to all other fees due.

4 Failure to complete the license renewal within 120 days will result in the cancellation of the license, and will require submitting a new application for a license, as provided for in this chapter, to continue to engage in business in the town.

(Ord. 491 § 7, 1999)

5.04.070 Building and premises.

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No license shall be issued for conducting of any business if the premises and the building to be used for the purposes of the business do not fully comply with the requirements of the town ordinances, including, but not limited to, the zoning ordinance, building code, fire code, and applicable regulations.

A home occupation is by definition a business conducted as an accessory use to a residential dwelling unit located in a residential zone or located in an existing residential dwelling in a commercial zone. Home occupations shall be subject to the requirements described in the zoning ordinance.

(Ord. 491 § 8, 1999)

5.04.080 Inspections.

Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance, or are reasonably necessary to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to be inspected, to admit any officer or employee of the town who is authorized or directed to make such inspection for the purpose of making the inspection at any reasonable time that admission is requested. Inspectors, including the sheriff or any employee of the Town involved with the building code or code enforcement need not give any notice if they are conducting an inspection during normal business hours. If entry is denied during normal business hours, the license of the business shall be suspended.

Inspections may be done each year upon renewal of the business license in addition to any other inspection deemed necessary by the town administrator.

(Ord. 701 § 3, 2014; Ord. 491 § 9, 1999)

5.04.090 Posting license.

It shall be the duty of any person conducting or operating a licensed business in the town to keep his/her license posted in a prominent place on the premises used for such business at all times, except that peddlers, hawkers and transients shall carry their license on their persons at all times when conducting or operating their business and shall display it upon request.

(Ord. 491 § 10, 1999)

5.04.100 Temporary license.

A. Licenses issued for the following to businesses by the town shall be conducting, or proposing to conduct any of the following types of business activities are initially considered temporary in nature, notwithstanding any future expiration date applied to the license, and will not be deemed a permanent license shall not be issued by the town until the business has been approved by the Yakima Health District. Such approval must be obtained within (30) days after the issuance of the initial, temporary license, at which point if the health approval is not obtained within the thirty days the temporary license shall expire will be canceled:

1. Bakeries;
2. Cafes and restaurants;
3. Confectioneries;
4. Espresso/coffee stands or carts;
5. Grocery stores;
6. Meat markets;
7. Produce stores (wholesale and retail);

Commented [ZC(2)]: Is this reference to "peddlers" and "hawkers" still applicable? The town's municipal code previously did reference a license (and license fee) for 'Peddlers or Transient Merchants' - NMC 5.04.110 B. (note: that citation was renumbered to 5.04.110 C. by Ord. # 701, Dec. 2014). However, that reference to 'peddlers / transient merchants' was completely repealed from that section by Ord. #740 in Nov. 2018. There does not appear now to be any other town references elsewhere to such peddler / merchant licensing.

- 8. Soda fountains;
- 9. Taverns;
- 10. Motels, hotels, inns, bed & breakfasts;
- 11. Any other business which is or shall be required by law to obtain a health permit.

B. If at any time, any of the businesses licensed under the provisions of this chapter do not meet with the approval of the Yakima Health District, the license shall be revoked and shall not be reissued until such time as the business again meets the approval of the Yakima Health District.

C. Any person engaged in business within the town for a period not to exceed thirty (30) days, during any one-year period of time, may obtain a temporary business license directly through the town, upon application to the town clerk. The fee for this temporary license shall be forty dollars (\$40.00). The temporary license may be renewed for only one additional thirty (30) day period upon payment of an additional ~~forty dollar~~ forty-dollar (\$40.00) fee. If the business intends to continue operation in the town after ~~two~~ expiration of the second temporary permit periods, it must obtain a regular business license and pay that fee.

(Ord. 701 § 4, 2014; Ord. 491 § 11, 1999)

5.04.110 Fees—Time for payment.

A. The initial license fee for each license required by this chapter ~~shall be~~ is forty dollars (\$40.00), and must be submitted along with the application, prior to engaging in business in the town. The annual renewal fee for each license required by this chapter ~~shall be~~ is forty dollars (\$40.00), ~~payable on or before February 28th of the year for which the renewal is issued~~ and must be submitted along with the renewal application.

