

ORDINANCE NO. 1951-18

AN ORDINANCE OF THE CITY OF MILTON, WASHINGTON, AMENDING SECTIONS 5.04.020 AND 5.04.040 OF THE MILTON MUNICIPAL CODE IN ORDER TO MAKE THE SAME CONSISTENT WITH THE MODEL BUSINESS LICENSE ORDINANCE, AS REQUIRED BY RCW 35.90.090; PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE, AND FOR SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

WHEREAS, the City of Milton collects business license fees in accordance with RCW 35.90; and

WHEREAS, chapter 35.90 RCW has been updated to require adoption of the model business license ordinance; and

WHEREAS, the model business license ordinance must be adopted by October 17th, 2018 in order for the City of Milton to continue collecting business license fees in 2019.

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF MILTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Milton Municipal Code Section 5.04.020 is amended as shown below with strikethrough (deleted) and underline (added) text:

5.04.020 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this section:

A. Engaging in Business

1) "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 another 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, if it engages in no other business activities in the City. Such activities do not include those in subsection (4).

B. "City license officer" is the city clerk.

C. "Licensee," as used generally in this chapter, includes any person, or persons, who engage in business, who provides professional services 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.

D. "Peddler" means any person who sells, attempts to sell, by going from place to place or from house to house, whether he or she carries with him/her for delivery such property or whether he/she merely solicits orders for future delivery or performance.

E. "Person" includes individual natural persons, partnerships, joint ventures, societies, associations, trustees, trusts or corporations, or any officer, agent, employee, factor or any kind of personal representative thereof, in any capacity, acting either for himself, or any other person, under either personal appointment or pursuant to law.

F. "Premises" include all lands, structures and places, and any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

G. "Transient merchant" means any person, firm or corporation who engages in, does or transacts any temporary business at wholesale or retail for the sale of goods, wares, or merchandise, or services, and who for such purpose shall use or occupy any building, vehicle, booth or other structure, either temporary or permanent, for the exhibition and/or sale of such property or services.

H. "Contractor" means any firm or individual or persons providing construction, engineering, or professional services within the city's jurisdiction, either temporarily or permanently.

I. "Year" means a 12 consecutive month period.

Section 2. Milton Municipal Code Section 5.04.040 is amended as shown below with underlined (added) text:

5.04.040 Exemptions.

A. The license requirements of this chapter shall not apply to religious, charitable or benevolent societies or organizations. The license agent may require proof of nonprofit status.

B. While the ordinance codified in this section remains in effect, the license requirements of this chapter shall not apply to the following types of businesses that do not have permanent offices located within the city of Milton:

1. Subcontractors who are licensed and bonded as required by state law for any public or private development or repair project;
2. Licensed professionals, such as doctors, lawyers, accountants and professional engineers;
3. Consultants hired to provide their expertise or opinion to other businesses, including financial and management consultants and experts hired to provide information for permit applications to government agencies;
4. Vendors and entertainment providers who do not operate for more than three consecutive days per year for community events open to all citizens of the city of Milton, such as street festivals, parades, and carnivals.

C. 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: 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 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.

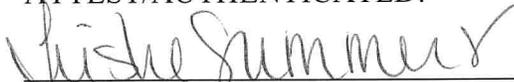
Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This Ordinance shall become effective on January 1, 2019, which is at least five days following its passage and publication.

Passed by the Milton City Council the 15th day of October 2018, and approved by the Mayor, the 15th day of October 2018.


SHANNA STYRON SHERRELL, MAYOR

ATTEST/AUTHENTICATED:


TRISHA SUMMERS, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
OGDEN MURPHY WALLACE, CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. _____