

# 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- 5.12 *Coin-Operated Machines and Music Boxes (Repealed by Ord. 17-22)*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 5.04 General Provisions

### Sections:

- 5.04.010 State Laws Applicable.
- 5.04.020 Forms kept by Clerk.

**5.04.010 State Laws Applicable.** Notwithstanding any provisions of this chapter, any peddler operating under any permit issued by the City pursuant to this chapter shall not be exempted from any and all licenses, permits, laws, or ordinances as required by the State of Alaska and the Kenai Peninsula Borough. (Ord. 74-11 Sec. 1(part), 1974; Ord. 92-20; Ord. 99-05; Ord 10-08 Sec 1, 2010; Ord. 17-09; Ord. 17-22)

**5.04.020 Forms kept by Clerk.** The City Clerk shall prepare or cause to be prepared forms of application and permits to be used in accordance with this chapter. (Ord. 74-11 Sec. 1(part), 1974; Ord. 17-22)

### Chapter 5.08 Public Soliciting and Vending\*

### Sections:

- 5.08.010 Definitions.
- 5.08.020 Permit Required - Exemptions.
- 5.08.030 Permit - Nontransferable.

Title 05-1

8/28/90; 3/25/05; 9/22/11; 8/14/13; 9/21/17; 7/11/2019

- 5.08.040 Permit--Fees.
- 5.08.050 Prohibition of permit.

**5.08.010 Definitions.** For the purposes of this chapter the following shall mean:

“Cottage Industry” means a business or manufacturing activity carried on in a person's home.

“Temporary business” is a business or enterprise that is to be carried on for a period of less than 90 days per calendar year duration within the City.

“Transient or itinerant merchant” means any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the municipality or not, who engages in a temporary business of selling and delivering goods, and/or services, wares and merchandise within the City, and who, in furtherance of such purpose, peddles from door to door or hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad car, boat, any room in a hotel, lodging house, apartment, shop, or any street, alley, or other place within the municipality, for the exhibition and sale of such goods, wares and merchandise, and/or the performance of services, either privately or publicly. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer, provided the temporary business is conducted in conformance with SMC Title 18. (Prior code Sec. 3(part); Ord. 17-22)

**5.08.020 Permit required – Exemptions.** It is unlawful for a cottage industry owner/operator, transient or itinerant merchant, as defined in SMC 5.08.010, to engage in business on City owned land without first obtaining a permit therefor in compliance with the provisions of this chapter. The permit allows for the sale of goods and services by cottage industry owners/operators, transient or itinerant merchants, as defined in SMC 5.08.010 on the City owned property which is located between the City of Seldovia Harbor Master’s Office and Lollypop Park (legal description; T8S R 14W Sec 32 Seward Meridian SL Waterfront Resub No 1 Lot 1 Blk 10). The permit requirements of this chapter do not extend to isolated or casual sales of personal goods, wares, vehicles, animals, etc., or to the sale of similar items at such functions as garage sales, flea markets, and bazaars, nor to activities conducted at conferences that cater to a specialized audience. A commercial fisherman who has a valid commercial fishing license issued by the State of Alaska and who has completed and filed with Alaska Department of Fish and Game the forms required to qualify as a “catcher-seller” shall be exempt from this chapter. Food vendors within the City of Seldovia are subject to the provisions established in SMC Chapter 6.18 and shall not be exempted from any and all licenses, permits, laws, or ordinances as required by the State of Alaska and the Kenai Peninsula Borough.(Prior code Sec. 3.005(a); Ord. 17-22)

**5.08.030 Permit – Nontransferable.** No license issued under the provision of this chapter shall be used at any time by any person other than the one to whom it was issued. (Prior code Sec. 3.005(B); Ord. 17-22)

**5.08.040 Permit – Fees.** The fees for such a permit shall be one hundred dollars (\$ 100.00) per calendar year. (Prior code Sec. 3.005(C); Ord. 17-22)

**5.08.050 Exhibition of license.** (Prior code Sec. 3.005(D); Repealed by Ord. 17-22)

---

\*For statutory provisions regarding the Alaska Business License Act, see AS Chapter 43.70.

*Chapter 5.12*  
*Coin-operated Machines and Music Boxes*  
**(Repealed by Ord. 17-22)**

Chapter 5.16  
Explosives

**Sections:**

- 5.16.010 Permit required.
- 5.16.020 Storage prohibited.
- 5.16.030 Coast Guard regulations adopted.
- 5.16.040 Shipment handling.
- 5.16.050 Violation--Penalty.

