

ORDINANCE NO. 701

AN ORDINANCE OF THE TOWN OF NACHES, WASHINGTON, AMENDING CHAPTER 5.04: BUSINESS LICENSES

WHEREAS, the Town of Naches has not updated its business license ordinance for some time; and

WHEREAS, the Town of Naches desires to provide for additional regulations regarding inspections, more detailed appeal procedures and change the licensing fees and costs, among other changes to the ordinance; 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 license ordinance;

NOW, THEREFORE,

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

Section 1: Section 5.04.030 shall be amended to read as follows:

5.04.030 Business license required.

It is unlawful for any person or company 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.

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

B. Nonprofit Corporations. Business activities carried on by nonprofit corporations, recognized by the Internal Revenue Service, shall be considered to be a "business," however, no license fee shall be charged for the license. A nonprofit corporation must provide proof of Internal Revenue Service nonprofit status prior to the waiver of a license fee.

Section 2: Section 5.04.040 shall be amended to read as follows:

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 such additional information as may be needed for the proper guidance of the town officials in the issuing of the license applied for. A nonrefundable 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 be credited to the payment of the first annual 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 an application may be issued, the applicant must certify 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 approve or deny the license after review by and receipt of a decision by 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 is denied by the town clerk, the reason for denial shall be stated. An application shall be reviewed and a decision made within ten (10) business days of receipt of an application. A license may be denied for the following reasons:

1. The applicant is not eighteen years of age at the time of application and does not have written consent and a guarantee that all laws will be followed from his or her parents or guardians.
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 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. 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.

Section 3: Section 5.04.080 shall be amended to read as follows:

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.

Section 4: Section 5.04.100 shall be amended to read as follows:

5.04.100 Temporary license.

A. Licenses issued for the following businesses by the town shall be temporary and 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 temporary license, at which point the temporary license shall expire:

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);
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 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 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 one additional thirty (30) day period upon payment of an additional forty dollar (\$40.00) fee. If the business intends to continue operation after the two temporary permit periods, it must obtain a regular business license and pay that fee.

Section 5: Section 5.04.110 shall be amended to read as follows:

5.04.110 Fees—Time for payment.

A. The initial license fee for each license required by this chapter shall be forty dollars (\$40.00). The annual renewal fee for each license required by this chapter shall be twenty-five dollars (\$25.00), payable on or before February 28th of the year for which the renewal is issued. Temporary license fees are dictated by 5.04.100 herein.

B. Late Fees. In the event a business fails to pay its license fee on or before March 15th of each year of renewal, it will be assessed a penalty of \$25.00 and shall cease all operations within two weeks and continue to not operate until its license is obtained.

C. Peddler or Transient Merchant License Fee. Any person selling any commodity or merchandise from house to house, or any person selling from any location on a temporary basis shall pay thirty dollars (\$30.00) annually, after application and approval for each business conducted or carried on in the town. No business conducted or carried on in a single location under one management or ownership shall pay more than one license fee, regardless of the business being carried on.

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

Section 6: Section 5.04.120 shall be amended to read as follows:

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 non-transferable.

Section 7: Section 5.04.140 shall be amended to read as follows:

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.

Section 8: Section 5.04.150 shall be amended to read as follows:

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 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 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.
- E. Has failed to comply with any terms and conditions of the business license.
- F. When reasonably necessary in the interest of protection of the public health, safety, peace or welfare, to include but not be limited to, when a license holder is operating a business without proper sanitary or water service, or without garbage service.
- G. When a business becomes an instrument or cover for public disorder, crime, illegal drug use, or other danger to public safety or health.
- H. The business or business activity is being used for a purpose other than that stated on the license.

(2) If a determination is made that the licensee has violated any of the provisions of section (1) above or any of the provisions for the Naches Municipal Code, such licensee shall be 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 mail written notice of the determination to the licensee at the mailing address provided on the license application.

(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:

- 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 have been three suspensions within any five year period.
- G. Loss of insurance required by this title or any other title of the Naches Municipal Code, 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 section (4) above or any of the provisions of the Naches Municipal Code, such licensee shall be 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 mail written notice of the determination to the licensee at the mailing address provided on the license application.

Section 9: Section 5.04.160 shall be amended to read as follows:

5.04.160 Violations—Penalties.

Any person violating any of the provisions of this chapter may be subject to a fine 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 section 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.

Section 10: Section 5.04.170 shall be amended to read as follows:

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 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.

Section 11: Section 5.04.025 shall be added as follows:

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.

Section 12: Section 5.04.125 shall be added as follows:

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. 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 not operate at the new location until that business license has been obtained.

Section 13: Section 5.04.128 shall be added as follows:

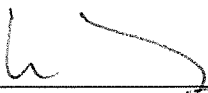
5.04.128 Automatic termination of license.

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

Section 14: Severability. If any portion of this ordinance, or its application to any person or circumstances, is held invalid, the validity of the chapter as a whole, or any other portion thereof, and its application to other persons or circumstances, shall not be affected.


Section 15: This ordinance shall be published in the official newspaper of the Town of Naches and shall take effect and be in full force five (5) days after passage and publication.

PASSED BY THE TOWN COUNCIL, of the Town of Naches, Washington this 8th day of December 2014.



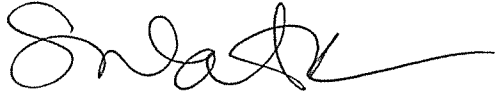
Rick Carney, Mayor

ATTEST:



Elvira Biruetta, Town Clerk/Treasurer

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'Sara L. Watkins', with a long horizontal flourish extending to the right.

Sara L. Watkins, Town Attorney