

Cities and Towns Must Update General Business License Ordinances ASAP!

July 16, 2018 by [Toni Nelson](#)

Category: [Licensing and Regulation](#) , [Business Licenses and Taxes](#)



In April, I wrote a [blog post](#) discussing the requirements imposed by [EHB 2005](#), adopted in 2017 and codified in [chapter 35.90 RCW](#). That article included a draft of the model ordinance provisions that must be adopted by all cities and towns who have a “general business” license requirement by January 1, 2019 (unless you are currently a BLS partner city, in which case your deadline is October 17, 2018).

The [final model business license ordinance](#) has now been released, and the AWC staff who coordinated the City Business License task force presented its provisions on June 28 at the annual AWC conference in Yakima. It is now time for all cities and towns with general business license requirements to prepare for the adoption of these provisions.

What Is in the Final Model Business License Ordinance?

The “model ordinance” is not a comprehensive model ordinance, but it contains two required components that cities and towns must incorporate into their existing business license ordinances. The two components are as follows:

- 1. Cities and towns may only impose licensing requirements upon individuals or companies “engaging in business within the city,” as defined in the model ordinance.** The ordinance also sets forth examples of activities that are considered “engaging in business,” as well as business activities that do not require licensing. The definition is based on the model ordinance for B&O taxes.
- 2. For businesses that engage in business within the city but are not physically located within the city, the ordinance establishes a minimum dollar threshold below which the businesses are partially or fully exempted from licensing requirements.** The minimum threshold of business activity in the ordinance is \$2,000, although cities may adopt a higher threshold if desired. Below this threshold, cities must either:
 - Exempt these businesses from the licensing requirements entirely, or

- Require licensing, but at no cost to the businesses.

As your city legislative body will need to consider one of these two options prior to preparing the ordinance for adoption.

The final model has been modified a bit from our April blog post in response to the business community's concerns over the threshold level set in the initial draft. As a result, the task force increased the threshold for exemption to \$2,000 per year. The definition of "engaging in business" is unchanged from the initial draft provided in my April blog post and mirrors the definition found within the model B&O tax ordinance adopted by those cities that have a B&O tax requirement.

As noted earlier, **cities and towns with general business licensing requirements must adopt the language from the model ordinance by January 1, 2019 (RCW 35.90.090)**. Any city or town that does not adopt the model ordinance by the deadline is prohibited from enforcing its general business licensing requirements until it adopts the model ordinance provisions.

Current BLS partner cities must adopt the language by October 17, 2018 (RCW 35.90.070), and provide notification to BLS in order to maintain its business licensing program on January 1, 2019. The statute requires that notice be received by BLS a minimum of 75 days prior to effective date for "all changes that affect in any way who must obtain a license, who is exempt from obtaining a license, or the amount or method of determining any fee for the issuance or renewal of the license." Both provisions of the model ordinance will require the 75-day notification to BLS.

Who Will Administer Your Business License Program?

Now that the provisions of model business license ordinance have been decided, there is one remaining consideration: Who will administer your general licensing program?

EHB 2005 (chapter 35.90 RCW) requires that all cities and towns partner with either FileLocal by 2020 or with the state's Business Licensing System (BLS) by 2022. These two "one-stop" licensing portals serve multiple jurisdictions. BLS is part of the state Department of Revenue, while FileLocal was created by an interlocal agreement between several larger cities in the Puget Sound region. By the end of 2022, businesses will be able to obtain local business licenses for any city in the state via one or two websites.

The deadline for partnering with FileLocal is July 1, 2020 — meaning that businesses must be able to use FileLocal to renew or apply for their business license within your jurisdiction by that date — and for those cities that opt to partner with the BLS, you will be phased into the system between January 1, 2018, and December 31, 2022, in conjunction with the BLS Local Business Licensing Partnership Plan.

Deciding between the two administrative options will depend a lot upon the size of your jurisdiction and whether your city is considering future B&O taxing options.

Reviewing Your Other Business License Provisions

Although the changes in the new model ordinance only address a couple specific provisions of your business licensing ordinance, many cities and towns may not have reviewed their business license requirements in a long time. While you are amending your current business license ordinance to comply with chapter 35.90 RCW, we suggest you take the time to review the rest of your business license requirements and fees to make sure they still meet your jurisdiction's needs.

Want to Learn More?

Check out our new webpage, [Business Licenses and Fees](#). It provides a brief overview of business licensing, including the changes imposed by EHB 2005, along with information about regulatory business licenses and revenue-generating licenses, or "head taxes," which have also been in the news lately.

