

CITY OF KENNEWICK
ORDINANCE NO. 5770

AN ORDINANCE RELATING TO LICENSES AND ADDING A NEW
SECTION 6.08.018 TO THE KENNEWICK MUNICIPAL CODE AND
AMENDING SECTION 6.08.290 OF THE KENNEWICK MUNICIPAL CODE

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

Section 1. There is hereby added a new Section 6.08.018 to the Kennewick Municipal Code, to read as follows:

6.08.018: 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).
- (6) 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.

(Ord. 5770 Sec. 1, 2018)

Section 2. Section 6.08.290 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

6.08.290: Exemptions.

- (1) The provisions of 6.08.150 shall not apply to:
 - (a) Any person, firm or corporation which the City of Kennewick is forbidden to tax by law;
 - (b) Accredited public or private schools, colleges or universities, as to their education endeavors, churches and other religious bodies as to their religious activities, fraternal organizations and lodges as to their fraternal and lodge activities, civic and charitable organizations, including nonprofit hospitals and clinics, as to their civic and charitable activities, but not as to any business activities by these entities. All business activities for profit are taxed under this Chapter;
 - (c) Transitory businesses such as traveling shows, entertainers, circuses, etc.; and
 - (d) Utilities to the extent taxed by Chapter 3.70.
- (2) Threshold Exemption:
 - (a) 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:
 - (i) 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 \$12,000 and who does not maintain a place of business at a commercial location within the City, shall be exempt from the general business license requirements of this chapter. The exemption does not apply to regulatory license requirements or activities that require a specialized permit.
- (3) Contributions Authorized. Any entity exempt by law or ordinance is authorized to make a contribution to the General Fund as if the exemption were not provided.

(Ord. 5770 Sec. 2, 2018; Ord. 5661 Sec. 1, 2016; Ord. 5591 Sec. 14, 2015; Ord. 3322 Sec. 3, 1991; Ord. 2975 Sec. 1(part), 1986; Ord. 2542 Sec. 2(part), 1980)

Section 3. This ordinance shall be in full force and effect January 1, 2019.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 2nd day of October, 2018, and signed in authentication of its passage this 2nd day of October, 2018.

DON BRITAIN, Mayor

Attest:

TERRI L. WRIGHT, City Clerk

Approved as to Form:

LISA BEATON, City Attorney

ORDINANCE NO. 5770 filed and recorded
in the office of the City Clerk of the City of
Kennewick, Washington this 3rd day of
October, 2018.

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION _____