

TITLE 40

CHAPTER 03 BUSINESS LICENSE ORDINANCE

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40.03.01 **SHORT TITLE**

This Ordinance shall be known and may be cited as the "Business License Ordinance."

40.03.02 **PURPOSE**

The purposes of the Business License Ordinance are to protect the public from abuses by businesses, to regulate business activities and occupations within the town; to maintain a current index of licensed businesses and occupations; and to raise revenues.

40.03.03 **DEFINITIONS**

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

Approving Officer: The Town Official or body that is authorized by resolution of the Town Council to review and approve license applications.

Business: All kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for profit or private benefit, either directly or indirectly, on any premises

in the Town; provided, however, nothing herein shall be construed as to require any insurance company or insurance agent to obtain a license under this Ordinance.

Contractor: All individuals and other entities defined as a contractor in Ordinance 58A, Chapter 1a, Utah Code Annotated 1953, as amended.

Person: 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 for any other person, under either personal appointment or pursuant to law.

Premises: All lands, structures, places and also the equipment and appurtenances connected or used therewith in any Business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

40.03.04

LICENSE REQUIRED

1. It shall be unlawful for any person, either directly or indirectly, to conduct any business or non-profit enterprise, or to use in connection therewith any premises, machine or device without a license therefore being first procured and kept in effect at all times as required by this Ordinance. Obtaining a license under this Ordinance shall not relieve any person from obtaining such other license or permit as may be required by any other ordinance or regulation.
2. For purposes of this Ordinance, a person shall be deemed to be in business or engaging in non-profit enterprise, and thus subject to the licensing requirements hereof, when he does one act of selling any goods or service, or soliciting business or offering goods or services for sale or hire, or acquiring any premises in the Town for business purposes.
3. The agents or other representatives of non-residents who are doing business in the Town shall be personally responsible for the compliance of their principals and of the businesses they represent with this Ordinance.
4. A license or licenses as required by this Ordinance shall be obtained for each branch establishment or location of the business engaged in as if each such branch establishment or location were a separate business; provided that multiple buildings on the same lot owned and operated by the same entity under the same Business name shall not be deemed to be separate places of business or branch establishments. Each contractor performing any work within the Town shall obtain a license under this Ordinance, but no contractor shall be required to obtain a license for each separate work site within the Town.
5. A person engaged in two or more businesses at the same location shall not be required to obtain separate licenses for conducting each of such businesses but may be issued one license which shall specify on its face all such businesses.
6. The licensing requirements of this Ordinance shall not apply to agricultural businesses or to Home Business and Home Industries as defined in 2009.

40.03.05

ADMINISTRATION

1. The Town Recorder shall collect all license fees and shall issue licenses in the name of the Town to all persons qualified under the provisions of this Ordinance and shall:
 - a. require applicants to submit all affidavits and oaths necessary to the administration of this Ordinance;
 - b. submit all applications to interested Town officials for their endorsements thereon as to compliance by the applicant with all Town ordinances and regulations which they have the duty of enforcing;
 - c. investigate and determine the eligibility of any applicant for a license as prescribed herein;
 - d. examine the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this Ordinance;
 - e. notify any applicant of the acceptance or rejection of his application and shall, upon refusal of any license or permit, at the applicant's request, state in writing the reasons therefor and deliver them to the applicant.
2. The Town Council may adopt what administrative rules and forms necessary for the appropriate implementation of this Ordinance, including the identification of which Approving Officer shall have the authority to approve license applications. Such rules and forms shall be adopted by resolution.

40.03.06

PROCEDURE FOR ISSUANCE OF LICENSE

1. Every person required to procure a license under the provisions of this Ordinance shall submit an application for such license to the Town Recorder. The application shall be in writing upon forms provided by the Town Recorder and shall contain such information as the Town Recorder shall deem reasonably necessary in enforcing this Ordinance. The application shall include an affidavit to be sworn to by the applicant.
2. Upon completion of such investigation as the Approving Officer deems necessary and upon approval by the Approving Officer, the Town Recorder shall notify the applicant of acceptance or rejection of the application. If the application is accepted, the notice shall include a statement of the amount of license fee due and the license shall be issued upon payment of the fee. No person shall commence business until the fee has been paid and the license issued. If the application is rejected, the notice shall include a statement of the applicant's right to appeal the decision of the Approving Officer to the Board of Adjustments. All such appeals shall be in writing and the Board of Adjustments shall, within thirty (30) days of such an appeal either affirm or reverse the decision of the Approving Officer. When the issuance of a license is denied and an action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued pursuant to a judgment ordering the same.