AWC will also be providing a free webinar, [Prepare to Streamline Your Business License](#), on Wednesday, August 8 at 10 AM.

If you have questions about the new business licensing requirements, please feel free to contact me at tnelson@mrsc.org or (206) 625-0916 x 109 or you can reach out to [Victoria Lincoln](#), [Andrew Pittelkau](#), or [Sheila Gall](#) at AWC.



About Toni Nelson

Toni has over 24 years of experience with Local Government finance and budgeting. Toni's area of expertise include "Cash Basis" accounting and reporting, budgeting, audit prep and the financial issues impacting small local government.

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Comments

0 comments on Cities and Towns Must Update General Business License Ordinances ASAP!

Blog post currently doesn't have any comments.

Model Business License Threshold Final Version

June 2018

Model business license threshold options: (cities would adopt one of the options)

1. Threshold Exemption:

To the extent set forth in this section, the following persons and businesses shall be exempt from the registration, license and/or license fee requirements as outlined in this chapter:

- (1) 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 (or higher threshold as determined by city) and who does not maintain a place of business within the city shall be exempt from the general business license requirements in this chapter. The exemption does not apply to regulatory license requirements or activities that require a specialized permit.

2. Threshold with Fee-free License/Registration-only Option:

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 (or higher threshold as determined by city) and who does not maintain a place of business within the city, shall submit a business license registration to the Director or designee. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.

[City would list this fee-free license in its business license rates section as \$0 or no fee.]

Engaging in business model definition:

"Engaging in business"

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

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

(3) Without being all inclusive, any one of the following activities 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 City.

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

(c) Soliciting sales.

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

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

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

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

(h) Collecting current or delinquent accounts.

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

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

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

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

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

(n) Investigating, resolving, or otherwise assisting in resolving customer complaints.

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

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

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

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

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

(c) Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.

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

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

(f) Conducting advertising through the mail.

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

(5) A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (4).

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

5.04.010 Purpose.

The purpose of this chapter is to regulate and ensure the legal conduct of businesses, assist in the effective administration of health, fire, building, zoning, and other codes of the town, to impose fees for revenue purposes, and to provide a means for obtaining public information and compiling statistical information on existing and new businesses in the town. ~~(Ord. 2007-26, 2007).~~

5.04.020 Definitions.

In construing provisions of this chapter, the following words and terms shall have the meanings defined in this section, unless from the context a more limited or different meaning is clearly defined or apparent:

A. "Business" includes all activities, occupations, farmers deriving 60 percent or more of their income from farming, pursuits, or professions located and/or engaged in within the town, with the object of gain, benefit or advantage to the licensee or to another person or class, directly or indirectly, and shall include nonprofit organizations. Each business location shall be deemed a separate business. This term shall not include peddlers and hawkers as defined in Chapter 5.08 EMC.

1. For purposes of this chapter, "business" also includes medical marijuana dispensaries and collective gardens as defined under Chapter 69.51A RCW and marijuana producers, marijuana processors and marijuana retailers as defined in Chapter 69.50 RCW and Chapter 314-55 WAC.

B. "Employee" means anyone employed all full-time and or permanent part-time employees by a person engaged in business within the town and includes the owner or owners of the business in if they work on the premises.

C. "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 hold themselves out to the public as conducting such a business.

D. "General Business License" means a license issued under this chapter.

~~E. "License" or licensee" as used generally in this title, includes, respectively, the words "permit", or permittee," or the "holder" for any use or period of time or any similar privilege, wherever relevant to any provision of this title or other law or ordinance.~~

F. "Licensee" includes any person who is engaged in business or who is required to have a business license under this chapter or who performs any act for which a license fee is imposed by this chapter.

Comment [GJ1]: Is there a reason to exclude nonprofits from the definition of Business? Many municipalities include it. I think it is cleaner to include nonprofit in the definition, even though it is exempted from the license requirements.

Comment [GJ2]: I recommend deleting this subsection if you have a moratorium in place.

Comment [GJ3]: Original definition was somewhat circular.

Comment [GJ4]: The term "General Business License" is never used in the regulations that follow so there really isn't any reason to create a definition. Recommend you revise to simply read: "License" means a license issued under this chapter.

Comment [GJ5]: Not sure why this definition is needed. This definition references permittee and holder but those terms are never used in the regulations that follow. I recommend that you delete this section.

