

Title 5

BUSINESS LICENSES AND REGULATIONS

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CHAPTER 5.04

BUSINESS LICENSE CODE

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5.04.010 Short title. This chapter may be cited as the "Business License Code of the Town of Steilacoom." (Ord. 1616, 2019; Ord. 1239 §1(part), 1998).

5.04.020 Purpose. The provisions of this chapter are an exercise of the power of the Town to license for revenue and regulation. (Ord. 1616, 2019; Ord. 1239 §1(part), 1998).

5.04.030 Scope. All persons who engage in business activities or occupations within the Town are subject to the provisions of this chapter unless specifically exempted from licensing herein. (Ord. 1919, 2019; Ord. 1239 §1(part), 1998).

5.04.040 Definitions. When used in this chapter, the following words have the following meanings:

(1) "Business" includes all services and activities engaged in with the object of pecuniary gain, benefit or advantage to the person, or to another person or class, directly or indirectly, whether part-time or full-time.

(a) For the purposes of this chapter, the owner of any apartment building or buildings containing an aggregate of five or more rental units located on a single or contiguous lots and the owner of any business or commercial building containing any rental units is also "engaged in business."

(b) A person engaged in business by providing rental spaces as described in subsection (1)(A) of this section must obtain only one business license for the person's business office location.

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

(3) "Employee" means any person who performs services for another in exchange for wages, salary and/or commission. An owner-operator is an "employee" for the purposes of this chapter. The number of employees are computed using the following definitions:

(a) "Full-time employee" means an employee who works 21 or more hours per week.

(b) "Part-time employee" means an employee who works fewer than 21 hours per week.

(4) "Engage in business" or "engaging in business activities" is defined in SMC 5.04.045.

(5) "Home occupation business" means an accessory use of a dwelling unit for gainful employment involving the manufacture provision, or sale of goods or services as provided by Title 18 of this Code;

(6) "Incidental sales" means sales that are subordinate to the primary purpose of the organization or agency and minor in dollar amount and that bear reasonable relationship to the primary purpose of the organization or agency;

(7) "Nonresident commercial business" means any business conducted from a place of business located outside the limits of the Town of Steilacoom;

(8) "Multiple vendor event" means any organized exhibition, display, or show that lasts for not more than fourteen (14) consecutive days and involves less than twenty-five (25) participants, who sell, barter or exchange goods or services;

(9) "Peddler" means any person who sells, attempts to sell, or solicits the sale or purchase of goods, wares or merchandise or services from place to place, from house to house, or from a public right-of-way whether he carries with him for delivery such property, or whether he solicits orders for future delivery or performance;

(10) "Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, 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.

(11) "Premises" means all lands, structures and places, and also any personal property which is either affixed to or is otherwise used in connection with such business conducted on such premises inclusive of businesses located in homes.

(12) "Resident commercial business" means any business conducted from a place of business located within commercially zoned property.

(13) "Town" means the Town of Steilacoom.

(14) "Town Administrator" means the Administrator of the Town of Steilacoom or his or her designee;

(15) "Trade Show" means any organized exhibition, display, or show that lasts for not more than fourteen (14) consecutive days and involves twenty-five (25) or more participants, who sell, barter or exchange goods or services. (Ord. 1616, 2019: Ord. 1587, 2018: Ord. 1239 §1(part), 1998).

5.04.045 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 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 subsection (1). If an activity is not listed, whether it constitutes engaging in business in the Town will 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 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.

(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 Town.

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

(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 Town, 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 Town 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 Town.

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

(f) Conducting advertising through the mail.

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

(5) 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 (4).

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. (Ord. 1616, 2019; Ord. 1587, 2018).

5.04.050 License required. Unless specifically exempted in this Chapter, it is unlawful for any person to conduct, operate, engage in or practice any business in the Town without having first obtained and being the holder of a valid and subsisting license to do so, to be known as a "business license" and paying the fees prescribed by this chapter. (Ord. 1587, 2018; Ord. 1239 §1(part), 1998).

5.04.060 Application--Contents.

(1) All applications for business licenses prior to February 20, 2020 must be made in writing to the Town Administrator on forms provided by the Town Administrator.

(2) All applications for business licenses on and after February 20, 2020 are made-through the Business Licensing Service. Each application must include all information required for each license requested, and the total fees due for all licenses, as well as the application handling fee required by RCW 19.02.075.

(3) Each application must contain the following information as applicable:

(a) Applicant's name, address and phone number;

(b) Business name, address and phone number;

(c) Description of business;

(d) Washington State tax identification number;

(e) Number of employees;

(f) A floor plan and parking sketch;

(g) The applicant's state employment or contractor license number, if applicable;

(h) Information needed to ensure consistency with Title 18 of this code, the Town Building Code and the Town Fire Code;

(i) A statement, executed under the penalty of perjury that the facts stated in the application are true and correct to the best of the applicant's knowledge.