3. The applicant for the renewal of a license shall submit an application for such renewal to the Town Recorder on a form provided by the Town Recorder. Such form shall include an affidavit to be sworn to by the applicant. The Town Recorder shall mail all licensees a statement of the time of expiration of their license at least three weeks prior to the date of such expiration; provided, that a failure to send such a notice, or the failure of a licensee to receive such a notice, shall not excuse the licensee from failure to renew his license or from payment of any late fees nor shall it be a defense in any action for operation without a license.
4. A duplicate license shall be issued by the Town Recorder to replace any license previously issued which has been lost, stolen, defaced, or destroyed upon the filing by the licensee of an affidavit sworn to by licensee attesting to such fact and paying to the Town Recorder a replacement fee.

40.03.07

TERM OF LICENSE

All licenses issued pursuant to this Ordinance shall expire on December 31 of the year in which they were issued. The applicant may apply for and receive a quarterly license if the application is received by the Town Recorder after October 1st of the year of application.

40.03.08

LICENSE FEES

1. License fees shall include fees for each of the applicable fees below as set forth by resolution of the Town Council:
 - a. Base Fee: All licenses shall be charged a Base Fee.
 - b. Pollution Fee: All Businesses that by the nature of the business will release any form of pollution into the air shall pay a Pollution Fee. A separate Pollution Fee shall be charged for dust, smoke, fumes, and anything carrying a scent.
 - c. Traffic Fee: All Businesses that require more than two delivery vehicles and two shipping vehicles to service the business each day shall pay a Traffic Fee.
 - d. Parking Fee: All businesses that require more than twenty parking stalls for employees or customers shall pay a Parking Fee.
2. The fees for quarterly licenses issued pursuant to this Ordinance shall be three-eighths of those specified in Section 1 above.
3. A late fee for renewal of each license required by this Ordinance shall be charged when the annual license fee is not paid within one (1) month of the expiration of the license. The amount of the late fee shall be fifty percent (50%) of the annual license fee.

40.03.09 **CONTENTS OF LICENSE**

Each license issued under this Ordinance shall have upon its face the following:

1. The name of the licensee and any other name under which such business is to be conducted.
2. The kind and address of each business so licensed.
3. A detailed description of the business activity covered by the license.
4. The amount of the license fee.
5. The dates of issuance and expiration thereof.
6. Such other information as the Town Recorder shall determine.
7. The signature of the Town Recorder.

40.03.10 **DUTIES OF LICENSEE**

1. Every licensee under this Ordinance shall:
 - a. permit all reasonable inspections of his business and examinations of his books by public authorities so authorized by law, but solely for the purpose of verifying compliance with this Ordinance;
 - b. at all times comply with all laws, ordinances, and regulations applicable to such licensed business;
 - c. not engage in or permit forbidden, improper, or unnecessary practices or conditions which do or may affect the public health, morals or welfare;
 - d. not conduct or operate the business so as to constitute a nuisance; and
 - e. not operate the business after expiration of the license and during the period the license is revoked or suspended.
2. Every licensee under this Ordinance shall post and maintain the license upon the licensed premises in a place where it may be readily seen by the public or carry such license on his person when he has no licensed business premises.

40.03.11 **CHANGE OF LOCATION**

A licensee shall have the right to change the location of the license premises, provided he shall obtain written permission from the Town Recorder for such change of location and pay a change fee set forth by resolution of the Town Council.