G. "License officer" means the employee of the town of Eatonville who is designated to administer this chapter.

H. "Nonprofit" means any business registered as a nonprofit corporation within the state of Washington or granted an exemption from federal taxation as evidenced by a letter from the Internal Revenue Service showing a current tax exempt status pursuant to the Internal Revenue Code. ~~group" includes individual person(s), partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations; or any officers, agents, employees, factors or any kind of personal representatives of any thereof, in any capacity, acting either for himself or any other person under either personal appointment or pursuant to law who qualifies under definition of and certification by the Internal Revenue Service as nonprofit.~~

Comment [GJ6]: Including nonprofit organizations in the definition of Business means you only have to define what it means to be nonprofit in this section.

Need to decide whether you are limiting nonprofit to only those entities that have received tax exempt status from the IRS or if you are also going to include entities that have been formed as nonprofits under Washington law (even though they have not received tax exempt status from IRS). I have revised text to include both types of nonprofits but you can limit to one or the other.

I. "Person" includes any individual, firm, partnership, company, corporation, association, receiver, assignee, trust, estate, joint venture, group, joint stock company, business trust, society or any group of individuals acting as a unit. ~~individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations; or any officers, agents, employees, factors or any kind of personal representatives of any thereof, in any capacity, acting either for himself or any other person, under either personal appointment or pursuant to law.~~

Comment [GJ7]: Not sure where you found your definition of Person. The one I have inserted is commonly used in other municipal codes

J. "Premises" means any location within the town in, at, or upon which a person engages in ~~business includes all lands, structures and places, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.~~

Comment [GJ8]: This just seems like a cleaner, simpler definition.

K. "Town" is the Town of Eatonville

L. "Year" means the calendar year. ~~(Ord. 2013-16 § 2, 2013; Ord. 2013-10 § 1, 2013; Ord. 2007-26, 2007; Ord. 91-21 § 1, 1991. Formerly 5.04.010).~~

5.04.030 Required.

Unless listed as exempt under EMC 5.04.040, it is unlawful for any person, ~~firm or corporation~~ to engage in or carry on within the town any business, ~~profession, trade or occupation designated in this chapter~~ without first having obtained a license to do so. All licenses issued pursuant to the provisions of this chapter shall be posted in a prominent location at the premises where the licensed business, ~~profession, trade or occupation~~ is carried on. ~~(Ord. 2007-26, 2007; Ord. 91-21 § 2, 1991. Formerly 5.04.020).~~

Comment [GJ9]: Do you want to make a distinction between exempt from all provisions of this chapter and exempt from business license fees? For example, all jurisdictions exempt nonprofits from the business license fees but some still require the nonprofit to register for a license (as a way of keeping track of all businesses operating within the municipality).

5.04.040 Exemptions.

The following businesses and activities shall be exempt from the provisions of this chapter; ~~provided, dispensaries and collective gardens as defined under Chapter 69.51A RCW are not covered by these exemptions:~~

Comment [GJ10]: As noted above, recommend deleting this text regarding marijuana dispensaries and collective gardens.

A. Businesses where the sale or contract for services occurs on business premises outside of the town and the only event occurring within the town is the mere delivery of the goods or services to the customer or client by common carrier.

B. Minors engaged in baby-sitting, delivery of newspapers, lawn mowing, car washing and other similar activities.

C. Any instrumentality of the United States, state of Washington, or any political subdivisions thereof, with respect to the exercise of governmental functions.

D. Nonprofit organizations, including but not limited to religious, civic, charitable, nonprofit, cultural, or youth organizations. (Ord. 2013-10 § 2, 2013; Ord. 2007-26, 2007).

5.04.050 Applicable regulations.

A. Agents Responsible for Obtaining License. The representatives of nonresidents who are doing business in the town shall be personally responsible for the compliance of their principals, and the business they represent, with this chapter.

B. Joint Operation. A person engaged in two or more businesses at the same location shall be required to obtain separate business licenses for conducting each of the businesses. (Ord. 2007-26, 2007).

5.04.060 Application procedure and fee renewal.

A. ~~Every person, firm or corporation engaged in any business, profession, trade, occupation or other principal place of business or headquarters that is located within the corporate limits of the town shall be licensed by the town under provisions of this title chapter. Each branch establishment, warehouse, distributing plant or separate location shall be licensed separately and individually.~~

B.A. Application for a license is made by submitting a completed master business application and town addendum form to the Business Licensing Service of the State Department of Revenue. ~~The application shall set for the name of the applicant, place of business, the nature of the business, and such other information as may be required by the town or the Business Licensing Service.~~ The application shall include payment of the license fee prescribed by this chapter and the master business application processing fee.

