

Introduced: 8/27/18
Posted: 9/16/18
Public Hearing: 10/8/18
Adoption: 10/8/18

CITY OF SELDOVIA

ORDINANCE 19-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA, ADOPTING CHAPTER 5.35 BUSINESS LICENSE AND ESTABLISHING A PENALTY OF OFFENSE IN TITLE 1.08.040 MINOR OFFENSE TABLE- *as amended*

SECTION 1. CLASSIFICATION: This ordinance is permanent in nature and shall become a part of the Municipal Code of the City of Seldovia.

SECTION 2: SEVERABILITY: If any provision of this ordinance or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to another person or circumstances shall not be affected thereby.

SECTION 3. ADOPTING CHAPTER 5.35 BUSINESS LICENSES AND REGULATIONS:

Title 5

Business Licenses and Regulations

Chapters:

- 5.04 General Provisions
- 5.08 Public Soliciting and Vending
- 5.12 *Coin-Operated Machines and Music Boxes (Repealed by Ord. 17-22)*
- 5.16 Explosives
- 5.20 Alcoholic beverages and Amusement Places
- 5.30 Commercial Marijuana
- 5.35 Business License

Chapter 5.35 Business License

Sections:

- 5.35.010 Definitions.
- 5.35.020 Business License Required.
- 5.35.030 Exclusion from Business License Requirement.
- 5.35.040 Application for a Business License.
- 5.35.050 Renewals.
- 5.35.060 Suspension or Revocation of License.
- 5.35.070 Appeals.
- 5.35.080 Prohibited Acts.
- 5.35.090 Penalties.
- 5.35.100 Disclosure of Licensed Businesses.
- 5.35.110 Regulations

5.35.010 Definitions. The following words, when used in this chapter, shall have the meanings respectively ascribed to them in this section:

- A. "Applicant" means the person's name that appears on the business license application.
- B. "Business" includes:
 - 1. All activities or acts, whether personal, professional or corporate, engaged in or caused to be engaged in with the object of financial or pecuniary gain, profit or benefit, either direct or indirect; and
 - 2. Following or engaging in a trade, profession or business, including but not limited to receipts from advertising services, rental of personal or real property, construction, processing or manufacturing with the object of financial or pecuniary gain, profit or benefit, either direct or indirect.
- C. "City clerk" means the city clerk of the city or the designee of the city clerk.
- D. "City manager" means the city manager of the city or the designee of the city manager.
- E. "Engage in business" means to operate or to conduct a business within the city limits and includes mobile vendors and temporary vendors operating or conducting a business within the city limits for any period of time.
- F. "Licensee" means the entity in whose name a business license is issued.

- G. "Owner" means all persons having a proprietary interest in the business requiring a license, or, in the case of a corporation, "owner" means all persons holding more than 20 percent of the voting stock in the corporation.
- H. "Person" includes an individual, firm, partnership, joint venture, association, corporation, estate trust, business trust, receiver or any group or combination acting as a unit.

5.35.020 Business License Required.

- A. No person may engage in a business in the city without first obtaining an annual business license as provided in section 5.35.040 of this chapter.
- B. A separate business license is required for each business.
- C. The business license or approved duplicate license shall be displayed prominently at the site of the business.
- D. A business license may not be sold, assigned, transferred or otherwise conveyed. If a person ceases to engage in business or changes the name, nature or business location, the business license expires.

5.35.030 Exclusion from Business License Requirement. A person is not required to obtain a business license under this chapter if:

- A. Engaged in fishing, unless conducting fish sales to the public from a vessel or providing charter services to the public;
- B. Giving or supplying of services as an employee;
- C. An individual or a non-profit organization engaged in casual and isolated sales by a seller who does not regularly engage in the business of selling goods or a service and the sales do not occur for more than 14 days in a calendar year.
- D. Government and governmental services are not required to obtain a business license under this chapter.

5.35.040 Application for a Business License.

- A. A person engaging in a business shall apply to the city clerk for a business license on a form prescribed by the city and shall not open for business until the business license is issued. Renewal license applications must be filed no later than January 31 in each subsequent year, except that a seasonal business operating during the summer season, May 1 to September 30 only, shall file a renewal application no later than April 15 in each subsequent year.

- B. Each application shall contain the following information:
1. The legible signature of the applicant;
 2. An affirmation or oath as may be required on the application form; and
 3. A description of the type and nature of the business.
- C. Each application shall be accompanied by:
1. An annual, non-refundable fee of \$30.00 per license, provided that the fee per license for an application submitted after the due date shall be \$60.00;
 2. Proof satisfactory that the applicant has received or applied for a valid state business license when such a license is required by state law;
 3. Proof satisfactory that the applicant possesses a valid Kenai Peninsula Borough sales tax registration when such registration is required by law;
 4. Proof satisfactory that the applicant has received an applicable federal or state occupational license when such license is required by federal and/or state law;
 5. Proof satisfactory of any permits as required by any other sections contained in this code;
 6. A verification from the city finance department attesting that all accounts associated with the physical address of the business for utilities, taxes and assessments are current;
 7. Verification from the Kenai Peninsula Borough that all sales and property tax accounts are current.
- D. Upon receipt of the application, accompanied by the annual fee, the city clerk shall review the application and may consult with appropriate officials to determine whether the information contained therein is true and complete and otherwise in compliance with this chapter.
- E. Upon determining that the business application is in compliance with this chapter, the city clerk shall issue a business license.
- F. If the application is denied, the city clerk shall indicate on what grounds the denial is based. The application fee will not be refunded.
- G. If an application is denied, the city clerk may issue a temporary license valid for no more than 14 calendar days to permit the applicant time to reapply. No additional permit fee will be required of the applicant if the application is submitted within the 14 calendar day period. If no application is submitted within the 14 day period, or if the subsequent application is denied, the applicant is in violation of this chapter and must either cease engaging in business or be subject to the penalty provisions contained in this chapter.