40.03.12 **INSPECTION**

1. The following persons are authorized to conduct inspections in the manner prescribed herein:

- a. The Town Recorder shall make all investigations reasonably necessary to the enforcement of this Ordinance.
 - b. The Approving Officer shall have the authority to order the inspection of licensees, their businesses and premises, by all Town officials having duties to perform with reference to such licensees, businesses or premises.
 - c. All police officers shall inspect and examine businesses located in the Town to enforce compliance with this Ordinance.
2. All persons authorized herein to inspect licensees and businesses shall have the authority to enter, with or without search warrant, at all reasonable times solely for the purpose of enforcement of this Ordinance, the following premises:
 - a. Those for which a license is required.
 - b. Those for which a license was issued and which, at the time of inspection, are operating under such license.
 - c. Those for which the license has been revoked or suspended.
3. Persons inspecting licenses, their businesses or premises as herein authorized shall report all violations of this Ordinance or of other laws, ordinances, or regulations to the Town Recorder and shall submit such other reports as the Town Recorder shall order.

40.03.13

ORDER TO COMPLY

1. When the Town Recorder becomes aware of the violation by any licensee or business of any provision of this Ordinance or of other law, ordinance, or regulation, he shall report the same to the Mayor. The Mayor shall issue the affected person a provisional order to comply.
2. The provisional order, and all other notices issued pursuant to this Section, shall be in writing, shall be served on the person affected or his agent and shall notify the person affected of the specific violation or violations. In the absence of the Person affected or his agent or employee, a copy of such order shall be affixed to some structure on the premises and a copy thereof mailed to the licensee at his last known address as shown on the records of the Town Recorder. The provisional order shall require compliance within ten (10) days of service.
3. The Person in violation of this Ordinance shall fully comply with this Ordinance within ten (10) days of service, or such Person may petition for a hearing regarding the order to comply. The Mayor shall order a hearing to be performed by the Board of Adjustments within thirty (30) days of the receipt of the petition for a hearing.
4. Upon written petition for a hearing, or on his own motion, the Mayor shall have authority, in a proper case, to extend the time for compliance, to grant a new bearing date, and to change, modify or rescind any order.

5. A provisional order shall become final if no petition for a hearing is submitted within the ten (10) day compliance period.
6. Any decision made by the Board of Adjustments upon completion of the bearing shall be final.

40.03.14 **REVOCAATION**

1. The Mayor may suspend or revoke any license upon failure or refusal of the licensee to comply with any final order.
2. When the conduct of any licensee or his agent or employee is so inimical to the public health, safety and general welfare as to constitute a nuisance, the Mayor shall have authority to summarily order the cessation of business and the close of premises and to suspend or revoke the license. Unless waived in writing, within five (5) days after he has acted summarily, the Mayor shall conduct a special hearing for such action in respect to the summary order as may be therein detemlined. Notice of such hearing shall be given the affected Person as provided in Section 40.03.12.2.
3. Upon revocation or suspension, no refund of any portion of the license fee shall be made to licensee, and he or she shall immediately cease all business at all places under such license.

40.03.15 **APPEAL TO TOWN COUNCIL**

1. Any Person aggrieved by any decision of the Mayor pursuant to Section 40.03.13.2, or pursuant to Section 40.03.13.1, that Person shall have the right to appeal to the Town Council by filing a written appeal within ten (10) days following the effective date of the decision appealed from. Such appeal shall set out a copy of the order or decision appealed from and shall include a statement of the facts relied upon to avoid such order.
2. The Town Council shall fix a time and place for hearing the appeal and shall give notice to appellant thereof as provided in Section 40.03.12.2. The findings of the Town Council shall be final and conclusive.

40.03.16 **LIABILITY OF VIOLATOR**

The amount of any unpaid fee, the payment of which is required by this Ordinance, shall constitute a debt due the Town. The Town may pursue whatever legal means it sees fit to obtain payment of such fee. No civil judgment or any act by the Town Attorney, the Town Recorder, or violator shall bar or prevent a criminal prosecution for each and every violation of this Ordinance.

40.03.17 **PENALTY**

Any person who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be liable to punishment by a fine or by imprisonment as set forth by the Genola Justice Court Judge.

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