**5.16.010 Permit required.** No class-A explosives, detonators or fuses shall be handled, transported or used within the City by any person without first obtaining a permit. Application for permits may be obtained from the Chief of Police who is designated as the issuing authority. The Chief of Police shall condition any permit issued upon such terms as he may deem appropriate with the approval of the mayor. No permit shall extend beyond twenty-four hours and the permit fee of five dollars shall accompany each application. (Prior code Sec. 3.015(part))

**5.16.020 Storage prohibited.** No permit shall be issued for and there shall be no class-A explosives, detonators or fuses stored within the incorporated limits of the City. (Prior code Sec. 3.015(A))

**5.16.030 Coast Guard regulations adopted.** The regulations of the United States Coast Guard shall at all times be complied with, and this chapter incorporated by reference and makes applicable to all person owning or handling explosives the safety measures specified by the Coast Guard in 46 CFR 146-149 as though they were set forth in full. (Prior code Sec. 3.015(B))

**5.16.040 Shipment handling.** The handling of class-A explosives in the port by any common carrier or private carrier shall be limited to twenty tons at any one shipment; and shall be transported from the carrier by lighter and not over the dock nor stored in a dock warehouse at any time. (Prior code Sec. 3.015(C))

**5.16.050 Violation--Penalty.** Violation of any of the provisions of this chapter or the safety code adopted herein shall be shall be punishable by the general penalty codified at Chapter 1.08. (Ord. 89-12, Ord. 74-13 Sec. 1, 1974: prior code Sec. 3.015(part))

## Chapter 5.20 Alcoholic Beverages and Amusement Places\*

### Sections:

- 5.20.020 Retail liquor sales--Hours.
- 5.20.030 Number of licenses approved.
- 5.20.040 Carrying unsealed containers.
- 5.20.050 Entertainment premises--Hours.
- 5.20.060 Licensed premises--Closing hours--Designated.
- 5.20.070 License premises--Closing hours—Extension permitted on certain days.
- 5.20.080 Licensed premises--Hours for consuming intoxicating liquor.
- 5.20.090 Consuming intoxicating liquor on licensed premises prohibited during certain hours.
- 5.20.100 Licensed premises--Attendance prohibited during certain hours-- Exceptions.
- 5.20.110 Permitting persons on licensed premises prohibited--Exceptions.
- 5.20.120 Permitting persons under the age of 21 years on licensed premise.

**5.20.020 Retail liquor sales--Hours.** All retail liquor stores, person, persons, firm or corporation having for sale any intoxicating liquor, including beer or wine, by the bottle, can, package or other container, shall close their place of business to the public and make no sale, barter, gift or loan of such intoxicants after the hour of twelve midnight on week nights until the hour of eight a.m. the following day, and two a.m. on Sunday morning until eight a.m. on Sunday morning with the exception that from Memorial Day in May through the day after Labor Day in September; the closing hours will be two a.m. until the hour of eight a.m. seven days a week. (Ord 90-02, Resol. 87-6, 1987; Special Election 6/27/87)

**5.20.030 Number of licenses approved.** Pursuant to AS 04.01.440, and subject to the approval of the Alcoholic Beverage Commission, the number of beverage dispensary licenses within the City of Seldovia is increased to four. (Ord 90- 02, Ord. 3.025 (part), 1965)

**5.20.040 Carrying unsealed containers.** It is unlawful for any person or persons to carry on or about his, her or their person in a public place, any bottle, can, package or other container of whatsoever description containing intoxicating liquor, including beer or wine, if the seal at the mouth of the bottle or container is broken, removed, or if such container has no seal, or if such can, bottle or other container is open in such a manner as to permit or allow drinking therefrom. (Ord 90-02, Prior code Sec. 9.020)

**5.20.050 Entertainment premises--Hours.** All dances, dance halls and all other public places of amusement or entertainment shall be closed and such public entertainment or amusement cease at the hour of twelve midnight of each night of the week save Saturday when such places may remain open and amuse or entertain until the hour of two Sunday morning with the exception that from Memorial Day in May through the day after Labor Day in September; the closing hours will be two a.m. seven days a week. (Ord 90-02, Prior code Sec. 9.015)

**5.20.060 Licensed premises--Closing hours--Designated.** No person shall sell, offer for sale, give, furnish or deliver any intoxicating liquor on any licensed premises between the hours of twelve a.m. (12:00) and eight a.m. (08:00) Monday through Friday or two a.m. (02:00) and eight a.m. (08:00) on Saturdays or Sundays. Exception is as follows: during the time period of Memorial Day in May through the day after Labor Day in September, those closing hours will be two a.m. (02:00) to eight a.m. (08:00) 7 days a week, whereas no person shall sell, offer for sale, give, furnish or deliver any intoxicating liquor on any licensed premises (Ord. 14-03)