(j) The business license fee.

(4) Upon review of the application information collected by BLS on behalf of the Town, the Town Administrator may request from the applicant additional information if necessary to approve the license. (Ord. 1616, 2019: Ord. 1587, 2018: Ord. 1239 §1(part), 1998).

5.04.070 Issuance.

(1) The Town Administrator will determine whether to grant or deny the license. If denied, the reason(s) for denial will be provided to the applicant in writing.

(2) Neither the filing of an application for a license, nor the renewal thereof, nor the payment of any application or renewal fee, authorizes a person to engage in or conduct a business until such license has been granted or renewed. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.080 Term--Refund.

(1) All business licenses issued pursuant to the provisions of this chapter prior to February 20, 2020 are valid until December 31st of the year for which they are issued.

(2) No portion of any license fee will be refunded to a business which terminates prior to the end of the licensing period.

(3) All business licenses issued pursuant to the provisions of this chapter on or after February 20, 2020 expire on the date established by the Business Licensing Service, and must be renewed on or before that date in order to continue to conduct business in the Town.

(4) The term of the license and respective fee amount may be prorated in order to allow synchronization of the license expiration with the expiration date of the business license account established by the Business License Service. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.090 Fees.

(1) License fees for businesses will be set by resolution of the Town Council from time to time.

(2) The license fees imposed by this chapter are in addition to any license fee or tax imposed or levied under any other laws or any other ordinances of the Town.

(3) Any business wishing to relocate to another address in the Town must notify the Business Licensing Service prior to the move to allow the Town Administrator to review and approve or deny the move. A change of location may require submission of a new application and approval by the Town Administrator as provided for in this chapter.

(4) For the purpose of computing the fee for a resident commercial license a full time employee (as defined by SMC 5.04.040(2)(A)) is counted as 1 employee and a part time employee (as defined by SMC 5.04.040(2)(B)) is counted as 0.5 employee. If the total number of employees so counted results in a fraction, the number must be rounded up to the next whole number. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.100 Exempt from license.

(1) The following activities are specifically exempted from the license imposed by this chapter:

(a) Vendors of newspapers;

(b) Merchants or their employees delivering goods in the regular course of business;

(c) Any sale required by statute or by order of any court or any person conducting a bona fide auction sale pursuant to law;

(d) Any farmer, gardener, or other person to sell, deliver, or peddle any fruits, vegetables, berries, eggs, or any farm produce or edibles raised, gathered, produced, or manufactured by such person pursuant to RCW 36.71.090

(e) Nonprofit organizations, including but not limited to religious, civic, charitable, benevolent, nonprofit, cultural or youth organizations.

(f) Fundraising, membership, or incidental sales by religious, political, or non-profit organizations, or government agencies.

(g) Sales made by persons, excluding food vendors, who participate at no more than four (4) events in the Town of Steilacoom during any one calendar year.

(h) Minors engaged in babysitting, delivery of newspapers, lawn mowing, car washing and similar activities.

(2) The Town Administrator is authorized and empowered to determine whether or not entertainment, exhibitions or yard sales held under the auspices of or for any local charitable organization, fraternal organization, society or church located within the Town limits of Steilacoom is exempt from the license fee. The Town Administrator is further empowered to determine if an individual qualifies under the casual or isolated sales exemption. (Ord. 1616, 2019: Ord. 1458 §1, 2009: Ord. 1397 §1, 2005; Ord. 1381 §1, 2005: Ord. 1239 §1(part), 1998).

5.04.110 Renewal - Penalties.

(1) The business licenses issued under the provisions of this chapter expire as provided in SMC 5.04.080, and must be renewed on or before that date in order to continue to conduct business in the Town.

(2) Application for renewal of a license is made through the Business Licensing Service, and must include all information required to renew all licenses being renewed, the total fees due for all licenses, as well as the renewal handling fee required by RCW 19.02.075.

(3) Failure to complete the license renewal by the expiration of the license will incur the late renewal penalty required by RCW 19.02.085 in addition to all other fees due.

(4) Failure to complete the license renewal within 120 days after the expiration of the license will result in cancellation of the license and will require a new application for the license and approval by the Town Administrator in order to continue to conduct business in the Town. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.115 Threshold exemption for non-resident businesses. To the extent set forth in this section, the following persons and businesses are exempt from the 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 Town is equal to or less than \$2,000 and who does not maintain a place of business within the Town is 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. (Ord. 1616, 2019: Ord. 1587, 2018).