C.B. ~~Every person, firm or corporation engaged in any temporary business, profession, trade or occupation within the corporate town limits where the principal place of business or headquarters that is not located within the corporate limits of the town shall be licensed by the town except as otherwise provided under the provisions of this title chapter.~~

Comment [GJ11]: I've not seen this section in any other municipal codes. Subsection A is awkwardly written and doesn't seem necessary. What's the benefit of holding nonresident representatives "personally responsible" when you already have enforcement authority in section 130? Subsection B is covered in 5.04.020(A) and 060(E).

If you want to simplify the Code, I recommend deleting this section.

Comment [GJ12]: I don't see anything in this section fee renewal; suggest we delete the text.

Comment [GJ13]: This seems to duplicate what you have already said in sections 5.04.020(A) and .030. I think it can be deleted

Comment [GJ14]: This section has nothing to do with the application procedure or fee renewal. Nor have you defined "temporary business." If you are going to keep this text, it probably belongs in 5.04.030.

~~Persons or organizations doing business within the town limits of the town and required to be licensed by the state of Washington (whether or not they are required by this title to be licensed by the town) shall carry the state license on his or her person at all times when doing business within the town, and shall exhibit such state license whenever he or she is requested to do so by any police officer or any person who asks to see the same. Holders of state licenses shall be required to provide copies of state licenses to the town license officer upon request.~~

Comment [GJ15]: This text is awkwardly written. It leaves out federal license; it requires people to "carry" the license on his or her person and I think the main point is already covered in 5.04.080(A).

- ~~C. Neither the filing of a new or renewal application for a license shall authorize a person to engage in business until such license has been granted or renewed.~~
- ~~D. Any business relocating to another address in the town shall reapply to have a new business license reissued to reflect the new address.~~
- ~~E. If more than one business is conducted on a single premises, a separate license application shall be submitted for each separate business.~~
- ~~D.~~

~~(Ord. 2007-26, 2007; Ord. 91-21 § 3, 1991. Formerly 5.04.030).~~

5.04.070 Term.

- A. Each town license issued shall have a term as determined by the State of Washington Department of Revenue in cooperation with the town. The town license term or expiration date will be coordinated with the terms or expiration dates of all other licenses or permits required by the state for each business.
- B. Each annual license fee provided for shall become due and payable on the date established by the Business Licensing Service. The annual license fee amount may be prorated to accommodate setting an expiration date for a license that matches the expiration date established for the Business Licensing Service.

~~(Ord. 2007-26, 2007; Ord. 91-21 § 4, 1991. Formerly 5.04.040).~~

5.04.080 Issuance of ~~IL~~ license approval or denial.

A. ~~The town license officer shall approve business licenses for all persons who submit an application in accordance with the process described in EMC 5.04.060 and are qualified under the requirements of this chapter.~~

1. ~~A business No~~-license shall only be issued ~~if until~~ the application has been fully completed, ~~and~~ all applicable ordinances have been fully complied with, ~~and none of the conditions listed in EMC 5.04.110(A)(1) – (7) exist or apply to the license applicant or premises proposed to be licensed.~~

2. In addition, any business requiring a state or federal license shall obtain the licenses and provide the town with proof of their issuance prior to the issuance of a town license or any renewal thereof.

1.3. A business license will not be issued for any activity that is known to violate local, state, and/or federal law.

B. The town license officer shall notify the applicant in writing by mail, return receipt requested, of the denial of the application and the grounds therefor.

1. Within 15 calendar days after the town license officer's decision, the applicant may request an appeal and hearing before the town council by filing a written notice of appeal. Any such appeal shall be governed by the procedures set forth in EMC 5.04.110(C). If a request for hearing is not received within the time specified, the license officer's decision shall be final.

2. If an application for a business license is denied and the applicant has filed a timely appeal of such denial, the applicant may continue to conduct business during the pendency of the appeal.

