

Hoh Tribal Code Title 8
Business and Economic Development
Chapter 8.04 Business Licensing Ordinance

§ 8.04.010 Title

This Ordinance shall be known as the Hoh Indian Tribe Business License Ordinance.

§ 8.04.020 Authority

- (1) The Hoh Tribal Business Committee has the inherent sovereign and constitutional power to control and manage the economic affairs of the Tribe, to license such commercial enterprises as it may deem proper, and to regulate those who transact business within territories under the jurisdiction of the Hoh Indian Tribe.
- (2) It is declared that the conduct of commerce within said territories is vital to the economic security, political integrity, and general health and welfare of the Tribe and its members. Therefore, to protect these interests of the Tribe, the Tribal Council adopts this Business License Ordinance.
- (3) The conduct of business within Hoh Indian Country constitutes a consensual relationship between the Hoh Indian Tribe and any business licensed or applying to be licensed pursuant to this Ordinance, including but not limited to officers, employees, agents, consultants, and contractors of such businesses.
- (4) All persons and entities which apply for or obtain a Business License under the laws of the Hoh Indian Tribe pursuant to this Ordinance shall in so doing expressly consent to the full jurisdiction of the Tribe. The licensee, company, officers and the Board of Directors of such business by applying for a Business License and accepting the approved Business License voluntarily consent to the jurisdiction of the Hoh Indian Tribe and the Hoh Tribal Court for all matters and disputes arising out of their conduct of business within Hoh Indian Country.
- (5) The Tribal Council hereby expressly delegates to the Tribe's Accounting Department the authority necessary to carry out the provisions of this Ordinance, including but not limited to the authority to establish forms required under this Ordinance, to administer such forms and to maintain a storage system for such completed forms and associated documents; the authority to impose and collect fees pursuant to this Ordinance; the authority to approve, deny, renew, revoke, or cancel business licenses pursuant to this Ordinance; the authority to issue civil penalties for conducting business in Hoh Indian Country without a Business License as required under this Ordinance; and the authority

to accept complaints of noncompliance with this Ordinance and to refer such complaints to the tribal attorneys or to the Tribal Court.

§ 8.04.030 Purpose

The purpose of this Ordinance is to regulate the conduct of business within Hoh Indian Country in order to protect the economic security, health, safety and welfare of the Hoh Indian Tribe and its members, and of residents and other persons present on such lands by requiring that all non-exempt business obtain a Business License.

§ 8.04.040 Definitions

- (1) “Accounting Department” means and refers to the Accounting Department of the Hoh Indian Tribe.
- (2) “Business License” means a license to conduct business activities within Hoh Indian Country pursuant to this Ordinance.
- (3) “Hoh Indian Country” means and includes the Hoh Indian Reservation and all lands held in trust by the United States for the benefit of the Hoh Indian Tribe.
- (4) “Ownership of a business” means having at least a 51% ownership interest and being actively involved in management and operation of the business.

§ 8.04.050 Applicability

- (1) **Business License Required.** A Business License is required for any person or entity that conducts business or plans to conduct business in Hoh Indian Country, except as provided below.
- (2) **Exemptions.** The following activities, persons, entities or businesses are exempt from the Business License requirements of this Ordinance:
 - (a) Sales by enrolled members of the Indian Tribe of arts, crafts, or inedible goods produced by Native Americans;
 - (b) Services or goods ordered by mail, phone, or internet;
 - (c) Any activity conducted by the Hoh Indian Tribe, a Tribal Department, a Tribal entity, or a Tribal enterprise;
 - (d) Occasional yard or garage sales;
 - (e) Treaty activities conducted in accordance with Hoh Tribal regulations;

- (f) Entities wholly owned by the Tribe and doing business in Hoh Indian Country on or before the effective date of this Ordinance; and
- (g) Entities whose business activities within Hoh Indian Country are limited to distributing goods or providing services procured by the Tribe, by an entity wholly owned by the Tribe or by an entity operating under a valid Business License.