5.04.130 Nontransferable. Licenses issued pursuant to the terms of this chapter are personal to the applicant or to the business for which obtained and are not transferable or assignable. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.140 Display. All licenses issued pursuant to this chapter authorizing the maintenance or conducting of any occupation, business, trade or entertainment at a specified location must be posted in a conspicuous place at such location, and such license must not be tampered with in any manner; provided, however, that when the licensee has no established place of business and goes from place to place or from house to house, then such license must be carried on the

person of such licensee while actually engaged in the licensed occupation, business, business or trade. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.150 Denial--Revocation.

(a) The Town Administrator has the right to deny, revoke or suspend any license at any time on the following grounds:

(1) That the license was procured by fraud or false representation of facts;

(2) That the applicant or licensee or any of his servants, agents or employees, while acting within the scope of their employment, have violated or failed to comply with any Town ordinances; provided, that this section does not apply to traffic violations or to violations of ordinances when said violations are corrected within a period of thirty (30) days from the date of the violation or when said violations are deemed not significant by the Town Administrator; or

(3) Conviction of a violation of any provision of this chapter is prima facie evidence to warrant suspension or revocation of the license.

(b) The Town Administrator, upon finding that one or more of the above cited conditions exist, must suspend the business license for a period of thirty (30) days in the case of a first violation and revoke the business license in cases involving a second violation. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.160 Appeal.

(a) Whenever the Town Administrator determines there is cause for suspending, denying or revoking any license issued pursuant to this chapter, the Town Administrator must notify, in writing, the person holding said license of the determination. The notice must specify the grounds for suspension, denial or revocation.

(b) The licensee may appeal the Town Administrator's decision to suspend, deny or revoke a business license to the Town Council by filing a written notice of appeal to the Town Clerk within ten (10) days of the Town Administrator's decision.

(c) Upon timely receipt of the notice of appeal, the Town Administrator must set a date for hearing the appeal. The Town Clerk must mail notice of the date of hearing to the licensee.

(d) The hearing is de novo. The Town Council may affirm, reverse or modify the Town Administrator's decision.

(e) The decision of the Town Council is final. Any person desiring to appeal must file an appropriate lawsuit in the Pierce County Superior Court within fourteen (14) days of the Town Administrator's decision. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.170 Notices. Any notice required by this chapter to be mailed must be sent by ordinary mail, addressed to the licensee listed on the business license application, or if no such address is shown, to such address as the Town Administrator is able to ascertain by reasonable effort. Failure of the person or licensee to receive such mailed notice does not release the person or licensee from any license fee or tax or penalties thereon, nor does such failure operate to extend any time limit set by the provisions of this chapter. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.180 Licensing and bonding. When other licenses and/or bonding are required by either the state, County or Town of Steilacoom, the license type, identification, bonding agency and the amount thereof must be noted on the face of the business license application. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.190 Inspections. The Public Safety Department, Health Department and/or the Building Department, are authorized to conduct necessary inspections if the public has access to the premises. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.200 Multiple businesses at one location. A person engaged in two (2) or more separate business activities at the same location is not required to obtain separate licenses for conducting each of such businesses. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.210 Multiple locations or vendors. A separate business license must be obtained for each branch, establishment or location at which the business related activity is carried on. Each license authorizes the licensee to carry on, pursue, or conduct only that business at that location. If two or more business owners each operate their own business at a single physical location, each such business must obtain a separate license for their respective business. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.220 License fee constitutes debt. Any license fee due and unpaid under this chapter, and all penalties thereon, constitutes a debt to the Town and may be collected in court proceedings in the same manner as any other debt in like amount, which remedy is in addition to other existing remedies. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

5.04.230 Penalty for violation.

(a) Any person convicted of violating the provisions of this chapter shall be guilty of a class III civil violation and is subject to a fine not to exceed \$50.

(b) Any person who engages in, or carries on, any business subject to licensing under the provisions of this chapter without a license to do so, is guilty of a separate violation for each day the business is so conducted in violation of this chapter. (Ord. 1616, 2019: Ord. 1239 §1(part), 1998).

Chapter 5.06

GAMBLING ACTIVITIES

Sections:

- 5.06.010 Definitions.**
- 5.06.020 Tax--Levy.**
- 5.06.030 Tax--Payments.**
- 5.06.040 Tax--Administration and collection.**
- 5.06.050 Tax--Late payment penalties.**
- 5.06.060 Notice of intention to conduct activity.**
- 5.06.070 Taxpayer's records.**
- 5.06.080 Moneys due constitute debt.**

5.06.010 Definitions. Words and terms used in this chapter shall have the same meaning as each has under Chapter 218, Laws of 1973, 1st Extraordinary Session, and RCW Chapter 9.46, each as amended, and under the rules of the Washington State Gambling Commission, Chapter 230 of the Washington Administrative Code. (Ord. 555 §1, 1975).

5.06.020 Tax--Levy. There is levied upon all persons, associations and organizations conducting or operating within the jurisdiction any of the activities listed below a tax in the following amounts to be paid to the Town:

(1) Bingo and raffles, in the amount of five percent of gross receipts, less the amount paid for as prizes;

(2) Amusement games, in the amount of two percent of gross receipts less the amount paid for as prizes;

(3) Notwithstanding the foregoing provisions, bona fide charitable or nonprofit associations, conducting bingo, raffles or amusement games and earning less than ten thousand dollars gross annual revenue therefrom shall be exempt from taxation, but not exempt from the obligation to file a notice of intention to engage in the said activity;

(4) Punchboards and/or pull tabs, in the amount of five percent of gross receipts;

(5) Card rooms, in the amount of twenty percent of gross receipts from fees charged persons for the privilege of participating in card games. (Ord. 1320 §1, 2002: Ord. 624 §1, 1977: Ord. 555 §2, 1975).

5.06.030 Tax--Payments. Each tax imposed by this chapter shall be computed on the basis of activity during each calendar quarter year, shall be due and payable in quarterly installments, and remittance thereof shall be made to the Town on or before January 31st, April 30th, July 31st and October 31st of each year; provided, however, when any person, association or organization conducting a taxable activity on a regular basis discontinues operation, quits, sells, or otherwise terminates his or its business, all unpaid taxes for activities through the date of discontinuation or termination shall become due and payable within ten days following that date. (Ord. 1338 §1, 2003: Ord. 555 §3, 1975).

5.06.040 Tax—Administration and collection. The Town Administrator shall administer and collect taxes imposed by this chapter, and shall require that true and full copies of each taxpayer's quarterly report to the State Gambling Commission be filed in the Town Administrator's office on or before the dates original reports are required to be filed with said Commission. (Ord. 1338 §2, 2003: Ord. 555 §4, 1975).

5.06.050 Tax—Late payment penalties. If full payment of any tax is not made by the date due, there shall be added to the amount due, interest computed at the rate of twelve percent per year, together with a penalty computed thus:

(1) One through ten days late minus ten percent of tax due;

(2) Eleven through twenty days late minus twenty percent of tax due;

(3) Twenty-one through sixty days late minus thirty percent of tax due;

(4) Period in excess of sixty days late minus fifty percent of tax due. (Ord. 555 §5, 1975).

5.06.060 Notice of intention to conduct activity. To assure proper administration of this chapter, each person, association or organization proposing to conduct any gambling activity within the Town shall file with the Town Administrator, on a form provided by the Town Administrator, his or its notice of intent to conduct an activity, disclosing the place where and the time or times when the activity shall be conducted. Such filing shall occur not later than forty-eight hours prior to commencement of the activity. Said form shall not be accepted for filing unless it is accompanied by a full and true copy of the license authorizing such activity issued by the State Gambling Commission. (Ord. 1338 §3, 2003: Ord. 555 §6, 1975).

5.06.070 Taxpayer's records. Each person, association or organization engaging in an activity taxable under this chapter shall maintain records respecting that activity which truly, completely and accurately disclose all information necessary to determine the taxpayer's tax liability under this chapter during each base tax period. Such records shall be kept and maintained for a period of not fewer than three years. All records maintained under this section shall be subject to, and immediately made available for, inspection and audit at any time, with or without notice, at the place within the Town where such records are kept within twenty-four

hours after demand is made for their production. In addition to other civil and criminal liabilities and penalties, a taxpayer who fails, neglects or refuses to produce and permit the inspection and auditing of records as required in this section shall be subject to a jeopardy assessment equal to the maximum approximate tax on activities through the date of such failure, neglect or refusal, as estimated by the Clerk-Treasurer, and such jeopardy assessment shall be deemed prima facie correct unless the taxpayer proves otherwise by competent evidence. The taxpayer shall be notified by regular mail, postage prepaid, directed to the taxpayer's last known address, of the amount of the jeopardy assessment, which amount shall be due and payable seventy-two hours after the same is posted, and, if not paid within said period, shall be subject to the interest and penalty provisions of this chapter. (Ord. 1338 §4, 2003: Ord. 555 §7, 1975).

5.06.080 Moneys due constitute debt. Any tax, penalty, interest amount or jeopardy assessment due and unpaid under this chapter shall constitute a debt payable to the Town. (Ord. 555 §8, 1975).