~~A business license will not be issued for any activity that is known to violate local, state, and/or federal law, except as otherwise specifically allowed pursuant to Chapter 69.50 RCW, Chapter 314.55 WAC, and Chapter 18.12 EMC, Recreational Marijuana.* (Ord. 2013-16 § 2, 2013; Ord. 2013-10 § 3, 2013; Ord. 2007-26, 2007; Ord. 91-21 § 5, 1991. Formerly 5.04.050).~~

~~*Code reviser's note: Ordinance 2013-15 adds Chapter 18.12 EMC as an uncodified interim regulation in effect until June 9, 2014.~~

5.04.090 Assignability.

~~Licenses issued pursuant to the terms of this chapter shall be personal to the applicant or the business for which they were obtained and shall not be assignable in the event of sale or transfer of such business to other ownership except upon application to the town for such transfer and the payment of a transfer fee of \$20.00. (Ord. 2007-26, 2007; Ord. 91-21 § 6, 1991. Formerly 5.04.060). Upon the sale or transfer of any business licensed pursuant to this chapter, the license issued to the prior owner or transferor 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 by this chapter prior to engaging in, conducting, or operating the business. Also, upon substantial change in the type of business operated, a new business license shall be required.~~

Comment [GJ16]: Many municipalities require, upon transfer or sale of a business, that the new owner obtain a new business license following the standard application procedure and fee – rather than creating a new transfer process and fee. Seems simpler and more straightforward. I have therefore proposed alternative language.

5.04.100 License fee for business.

A. Every non-exempt person, ~~firm or corporation~~ engaged in any business, ~~profession, trade, or occupation~~ within the town shall pay an initial \$50.00 business license fee ~~for the privilege of engaging in business in the town.~~

Comment [GJ17]: Is this inclusive of or separate from the DOR license fee?

B. Business licenses shall be renewed annually ~~prior to February 1st of any year~~ at their anniversary date. The renewal fee shall be \$50.00. A penalty of \$25.00 plus \$5.00 per month starting ~~on March 1st~~ 45 days from the renewal date shall be assessed on any delinquent license renewal which has not been paid.

C. Business license fees shall be waived for temporary vendors selling wares at the farmers market or arts festival for no longer than three consecutive days in a given year; provided, that the farmers market or arts festival locations are approved by the mayor or town council. (~~Ord. 2007-26, 2007; Ord. 2002-07 § 1, 2002; Ord. 91-21 § 7, 1991. Formerly 5.04.070~~).

Comment [GJ18]: Are you waiving the fee but still requiring the vendor to apply for and obtain a business license? Or, are temporary vendors exempt from the entire process (in which case we need to add a new exemption in 5.04.040)

5.04.110 License suspension or Revocation.

~~A. If any person, firm or corporation licensed under this chapter violates any provision of this chapter or the hereinafter set forth restrictions or violates any other town ordinance or provisions thereof, in addition to the criminal penalty provided for in such provisions, the license of the person, firm or corporation shall be revoked or suspended:~~

~~1. Not to permit any gambling or immoral conduct on such premises, not to keep, sell, give away or otherwise dispose of any controlled substance or intoxicating liquor on such premises nor permit the same to be kept, sold, given away or otherwise disposed of thereon by any person.~~

~~a. The prohibitions contained in this subsection concerning intoxicating liquor shall have no application to establishments from which persons under the age of 21 are excluded either by law or as a matter of business policy nor to a business licensed by the state to sell intoxicating liquor; and~~

~~b. The prohibitions contained in this subsection concerning controlled substances shall have no application to recreational marijuana uses licensed by the state and operated in full compliance with Chapter 69.50 RCW, Chapter 314-55 WAC, and Chapter 18.12 EMC, Recreational Marijuana;*~~

~~2. Not to have a financial interest in any business within one year from the date of revocation of the business license;~~

~~3. Not to permit any intoxicating liquors kept for unlawful use, sale or distribution or allow any act done or any omission to perform a duty, which act or omission shall:~~

~~a. Annoy, injure or endanger the safety, health, comfort or repose of any considerable number of persons, or~~

~~b. Offend public decency, or~~

~~c. Unlawfully interfere with, defoul, obstruct or tend to obstruct or render dangerous for passage a public park, square, street, alley or highway, or stream, or~~

~~d. In any way render a considerable number of persons insecure in life or the use of property.~~

5.04.090 License — Denial, suspension or revocation.

A. In addition to any other penalties provided herein, and in accordance with the procedures set forth herein, the Town Clerk/town license officer may deny, suspend or revoke any license issued under the provisions of this chapter. Any license issued under this chapter may be denied, revoked or suspended based on one or more of the following grounds:

A1. The license was procured by fraud, ~~or~~ false representation, or material omission of fact;

B2. The licensee or any of its employees, officers, or agents, while acting within the scope of their employment, has failed to comply with any of the provisions of this chapter or other applicable state, federal or local law;

C3. The licensee is in default in any payment of any license fee or tax due to the city/town;

D4. The licensee's continued conduct of the business for which the license was issued has or will result in a danger to the public health, safety or welfare or the violation of any federal or state law or any ordinance or regulation of the city/town.

