

Amendment # 1

Sponsor: Mayor Frankie Dale Rife

First Reading: 10/3/11

Second Reading: waived

AN ORDINANCE AMENDING ORDINANCE #10-07 ("AN ORDINANCE ESTABLISHING BUSINESS LICENSES WITHIN THE TOWN OF WYOMING") TO UPDATE BUSINESS LICENSE FEES, THE INTEREST RATE ON DELINQUENT FEES, AND THE DEFINITION OF PEDDLER

BE IT HEREBY ENACTED, by the Town Council of the Town of Wyoming, a majority thereof concurring in council duly met, that "Ordinance #10-07, An Ordinance Establishing Business Licenses within the Town of Wyoming") be, and hereby is, amended as follows:

Section 1. Delete subsections (1)(c) and (1)(d) of section 1 in their entirety and insert in their place thereof the following:

- (c) Peddler: Shall mean any individual, whether a resident of this Town or not, traveling by foot, wagon, automobile, truck, or any other type of conveyance, from place to place, from house to house, or from street to street, or in a generally fixed location on public property, for the sale of, as well as the selling, offering for sale or exchange for a donation, or taking or attempting to take orders for the sale of goods, wares and merchandise, or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed at that time or in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or whether or not he is collecting advance payments on such sale. The term "peddler" shall include the terms "canvasser" and "solicitor." Individuals covered under the following exceptions are not included in this definition and are not required to obtain business licenses: (1) selling fruits or vegetables which were produced on land that is owned or controlled by the individual; (2) an attempt to enlist support for or against a particular religion, political party, candidate, cause or issue; (3) solicitations, sales, or distributions made by a charitable organization recognized as tax exempt under the Internal Revenue Code, a religious organization recognized as such under the laws of the State of Delaware, or an organization authorized by any school within the Caesar Rodney School District; (4) leaving written information, including flyers, leaflets, and brochures, or other forms of advertising, for non-commercial purposes; (5) individuals under 14 years of age; and (6) wholesale sales representatives dealing with retail businesses within the Town. This ordinance does not supersede any other local, state, or federal requirements involving the organizations contemplated herein.

Section 2. Delete subsections (1) and (2) of Section 8 and insert in their place thereof the following:

- (1) All business license fees shall be payable annually on or before **September 30th**, of each year. After **October 1st** interest shall accrue on

any unpaid balance at the rate of 3% per month.

(2) Annual license fees for the following types of business are:

Landlord with one (1) rental unit	\$100.00
Each additional rental unit	\$ 25.00/unit
Non-resident Contractors	\$100.00
Peddlers/Solicitors	\$75.00

Section 3. This ordinance shall retroactively apply beginning with the business licenses required for the licensing period beginning October 1, 2011.

Synopsis

This ordinance amends Ordinance #10-07 to revise the definition of peddlers and update the business license fees and the interest rate charged on delinquent license fees. This ordinance shall retroactively apply beginning with the business licenses required for the licensing period beginning October 1, 2011.

This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Wyoming at a duly-noticed and convened meeting at which a quorum was present on October 3, 2011.

So Certifies:

Attest:

Parrela B. Haddick
Town Clerk

Travis Dale Ruff
Mayor

This shall certify that a copy of this Ordinance was posted at the Town Hall on Oct. 4, 2011.

So Certifies:

10/4/11
Date

Parrela B. Haddick

First Reading: 6-4-07

Second Reading: 7-2-07

GENERAL

ORDINANCE #10-07

AN ORDINANCE ESTABLISHING BUSINESS LICENSES WITHIN THE TOWN OF WYOMING

BE IT ENACTED BY THE COUNCIL OF THE TOWN OF WYOMING:

Section 1. As used in this Ordinance unless the context otherwise clearly indicates:

(1) Business: Shall mean 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 private profit or benefit, either directly or indirectly, on any premises in the Town of Wyoming, or any where else within its jurisdiction, including but not limited to the following particular businesses:

- (a) Landlord: Shall mean any person, partnership, corporation, firm, or other entity engaged in the business of providing accommodations to any other person for any rental fee or other compensation.
- (b) Non-resident contractor: Shall mean any person, partnership, corporation, firm or other entity which does not reside within the limits of the Town of Wyoming and which conducts repairs, renovations, or any other type of general construction service for the benefit of any resident of the Town of Wyoming.
- (c) Peddler: Shall mean any person who travels by any means from place to place, from house to house, or from street to street within the Town of Wyoming, conveying or transporting goods, wares, merchandise, or services of any nature whatsoever and offering or exposing same for sale; provided, however, that the provisions of this ordinance shall not apply to persons who solicit charitable contributions to non-profit organizations or persons engaged in fund raising drives undertaken by non-profit organizations.
- (d) Solicitor: Shall mean any person who travels by any means from place to place, from house to house, or from street to street within the Town of Wyoming, taking or attempting to take orders for the sale of goods, wares, merchandise, or services of any nature whatsoever, for future delivery or performance, with or without

samples available, and regardless of whether advance payments are collected or not; provided, however, that the provisions of this ordinance shall not apply to persons who solicit charitable contributions to non-profit organizations or persons engaged in fund raising drives undertaken by non-profit organizations.

(2) Employee: Shall mean any individual hired on a part time, or full time work basis, with pay or without pay, and including seasonal employees, by any business located with the Town of Wyoming.

(3) Town License Officer or License Officer: Shall mean the license officer of the License Department designated by the Council.

(4) License or Licensee: Shall mean and include respectively the words Permit, or Permittee, or the holder for any use or period of time of any similar privilege. For any business with more than one business location, the owner of the premises for each location shall be deemed the Licensee, and if the owner of the premises shall not be the same for all locations, then the owner of the premises for each location shall be deemed a separate and distinct Licensee.

(5) Premises: Shall mean 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 business conducted on the premises.

Section 2. SCOPE OF ORDINANCE.

It is not intended by this Ordinance to repeal, abrogate, and annul or in any way impair or interfere with existing provisions of other Sections of the Code of the Town. Where this Ordinance imposes a greater restriction upon persons, premises or personal property than is imposed or required by the Charter of the Town of Wyoming, the restrictions imposed by this Ordinance shall control.

Section 3. COMPLIANCE.

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 vehicle, premises, machine or device, in whole or in part, of which a license or permit is required by this Code, without a license or permit therefore being first procured and kept in effect at all times required by this Ordinance.

Section 4. WHAT CONSTITUTES DOING BUSINESS.

For the purpose of this Ordinance, any person shall be deemed to be in business or engaging in non-profit enterprise when he does any act in furtherance of selling any goods or services that amount to or is part of any regular and systematic course of business in the Town.

Section 5. POWERS AND DUTIES OF THE TOWN LICENSE OFFICER.

The Town License Officer shall have the following powers and duties:

- (1) Issues licenses and maintain records. Collect all license fees, issue licenses and maintain all license records in the name of the Town to all persons qualified under the provisions of this Ordinance and shall:
 - (a) Make rules. Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this Chapter.
 - (b) Adopt forms. Adopt all forms and prescribe the information to be given therein as to character and other relevant matter for all necessary papers.
 - (c) Require affidavits. Require applicants to submit all affidavits and oaths necessary to the administration of this Ordinance.
 - (d) Obtain endorsement. Submit all applications, in a proper case, to interested Town officials for their endorsements thereon as to compliance by the applicant with all Town regulations which they have the duty of enforcing.
 - (e) Investigate. Investigate and determine the eligibility of any applicant for a license pursuant to this Chapter, if required.
 - (f) Give notice. Notify any applicant of the acceptance or rejection of his application and, upon the refusal of any license or permit and at the applicants request, state in writing the reasons therefore and deliver them to the applicant.
- (2) Information confidential: Keep all information furnished or secured under the authority of this Chapter in strict confidence. The information shall not be subject to public inspection and shall be kept so that its contents shall not become known except to the persons charged with the administration of this Chapter.

Section 6. QUALIFICATIONS OF APPLICANTS.

The general standards set out in this Chapter relative to the qualifications of every applicant for a Town license may be considered and applied by the Town License Officer. The applicant shall:

- (1) Good moral character. Be of good moral character. In making that determination, the Town License Officer shall consider:
 - (a) Penal history. All convictions, the reasons therefore and the demeanor of the applicant subsequent to his release.

- (b) License history. The license history of the applicant, whether that person in previously operating in this or another State under a license has had the license revoked or suspended, the reasons therefore and the demeanor of the applicant subsequent to that action.
- (c) General personal history. Any other facts relevant to the general personal history of the applicant as he shall find necessary to a fair determination of the eligibility of the applicant.

(2) No obligations to Town. Not be in default under the provisions of this Ordinance or indebted or obligated in any manner to the Town except for current taxes.