**5.20.070 Licensed premises--Closing hours--Extension permitted on certain days.** The hours set forth in Section 5.20.060 shall apply, except such closing hours shall be extended from twelve midnight until four a.m. on January 1st, and July 5th of each year. (Ord 90-02, Ord. 76-1 Sec. 7, 1976)

**5.20.080 Licensed premises--Hours for consuming intoxicating liquor.**

No person shall consume any intoxicating liquor on any licensed premises between the hours of twelve midnight and eight of the following morning on weekdays and between the hours of two a.m. and eight a.m. of Sunday morning, with the exception of the extended closing hours provided by Section 5.20.060 and Section 5.20.070. (Ord 90-02, Ord. 76-1 Sec. 5, 1976)

**5.20.090 Consuming intoxicating liquor on licensed premises prohibited during certain hours.** No licensee shall permit any person to consume intoxicating liquor on his licensed premises between the hours of twelve midnight and eight of the following morning on weekdays and between the hours of two a.m. and eight a.m. of Sunday morning with the exception of the extended closing hours provided by Section 5.20.060 and Section 5.20.070. (Ord 90-02, Ord. 76-1 Sec. 6, 1976)

**5.20.100 Licensed premises--Attendance prohibited during certain hours--Exceptions.** No person shall be on any licensed premises between the hours of twelve midnight and eight of the following morning on weekdays and between the hours of two a.m. and eight a.m. of Sunday morning with the exception of the extended closing hours provided by Section 5.20.060 and Section 5.20.070. This section shall not apply to *bona fide* employees of the licensee who are on the premises for the specific purpose of preparing for the next day's business, or to persons remaining on the premises of a *bona fide* restaurant for the purpose of consuming food or nonalcoholic beverages. (Ord 90-02, Ord. 76-1 Sec. 3, 1976)

**5.20.110 Permitting persons on licensed premises prohibited--Exceptions.** No licensee shall permit any person to be on his licensed premises between the hours of twelve midnight and eight of the following morning on weekdays and between the hours of two a.m. and eight a.m. of Sunday morning with the exception of the extended closing hours provided by Section 5.20.060 and Section 5.20.070. This section shall not apply to *bona fide* employees of the licensee who are on the premises for the specific purpose of preparing for the next day's business, or to person remaining on the premises of a *bona fide* restaurant for the purpose of consuming food or nonalcoholic beverages. (Ord 90-02, Ord.76-1 Sec. 4, 1976)

**5.20.110 Permitting persons under the age of 21 years on licensed premise.** No licensee shall permit a minor, any person under the age of 21 years, to enter or remain on his licensed premises where alcoholic beverages are sold after the hour of six p.m. except that they may enter for the purpose of consuming food wherein a restaurant or cafe is the owner of the license, or they are accompanied by a spouse. (Ord. 90-02, Ord.90-01)

\*For statutory provisions authorizing a city to regulate the sale and place of sale of alcoholic beverages, see AS Sec. 29.35.080 and see generally AS Ch. 4.16. For the penalty provisions applicable to the violation of ordinances dealing with alcoholic beverages, see generally AS Ch. 4.16.

## Chapter 5.30 Commercial Marijuana

### Sections:

5.30.010 Definitions

5.30.020 Local Regulatory Authority

#### **5.30.010 Definitions**

A. "Marijuana" has the meaning given in AS 17.38.900

B. "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store as defined in AS 17.38

C. "Marijuana products" means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption

#### **5.30.020- Local Regulatory Authority.**

A. The Seldovia City Council is the local regulatory authority for regulation of marijuana establishments within the city limits under AS Chapter 17.38 and any implementing regulations.

B. The Seldovia Planning and Zoning Commission shall make recommendations to the council regarding land use regulations of commercial marijuana establishments.

#### **5.30.030- License Application Review**

A. The council shall review and make recommendations to the state on applications submitted to the State Marijuana Control Board for marijuana establishment licenses the within city limits; this includes:

- a. applications for new licenses; or
- b. applications for renewal of a license; or
- c. applications requesting a relocation of the licensed premise; or
- d. applications requesting a transfer of a license to another person.

B. Prior to the council making a recommendation to the Marijuana Control Board a public hearing shall be held in accordance with Chapter 2.04 of the City Code.

C. The council may recommend conditions on a license they feel may minimize effects on neighboring properties and/or enhance public safety.

D. Applicant is responsible for complying with all federal, state and local laws applicable to marijuana. By issuing a recommendation to the Marijuana Control Board the council is not authorizing the violation of local, state or federal laws.

**5.30.040 Hours of Operation- Retail** All retail marijuana establishments shall close their place of business to the public and make no sale, barter, gift or loan any marijuana or marijuana products between the hours of [\_\_\_\_\_] and [\_\_\_\_\_] each day. (Ord. 16-09)

## 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 of 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. (Ord. 19-01)