B. All businesses required to obtain licenses under this chapter shall obtain the same and pay all fees as required, ~~on or before the payment due date of each respective year.~~ Any business which fails to obtain and pay the initial application license fees within thirty (30) days of ~~the payment due date~~ shall commencing business in the town will, in addition to any other penalties provided in this chapter, be assessed by the town twenty-five dollars (\$25.00) for each month past due as a penalty for such late initial application and/or payment.

(Ord. 740 § 4, 2018; Ord. 701 § 5, 2014; Ord. 491 § 12, 1999)

5.04.120 Sale or transfer of business—New license required.

Upon the sale or transfer of any business licensed pursuant to this chapter, the license issued to the prior owner and/or prior business shall automatically expire on the date of such sale or transfer and the new owner intending to continue such business in the town shall apply for and obtain a new business license pursuant to the procedures established in this chapter prior to engaging in, conducting or operating the business. Licenses are not transferable.

(Ord. 701 § 6, 2014; Ord. 491 § 13, 1999)

5.04.125 New business location – New license required.

Once issued, a business license can not be transferred to a different location than the one noted on the original application, ~~(or renewal application) without a new business license which reflects the new business location.~~ If the owner of the business wishes to move the business to a new location inside the town the owner must notify the Business Licensing Service of the intended change sufficiently prior to the move to allow the town to review and approve the new location. Upon the transfer to a new location, the business license reflecting the old

location is automatically terminated. The owner and/or business must obtain a new business license for the new location and ~~can may~~ not operate at the new location until that business license has been obtained. Such a change of location may require submitting a new application for license, as provided for in this chapter.

(Ord. 701 § 12, 2014)

~~5.04.128 Automatic termination of license.~~

~~All annual licenses shall terminate on the last day of February of each year and be renewed on the first day of March of each year, after renewal applications and payments are made pursuant to this chapter.~~

(Ord. 701 § 13, 2014)

5.04.130 Fees collected by court.

The town shall have the power to institute suit or action in any court of competent jurisdiction for the purposes of collecting any license fees which are due and payable.

(Ord. 491 § 14, 1999)

5.04.140 Ineligible activities.

Notwithstanding any provisions of this chapter, a license under this chapter may not be issued to, or held by any person who uses, occupies, or proposes to use or occupy any real property or otherwise conducts or proposes to conduct any business in violation of the provisions of any ordinance of the town or the statutes of the state of Washington or any other applicable law or regulation, including federal laws and regulations. The granting of a business license shall not authorize any person to engage in any activity prohibited by federal, state or local law or regulation.

(Ord. 701 § 7, 2014; Ord. 491 § 15, 1999)

5.04.150 Revocation or suspension of license—Grounds.

(1). The town clerk may, at any time, upon receipt of a decision by the town administrator, suspend or revoke any license issued under the provisions of this chapter whenever the licensee, or officer, employee or agent thereof:

- A. ~~The licensee, or any of its employees, officers or agents, has~~ Has violated any federal, state or city statute, law, regulation or ordinance upon the business premises stated in the license or in connection with the business stated in the license, whether or not the licensee, officer or partner thereof has been convicted in any court of competent jurisdiction of such violation; or
- B. Is or has conducted, engaged in, or operated the business stated in the license upon premises which do not conform to the ordinances of the town; or
- C. Has maintained or permitted the business stated in the license to be conducted, engaged in, or operated in such manner as to constitute a public nuisance; or
- D. Has made any material false statement or representation in connection with obtaining the license; or
- E. Has failed to comply with any terms and conditions of the business license; or

F. Is operating the business without proper sanitary or water service, or without garbage service, or other similar considerations ~~When when it is reasonably necessary in the interest of protection of the public health, safety, peace, or welfare; or, to include but not limited to, when a license holder is operating a business without proper sanitary or water service, or without garbage service.~~

G. ~~When~~ Has allowed a business to become an instrument or cover for public disorder, crime, illegal drug use, or other danger to the public safety or health; ~~or~~

H. Has allowed ~~The the~~ business or business activity ~~is being~~ to be used for a purpose other than that stated on ~~in~~ the license application.