5.35.050 Renewals. The city shall treat applications for renewal of licenses in the same manner as an original application.

5.35.060 Suspension or Revocation of License.

- A. The city clerk may revoke, suspend or otherwise restrict a license required by this chapter for any of the following reasons:
1. That the applicant made a false or misleading statement or representation in connection with the application for a business license;
 2. That the licensee has violated any provision of this chapter or regulations issued hereunder or the terms or conditions of the business license;
 3. That the licensee is performing or permitting the performance of an act on the licensed premises or in connection with the licensed business that endangers the public health, morals, safety or welfare;
 4. That the licensee is conducting the business at a location other than that indicated on the current business license;
 5. That the licensee has sold, assigned, transferred or otherwise conveyed the business license to another person; or
 6. That the licensee knowingly or willfully permits, allows, directs or otherwise sanctions the violation of any provision of this code or city regulations.
- B. Except as provided by subsection (c) below, no decision of the city clerk to revoke, suspend or otherwise limit or restrict a business license shall be effective until the licensee is first given a hearing before the city manager. The city clerk shall notify a licensee of his intent to consider revocation, suspension or any other limitation or restriction of a license application, specifying a date and time for a hearing. At the hearing, all parties may be represented by counsel and may offer witnesses and exhibits. At the conclusion of the meeting, the city manager shall issue a written decision within two working days. The licensee may appeal the decision to the city council under section 5.35.070.
- C. The city clerk may, without prior warning, notice or hearing, suspend or restrict any business license if that action is necessary to eliminate an immediate and substantial danger to the public health, safety or welfare. Such actions shall be effective five days after the certified mailing of written notice to the licensee. The notice shall also set a hearing date to take place within five

working days following the effective date of a suspension or restriction. The hearing will be held before the city manager. All parties may be represented by counsel and may offer witnesses and exhibits at the hearing. At the conclusion of the hearing, the city manager shall issue their final written decision within two working days. The licensee may appeal the decision to the city council under section 5.35.070.

5.35.070 Appeals.

- A. The following may appeal an adverse decision of the city manager to the city council:
 - 1. Any person denied a business license;
 - 2. Any licensee whose business license has been suspended or revoked.
- B. The appellant shall file a written notice of appeal with the city clerk within 30 days from the date of the city manager's adverse decision regarding a business license. The notice shall specify all of the grounds for such appeal with supporting documents of the applicant's position attached.
- C. After the appeal has been filed, the city manager will forward their written decision to the city council outlining the reasons supporting the adverse action. The memorandum will be made available for inspection and copying.
- D. The city clerk shall assign a date for the hearing with written notice sent to the appellant and the city council.
- E. At the hearing, all parties may be represented by counsel and may offer witnesses and exhibits. The burden of proof rests with the appellant.
- F. Within 30 days following the conclusion of the hearing, the city council shall issue written findings of facts and conclusions of law and clearly state the grounds upon which the decision is based. The appellant may appeal a decision of the city council to the superior court within 30 days in accordance with the Rules of Appellate Procedure of the State of Alaska.

5.35.80 Prohibited Acts.

- A. It is unlawful for any person to engage in a business without first receiving the license as directed in section 5.35.040, subsection A.
- B. It is unlawful for any person to obtain or attempt to obtain a license by making a false statement in the application or by other fraudulent or deceptive means.
- C. It is unlawful for any person to forge, counterfeit or fraudulently alter a license.

5.35.090 Penalties.

- A. If a person is required to have a business license under this chapter but fails to do so, the city may recover in an action at law against that person all current and past business license fees due and owing along with all reasonable attorney's fees and costs incurred by the city in recovering the business license fees owed.
- B. A person who fails to obtain a business license required by this chapter, or violates any other provision of this chapter, shall also be subject to the civil remedies provided in section 1.08.040.
- C. The city may not pursue any action at law against a person when an appeal from an adverse action is pending.

5.35.100 Disclosure of Licensed Businesses. A list of all licensed businesses in the city will be made available to the borough and state for review and compliance of businesses with borough and state standards.

5.35.110 Regulations. The city clerk may adopt regulations applying and interpreting this chapter and may prescribe forms required for the administration of this chapter.

SECTION 4. MINOR OFFENSE TABLE 1.08.040

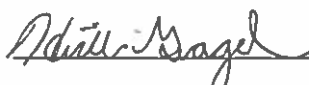
5.35.020 | Business License Required

| \$300.00 |

SECTION 5. EFFECTIVE DATE. This ordinance becomes effective January 1, 2019.

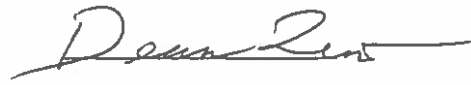
ADOPTED by a duly constituted quorum of the City Council of the City of Seldovia, Alaska this 08 day of October, 2018.

ATTEST:


Heidi Geagel, City Clerk



APPROVED:


Dean Lent, Mayor

Vote: Rojas- absent
Colberg- y Lethin- y
Campbell- y Sweatt- y
Morrison- y