§ 8.04.060 Application for Business License

- (1) In order to obtain a Business License, an applicant must apply to the Tribe's Accounting Department on forms provided by the Accounting Department.
- (2) The application must contain:
 - (a) The name of the applicant;
 - (b) If the applicant is a corporation, the date of its incorporation, the period of its duration, and the laws under which it was incorporated (tribal, state, or federal);
 - (c) Hoh Indian Tribe proof of enrollment, if applicable, or if the applicant is a tribally-owned corporation, the federally-recognized tribe under the laws of which the corporation was formed;
 - (d) The address of the applicant including, where the applicant is a corporation, its principal place of business and the name and respective addresses of its directors and officers;
 - (e) A statement that the applicant and its directors, officers, employees, counsel or consultants, contractors, and agents expressly consent to the jurisdiction of the Hoh Tribal Court for all matters arising from business in Hoh Indian Country;
 - (f) That the applicant irrevocably consents to the service of process upon it in accordance with Hoh Tribal law;
 - (g) That the applicant agrees to pay all applicable Hoh Tribal taxes on applicant's business conducted within Hoh Indian Country;
 - (h) If the applicant is a corporation, a statement that the officers executing the application have been duly authorized by the board of directors of the corporation; and
 - (i) Signature of and acknowledgement by the applicant, including, where the applicant is a corporation, by its duly-authorized representative.

- (3) At the time of making the application for a Business License under this Ordinance, the applicant shall remit to the Accounting Department the sum of \$100.00 as a nonrefundable application fee.

§ 8.04.070 Issuance of License

- (1) **Issuance of Business License.** Upon receipt of an application consistent with Section 8.02.060, the Accounting Department shall file the application in its office and issue and record a Business License.
- (2) **Contents of Business License.** The Business License must contain:
 - (a) The date it was issued;
 - (b) The expiration date of the license, which must be one year from date of issuance;
 - (c) The name of the licensee;
 - (d) If the licensee is a corporation, the state or federally-recognized tribe of incorporation;
 - (e) The duration of its corporate existence and the address of its registered office; and
 - (f) A statement that it is authorized to transact business in Hoh Indian Country.
- (3) **Effect of Business License.** After issuance of a Business License and until cancellation or revocation thereof or issuance of a certificate of withdrawal, the licensee shall possess the right to transact business within Hoh Indian Country, and shall be subject to the laws of the Tribe, including the Hoh Tribe Taxation Ordinance.
- (4) **License Not a Property Right.** Notwithstanding any other provision of this Ordinance, a Business License is a mere permit for a fixed duration of time. A Business License shall not be deemed a property right or vested right of any kind, nor shall the granting of a Business License give rise to a presumption of legal entitlement to the granting of such license for a subsequent time period.

§ 8.04.080 Application for Withdrawal of Business License

- (1) If a licensee holding a Business License desires to withdraw its Business License, it must file an application for withdrawal with the Tribe's Accounting Department.
- (2) The application for withdrawal must include:
 - (a) The name of the licensee and, if the licensee is a corporation, the jurisdiction under the laws of which it is organized;

- (b) That the licensee has ceased to transact business or desires to cease business in Hoh Indian Country;
 - (c) That the licensee, or where the licensee is a corporation its board of directors, has duly determined to surrender its authority to transact business in Hoh Indian Country;
 - (d) The address to which the Accounting Department may mail a copy of any process against the licensee that may be served upon it;
 - (e) That it will remit to the Accounting Department the amount of any additional license fee, other fee, or tax properly found by the Accounting Department to be then due from such licensee; and
 - (f) Such additional information as the Accounting Department may require or demand to enable it to determine the additional fee or tax, if any, payable by such licensee.
- (3) The application for withdrawal shall be executed, acknowledged and verified on behalf of the licensee, or, if the licensee is a corporation, by its duly-authorized representative.
 - (4) Such application for withdrawal shall be delivered to the Accounting Department. If the application conforms to the provisions of this Ordinance, upon receipt thereof and once all fees and charges have been paid as required by law the application for withdrawal shall be filed in the Accounting Department office. The Accounting Department shall then issue and record a certificate of withdrawal and shall mail one copy of the certificate of withdrawal to the licensee.
 - (5) Upon issuance of such certificate by the Accounting Department, the Business License shall no longer be valid and the authority of the former licensee to transact business in Hoh Indian Country shall cease.

§ 8.04.090 Revocation and Cancellation of Business License

(1) Revocation of Business License.