(2) If a determination is made that the licensee has violated any of the provisions of subsection (1) above or any ~~of the other~~ provisions ~~of~~ the Naches Municipal Code, such licensee's license ~~shall be~~ is subject to a suspension. ~~Licensees must be in full compliance with all federal, state and local laws prior to the reinstatement of the business license. The Town Clerk shall will mail written notice of the determination to the licensee at the mailing address provided on the license application. After such suspension, the licensee must be in full compliance with all federal, state and local laws prior to the possibility for reinstatement of the business license.~~

(3) Emergency Suspension. In the event of conduct or activities which create an imminent risk of harm to public health, safety or welfare, as determined by the Town Administrator or any law enforcement officer authorized to enforce laws within the Town of Naches, the license of such business may be summarily suspended upon notice to the licensee; provided, that the licensee shall be entitled to a hearing before the Town Council at the next regularly scheduled meeting, upon a written appeal being filed with the town clerk by the licensee within ten days of the suspension.

(4) Revocation. The town clerk may, at any time, upon receipt of a decision by the town administrator, revoke any license issued under the provisions of this chapter whenever it is determined that any of the following conditions exist:

- A. There was an illegal issuance of the license.
- B. The issuance of the license was without power or authority.
- C. The issuance of the license was under an unauthorized ordinance or an ordinance illegally adopted, or issuance in violation of an ordinance.
- D. The business license was procured by fraud, misrepresentation, or false representation, evasion or suppression of facts.
- E. The business license was issued by mistake or inadvertence.
- F. ~~There licensee have been~~ has received three or more town license suspensions within any consecutive five year period.
- G. ~~Loss of~~ The business has no insurance when such coverage is required by this title or any other title of the Naches Municipal Code, or federal, state or county law.
- H. Anything which causes a threat to the safety of persons or property.

(5) If a determination is made that the licensee has violated any of the provisions of subsection (4) above or any ~~of the other~~ provisions of the Naches Municipal Code, such licensee's business license ~~shall be~~ is subject to revocation, a suspension. ~~Licensees must be in full compliance with all federal, state and local laws prior to the reinstatement of the business license. The Town Clerk shall will mail written notice of the determination to the licensee at the mailing address provided on the license application. After such revocation, the licensee must be in full compliance with all federal, state and local laws prior to the revoked licensee submitting a new application for a business license.~~

(Ord. 701 § 8, 2014; Ord. 491 § 16, 1999)

5.04.160 Violations—Penalties.

Any person violating any of the provisions of this chapter may be subject to a fine imposed by the town, not to exceed two hundred fifty dollars (\$250.00). Each day's violation constitutes a separate offense, and said fine may be imposed as a lien against the property on which the business is conducted in each year in which the business is in violation. Violations of Sections 5.04.030 and 5.04.150 (operating a business without a license) may be filed as civil lawsuits in the Yakima County District or Superior Court.

(Ord. 701 § 9, 2014; Ord. 491 § 17, 1999)

5.04.170 Appeals.

A. Whenever the town administrator determines that there is cause for suspending, denying or revoking any license issued pursuant to this chapter, the town administrator shall notify the town clerk of his/her decision, and the town clerk shall notify the person holding the license by registered or certified mail, return receipt requested, of the town administrator's determination. Notice mailed to the address on the license application shall be deemed received three days after mailing. If the third day is a Sunday or federal holiday, it shall be deemed received the next day. The notice shall specify the grounds for suspension, denying or revocation.

B. The licensee may appeal the decision of the town administrator to suspend, deny or revoke a business license by filing a written notice of appeal to the town council or their designated appeal body within fourteen (14) days of the town administrator's decision.

C. Upon timely receipt of the notice of appeal, the town council or their designated appeal body shall set the date for hearing the appeal. The town clerk shall mail notice of the date of the hearing to the licensee.

D. The town council shall hold a public hearing to gather facts upon which to make a decision. The hearing shall be de novo. The town council or their designated appeal body may affirm, reverse or modify the town administrator's decision. The town council's decision shall be in writing and mailed within fourteen days of the hearing.

E. The town council's decision shall be final. Any appeal of the town council's final decision may be filed with the Superior Court of Yakima County. Any appeal of the town council's final decision must be filed within twenty-one (21) days of issuance of the town council's decision, as provided in Chapter 36.70C RCW.