E5. The licensee or any of its employees, officers, or agents have been convicted of a crime which bears a direct relationship to the conduct of the business under the license issued pursuant to this chapter;

F6. The place of business does not conform to applicable city regulations; or

G7. The license is being used for a purpose different from that for which it was issued.

B. Whenever the town license determines that there is cause for suspending or revoking any license issued pursuant to this chapter, the license officer shall notify the person holding the license by mail, return receipt requested, of the determination. Notice mailed to the address on the license shall be deemed received three days after mailing. The notice shall specify the grounds for suspension, denial or revocation.

C. The licensee may appeal the decision of the license officer to deny, revoke or suspend a business license by filing a written notice of appeal to the town council within 10 calendar days of the date of receipt of the license officer's decision.

1. Upon timely notice of appeal, the license officer shall set a date for hearing the appeal. The license officer shall mail notice of the date of the appeal hearing to the licensee at least 15 calendar days prior to the hearing date.

1.2. The town council may affirm, reverse, or modify the license officer's decision. The decision of the town council shall be final. Any person desiring to appeal the town council's decision must file the appropriate action in Pierce County Superior Court within 15 calendar days of the town council's decision.

D. It is unlawful for any such person whose town business license has been revoked or suspended to continue operation of the business enterprise, or to keep the license issued to him/her in his/her possession and control, and the same shall immediately be surrendered to the town license officer. Following revocation, no business license shall be issued for a period of 12 months to the person or business entity whose license was revoked, or to any business entity owned or controlled by such person or entity.

~~Provided, that the person, firm or corporation may request a hearing before the town council by giving written notice of appeal to the town clerk. (Ord. 2013-16 § 3, 2013; Ord. 2007-26, 2007; Ord. 91-21 § 8, 1991. Formerly 5.04.080).~~

~~*Code reviser's note: Ordinance 2013-15 adds Chapter 18.12 EMC as an uncodified interim regulation in effect until June 9, 2014.~~

5.04.120 Exercise of power.

This chapter shall be deemed an exercise of the power of the town to license for revenue and regulation, and nothing in this chapter shall be construed to repeal or affect any other ordinance of the town which purports to regulate some business or activity pursuant to the general police power of the town,

notwithstanding the fact that such ordinance may or might contain provisions relating to the licensing of such activity. (Ord. 2007-26, 2007; Ord. 91-21 § 9, 1991. Formerly 5.04.090).

5.04.125 Disclaimer of town liability – Indemnification.

A. Issuance of a license pursuant to this chapter does not constitute the creation of a duty by the town to indemnify the licensee for any wrongful acts against the public, or to guarantee the quality of goods, services or expertise of a licensee. The issuance of a license does not shift responsibility from the licensee to the town for proper training, conduct or equipment of the licensee or his agents, employees or representatives, even if specific regulations require standards of training, conduct or inspection. Issuance of the license does not exempt the licensee from other required permits or licenses.

~~B. For all town business licenses issued to businesses operating under Chapter 69.50 RCW, Chapter 314-55 WAC, and Chapter 18.12 EMC, Recreational Marijuana:~~

~~1. All licensees waive and release the town, its officers, elected officials, employees, volunteers and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations; and~~

~~2. All licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the town, its officers, elected officials, employees, volunteers and agents, insurers and self insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the recreational marijuana business that is the subject of the license. (Ord. 2013-16 § 4, 2013).~~

*Code reviser's note: Ordinance 2013-15 adds Chapter 18.12 EMC as an uncodified interim regulation in effect until June 9, 2014.

5.04.130 Violation – Penalty; Additional Relief.

A. Any person, firm or corporation who violates any of the provisions of this chapter or fails to comply with any of the requirements thereof shall be guilty of a misdemeanor. Each day of noncompliance with any of the provisions of this code shall constitute a separate offense. (Ord. 2007-26, 2007; Ord. 91-21 § 10, 1991. Formerly 5.04.100).

B. The criminal penalty shall not be deemed a limitation upon the town's right to seek injunctive relief in the superior court in order to enjoin any person or business from conducting business in violation of this

Comment [GJ19]: Since the town does not at present allow recreational marijuana businesses, it seems appropriate to delete this section.

Comment [GJ20]: Do you want to add a new section that allows the town to assess a civil penalty as an alternative to criminal penalties?

title or from committing or creating a public nuisance or a condition that is dangerous to the public, health, safety or general welfare.