- (a) The Accounting Department shall revoke the Business License if the licensee fails to:
 - (i) Pay any fee or tax due under the provisions of this Ordinance or any other provision of Tribal law;
 - (ii) Maintain a registered agent or office authorized to accept service of process in Hoh Indian Country; or

- (iii) File an annual report as required under this Ordinance or any other provision of Tribal law.
- (b) When the Accounting Department finds that any such ground for revocation of a business license exists, it shall give notice by certified mail to such licensee that such ground exists and that its business license will be revoked unless the licensee cures such ground within 30 days after the mailing of such notice.
- (c) The Accounting Department shall revoke the Business License of such licensee if the ground for revocation is not cured within the period of 30 days; provided, that for good cause shown the Accounting Department may extend the period from time to time, but the aggregate of such extension(s) shall not exceed 90 days.
- (d) Upon revoking such Business License, the Accounting Department shall:
 - (i) Issue a certificate of revocation, in duplicate; and
 - (ii) Mail to the licensee a notice of the revocation accompanied by one certificate of revocation.
- (e) Upon the issuance of a certificate of revocation, the Business License shall no longer be valid and the authority of the licensee to transact business in Hoh Indian Country shall cease.

(2) Cancellation of Business License.

- (a) When the public interest may require, the Hoh Tribal Business Committee may direct that an action be brought by the Accounting Department against a licensee to cancel its Business License upon grounds including but not limited to:
 - (i) The Business License was procured through fraud;
 - (ii) The Business License should not have been issued to the licensee under this Ordinance;
 - (iii) The licensee has not expressly consented to Tribal Court jurisdiction for its business affairs in Hoh Indian Country or has revoked such consent in any form;
 - (iv) The Business License was procured without substantial compliance with the conditions prescribed by this Ordinance;
 - (v) The licensee has offended against any provision of Tribal law regulating its conduct, or has abused or usurped its privileges or power;

- (vi) The licensee is knowingly and persistently violating any provision of Tribal law; or
 - (vii) The licensee has done or omitted any action which amounts to a surrender of its Business License.
- (b) If the ground for the cancellation is an act which the licensee has done or omitted to do, and it appears probable that correction can be made, then such cancellation shall not be instituted unless the Accounting Department shall give notice to such licensee by certified mail at its registered office within Hoh Indian Country that such default or violation exists and that an action to cancel its Business License will begin unless such ground shall be cured or such violation discontinued within 15 days.
 - (c) The Business Committee shall cause two certified copies of the notice canceling a Business License to be delivered to the Accounting Department office. The Accounting Department shall file one copy in its office and shall mail the other copy to the licensee with a notice of such cancellation.
- (3) **Appeal.** If the Accounting Department revokes or cancels the Business License of any licensee pursuant to this Ordinance, such licensee may appeal the revocation or cancellation to the Tribal Court.

§ 8.04.100 Reinstatement of Business License

- (1) Any former licensee whose Business License has been revoked or cancelled may file with the Accounting Department an application for reinstatement. Such application shall be on forms prescribed by the Accounting Department, shall contain all the matters required to be set forth in an original application for a Business License under Section 8.02.060, and such other pertinent information as may be required by the Accounting Department.
- (2) If the Accounting Department revoked the Business License pursuant to Section 8.02.090(1), the former licensee shall remit to the Accounting Department \$200.00 before it may be reinstated. If the Business License was cancelled by a notice pursuant to Section 8.02.090(2), the former licensee shall remit to the Accounting Department \$300.00 before it may be reinstated.
- (3) Upon filing of such application and upon payment of all penalties, fees and charges required by law, not including an initial license fee or additional license fees to the extent that the same have already been paid by such former licensee, the Accounting Department shall issue and record a certificate of reinstatement and shall transmit the certificate to the licensee.

§ 8.04.110 Operating Without a Business License

Any non-exempt person or entity who conducts business within Hoh Indian Country without a valid Business License as required by this Ordinance shall be subject to a civil penalty including but not limited to a monetary fine. Repeated violations may result in increased civil penalties including but not limited to higher monetary fines and denial of future applications for a Business License.

§ 8.04.120 Sovereign Immunity

Nothing in this Ordinance shall be construed as a waiver by the Tribe or Business Committee of its sovereign immunity.

§ 8.04.130 Severability

If any clause, sentence, paragraph, section or part of this Ordinance shall be found by the Tribe or a court of competent jurisdiction to be invalid or unconstitutional, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this Ordinance as adjudged or decreed to be invalid or unconstitutional.