F. During the appeal periods the licensee may continue to operate its business if allowed by the town council through its findings after the public hearing on the appeal. If such continuance is allowed, the licensee continues to be required to follow all local, state and federal laws relating to his or her business.

(Ord. 701 § 10, 2014; Ord. 491 § 18, 1999)

HOME OCCUPATIONS

TITLE 17 ZONING

Chapters:

- 17.04 - INTRODUCTORY PROVISIONS AND DEFINITIONS
- 17.08 - ADMINISTRATION AND ENFORCEMENT
- 17.10 - DEVELOPMENT PERMIT APPLICATIONS
- 17.11 - TRANSPORTATION CAPACITY MANAGEMENT
- 17.12 - R1 RESIDENTIAL ZONE
- 17.16 - R2 RESIDENTIAL ZONE
- 17.20 - GB GENERAL BUSINESS ZONE
- 17.22 - SIGN REGULATION IN GENERAL BUSINESS ZONE
- 17.24 - L-I LIGHT INDUSTRIAL ZONE
- 17.26 - FENCE REGULATION IN RESIDENTIAL AND LIGHT INDUSTRIAL ZONES
- 17.28 - PLI PUBLIC LANDS/INSTITUTIONS ZONE
- 17.32 - MOBILEHOMES, MOBILEHOME PARKS, TRAILER COACHES AND TRAILER COURTS
- 17.34 - HOME OCCUPATIONS**
- 17.36 - PARKING AND LOADING REQUIREMENTS
- 17.42 - DAY CARE FACILITIES
- 17.44 - NONCONFORMING, TEMPORARY AND CONDITIONAL USES AND VARIANCES
- 17.50 - PLANNED UNIT DEVELOPMENTS
- 17.52 - LATECOMERS AGREEMENTS

Chapter 17.04
INTRODUCTORY PROVISIONS AND DEFINITIONS

Sections:

17.04.010 Purpose.

17.04.020 Principles.

17.04.030 Definitions.

17.04.030 Definitions.

As used in this title, the following words and phrases shall be defined as follows:

"Home occupations" means any use customarily carried on within a dwelling by the inhabitants thereof, which use is incidental to the residential use and not primarily considered as a business, and which complies with the conditions of Chapter 17.40~~34~~.

Commented [ZC(3)]: Chapter 17.40 was repealed by Ord. #525 in 2000, which ordinance also created the replacement Chapter 17.34.

Chapter 17.34
HOME OCCUPATIONS

Sections:

17.34.010 Purpose and intent.

17.34.020 Home occupation.

17.34.030 Permit required.

17.34.040 Home occupation minimum standards.

17.34.050 Permitted uses.

17.34.060 Prohibited uses.

17.34.070 Conditional uses.

17.34.080 Exemptions.

17.34.090 Administration.

17.34.100 Revocation of permit.

17.34.110 Violation—Penalty.

17.34.120 Public hearing notification.

17.34.130 Existing home occupations.

17.34.010 Purpose and intent.

A. This chapter describes the criteria and conditions to be met in obtaining a home occupation permit. A home occupation permit may be approved by either (1) the mayor or his/her designee, or (2) the planning commission subsequent to a public hearing and final approval by the town council.

B. It is the intent of this chapter to recognize the needs of people who are engaged in small-scale business ventures which could not be sustained if it were necessary to lease commercial quarters for them, or which, in the nature of the home occupation cannot be expanded to full-scale enterprises. Additionally, it is the intent of this chapter that full-scale commercial or professional operations, which would ordinarily be conducted in a commercial or industrial district, continue to be conducted in such districts and not at home.

(Ord. 525 (part), 2000)

17.34.020 Home occupation.

"Home occupation" means a business, profession or craft which is secondary to the main use of the premises as a dwelling place; not one in which the use of a premises as a dwelling place is largely incidental to the business carried on. Such business may only be carried on by a member of the family residing within the dwelling place, with the addition of no more than one non-family member at any one time.

(Ord. 525 (part), 2000)

17.34.030 Permit required.

It is unlawful for a person or individual, company, corporation or association or any other entity to engage in a home occupation without first having obtained a permit in compliance with the provisions of this chapter. The permit shall not be transferred, nor shall it be valid at any address other than the one appearing on the permit.

(Ord. 525 (part), 2000)

17.34.040 Home occupation minimum standards.

A home occupation must meet the following minimum conditions:

A. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use as a residence. In the event that no more than twenty-five (25%) percent of the combined gross floor area of the primary residence and accessory buildings is used to conduct the home occupation, it shall be presumed that the use is incidental and subordinate to the residential use. If more than twenty-five (25%) percent, but less than forty-nine (49%) percent of the combined gross floor area of the primary residence and accessory buildings is used to conduct the home occupation, the applicant may show by a preponderance of evidence to the planning commission at a hearing pursuant to this code that the use is incidental and subordinate to the use as residence. In no event shall the use of a dwelling unit for a home occupation exceed fifty (50%) percent of the primary residence and accessory buildings.

B. No home occupation permit shall be granted by the mayor or his/her designee unless the applicant shall furnish proof of having registered with the Washington State Department of Revenue, or furnish proof that they are exempt from registering with said Department of Revenue.

C. Possess, or has applied for a valid town business license as is issued under provisions of Chapter 5.04 NMC.

D. No structure in which a home occupation is conducted or is proposed to be conducted will be altered or remodeled in any manner that would detract from the residential character of a home or accessory building.

E. No person, other than family members living in the dwelling unit plus a maximum of one non-family member working at the residence at any one time, may be employed in the home occupation.

F. There shall be no exterior or window displays, signs, storage of materials, or sample commodities displayed outside of the premises, with the exception of one non-illuminated business sign not to exceed one square foot in area.

G. No materials or equipment shall be permitted which would be detrimental to the residential use of nearby residences by causing vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.

H. Materials or commodities may only be delivered to or from the home occupation between the hours of seven a.m. and six p.m. Monday through Saturday.

I. No parking shall be allowed beyond that normal in a residential area and no excessive vehicular or pedestrian traffic shall be present as a result of the home occupation. Designated or additional off-street parking may be required depending on the business, as determined by the planning commission or town council.

J. The hours of operation for a home occupation may only be from seven a.m. to seven p.m., Monday through Saturday, unless otherwise stipulated by the mayor or his/her designee.

K. Buffers or screens will be provided when deemed necessary by the planning commission or town council to reduce potential impacts to adjacent properties.

L. Such use shall conform to all other requirements specified in this chapter, as well as any special conditions imposed on the home business.

(Ord. 525 (part), 2000)

17.34.050 Permitted uses.

A. The following uses may be approved by the mayor or his/her designee:

1. Dressmaking, seamstresses, tailors;
2. Artists and sculptors;
3. Authors and composers;
4. Resident owned and operated beauty and/or barbershops;
5. Home crafts, such as model-making, rug weaving, and lapidary work;
6. Office facility of a minister, rabbi or priest;
7. Office facility of a salesman, sales representative or manufacturer's representative;
8. Repair shop for small household items;
9. Telephone answering or soliciting;
10. Computer programming and small scale repair;
11. Home cooking and preserving;
12. Arts instruction (not more than two students at one time);
13. Accountant;
14. Architect;
15. Attorney;
16. Engineer;
17. Insurance agent;
18. Photographer;

19. Office for computer design and layout;
20. Office for limited energy service and installation;
21. Office for electrical contractor.

B. If an applicant wishes to obtain a home occupation permit for a use not listed above, the applicant may without cost have the matter heard by the planning commission.

(Ord. 542, 2001; Ord. 531, 2000; Ord. 525 (part), 2000)

17.34.060 Prohibited uses.

By way of example and not limitation the following uses are examples of uses which are not appropriate for a home occupation permit:

- A. Clinics or hospitals;
- B. Mortuaries or funeral homes;
- C. Commercial print shops;
- D. Rental of trailers;
- E. Restaurants or cafes;
- F. Stables or kennels;
- G. Vehicle repair or auto detailing shops;
- H. Outdoor storage of building or construction materials not intended for immediate use in or on the premises;
- I. Family child day care homes providing services for over twelve (12) children; and
- J. Antique/gift shop.

(Ord. 525 (part), 2000)

17.34.070 Conditional uses.

Conditional uses include:

- A. Bed and Breakfast. Bed and Breakfast Facility. Bed and breakfast facility shall be any facility within a one-family dwelling unit offering a maximum of three lodging units to travelers and transient guests for periods of less than one month.

(Ord. 525 (part), 2000)

17.34.080 Exemptions.

Exemptions from this chapter include, but are not necessarily limited to, the following:

- A. Family child day care services for up to twelve (12) children or adults at any one time including those children living in the home provided for in this code.
- B. Newspaper delivery; and
- C. Garage and yard sales as long as the sale involves only the sale of household goods, none of which were purchased for the purpose of resale; the sale does not continue for more than three consecutive days in any calendar month; and is not in violation of any other provisions of this code.

(Ord. 525 (part), 2000)

17.34.090 Administration.

- A. Any person or party wishing to establish a home occupation shall make application for a permit and business license through with the town as provided for in Chapter 5.04 NMC. The mayor or his/her designee may administratively approve any use listed in 17.34.050, provided the use meets all other requirements of this chapter. The planning commission, after a public hearing, shall recommend to the town council approval or denial of any uses not listed in Section 17.34.050. The town clerk may request supplemental information needed to fully evaluate the application, but which was not included in the application filing.
- B. Applications for all home occupation permits shall be subject to payment of a nonrefundable permit fee and business license fee as established by the town.
- C. If a public hearing is required, the town shall notify by first class mail the property owners within three hundred (300) feet of the subject property (according to the records of the Yakima County assessor) affording them an opportunity to voice their opinions regarding the advisability of authorizing the proposed home occupation.
- D. The town may issue a permit for a home occupation provided that the conditions set forth in Section 17.34.040 are met. The planning commission or town council may impose such additional conditions deemed necessary to assure that the impact of such home occupation will be minimal upon the neighboring properties.
- E. All permit applications subject to the mayor's or designee's approval shall be approved or denied within thirty (30) days of the filing of the permit application and payment of the permit fee.
- F. All permit applications subject to the planning commission's approval shall be approved or denied within forty-five (45) days of the filing of the permit application and payment of the permit fee.
- G. Any individual affected by the decision of the town shall have twenty-one (21) days from the date of the decision to appeal the decision in writing to the superior court.

(Ord. 525 (part), 2000)

17.34.100 Revocation of permit.

A permit issued under this chapter to conduct a home occupation is revocable upon a determination by either the planning commission or the mayor or his/her designee that there has been a violation of any condition imposed by this chapter on home occupations.

- A. In the event of an alleged violation, a written notice describing the violation and the corrective measures that must be taken shall be mailed by the town to the permit holder. The permit holder shall, within twenty-one (21) days of the mailing of the notice of violation, comply with all of the conditions imposed by the notice or show cause in writing why the permit should not be revoked.
- B. Upon revocation of the permit, a written notice of the revocation shall be sent by certified mail by the town to the permit holder together with a written statement of findings upon which the revocation is based.
- C. The holder of a home occupation permit may appeal a revocation of a home occupation by filing a notice of appeal with the town. Said notice shall be filed within ten days of the notice of revocation. The appeal shall be heard by the town council who shall either affirm or overturn the prior decision.

(Ord. 525 (part), 2000)

17.34.110 Violation—Penalty.

A. Any person who violates any of the provisions of this chapter or any order or decisions of the town entered pursuant to this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with this code.

B. The instigation of misdemeanor proceedings in accordance with subsection A of this section shall not prevent the town from exercising all available civil remedies to force removal of prohibited conditions or compliance with this chapter.

(Ord. 525 (part), 2000)

17.34.120 Public hearing notification.

In the event that an application is to be reviewed before a public hearing, notice of the public hearing shall be given as follows:

A. The mayor and/or his/her designee shall send copies of the notice by mail not less than fifteen (15) calendar days prior to the date of the hearing to all property owners within three hundred feet (300') of the exterior boundaries of the property involved, and it shall be the responsibility of the applicant to provide mailing labels with the name and addresses of owners as shown on the records of the Yakima County assessor.

B. At the discretion of the staff, additional announcement of the public hearing may be given by posting copies of the notice in a conspicuous place at or near the location of the proposal, or by such press advertisement as deemed necessary.

(Ord. 525 (part), 2000)

17.34.130 Existing home occupations.

Any home occupation in the town in operation on the effective date of this chapter shall not expand without meeting the provisions of this chapter.

(Ord. 525 (part), 2000)