(3) Compliance with zoning regulations. Present a Certificate of Occupancy furnished by the proper Town official to the effect that the proposed use of any premises is not a violation of the Town Zoning Code and regulations.

(4) Compliance with fire regulations. Any applicant for a new business license must comply with all applicable fire regulations, which compliance shall be determined by the office of the State Fire Marshall.

Section 7. LICENSE APPLICATION REQUIRED: CONTENTS

Every person required to procure a license under the provisions of this Code or any other law of the Town shall submit an application for that license to the Town License Officer. The application shall:

(1) Form of application. Be a written statement upon forms provided by the Town License Officer; the form shall include an affidavit to be sworn to by the applicant before a Notary Public of this State.

(2) Contents of application. Require the disclosure of all information necessary to comply with Section 6 and any other information which the Town License Officer shall find to be reasonably necessary to the fair administration of this Ordinance. Further, any application to engage in the business of peddler or solicitor shall, at a minimum, require the following information:

- (a) Name and address of applicant, to include both the applicant's permanent address and his temporary address while engaged in activity in the Town of Wyoming.
- (b) Name and address of employer or principal whom the applicant is representing.
- (c) List of any previous felony or misdemeanor convictions against the applicant, to include the charge, date of conviction, jurisdiction and sentence.
- (d) Description of any vehicles used in conducting business in the

Town of Wyoming, including, make, model, year, color, and registration number.

- (e) Description of the nature of business desired to be conducted within the Town of Wyoming, including proposed times and proposed places or locations.
- (f) Description of any proposed advertising to be used in connection with conducting business within the Town of Wyoming.
- (g) Previous places of conducting business within the past three (3) months.
- (h) Credentials from the person or organization whom the applicant proposes to represent, authorizing the applicant by name to act as a representative of said person or organization.
- (i) Verification, under oath, that the information supplied in the application is true and correct. Supplying false information shall be considered grounds to deny an application for license, for suspension or revocation of a license, and will constitute a violation of this ordinance.
- (j) Where applicants proposed activity includes the solicitation or acceptance of orders for the delivery or supply of any articles or services at a later time, if that activity also includes payment for the articles or services, the applicant shall be required to furnish a bond to the Town of Wyoming, in an amount not less than \$500.00 with surety approved by the Town Clerk. The term of any such bond shall be for a period of at least one year, and the condition thereof shall be that if the Obliger shall promptly deliver the goods or services of a quality as represented at the time of the order or orders and at the time or times agrees upon, then and in that event said bond shall be void and of no effect. Any such bond shall be for the use of any person or persons who suffers damage by reason of the failure of the Obliger to deliver goods or services as represented and at the time and times agreed upon in any order solicited or accepted by such Obliger in the Town of Wyoming. Where bond is required by this section, no license shall be granted until the bond is supplied.

(3) Payment of fees. Be accompanied by the full amount of the fees required by the provisions of this Code.

Section 8. PAYMENT AND DETERMINATION OF FEE

- (1) All business license fees shall be payable annually on or before **September 30th**, of each year. After **October 1st** interest shall accrue on any unpaid balance at the rate of 1% per month.
- (2) Annual license fees for the following types of business are:

Landlord (per landlord not rental units)	\$100.00
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Non-resident General Contractors	\$75.00
Peddlers/Solicitors	\$75.00

- (3) Annual license fees for all other types of businesses, operating within the Town of Wyoming, shall be based on the number of employees of said business, as follows:

1 - 6 employees -	\$75.00
7 - 12 employees -	\$125.00
13 - 18 employees -	\$175.00
19 - 24 employees -	\$225.00
25 or more employees -	\$275.00

- (4) Businesses with more than one fixed location, within the limits of the Town of Wyoming, shall pay a business license fee for each location.

Section 9. TRANSFER OF LICENSE OR PERMIT.

There shall be no transfer of licenses and permits.

Section 10. GENERAL STANDARDS OF CONDUCT.

Every licensee under this Ordinance shall:

- (1) Comply with governing law. Ascertain and at all times comply with all laws and regulations applicable to the licensed business.
- (2) Operate properly. Avoid all forbidden, improper of other practices or conditions which do or may affect the public health, morals or welfare.
- (3) Cease business. Refrain from operating the licensed business after expiration of his license and during the period his license is revoked or suspended.

Section 11. DISPLAY OF LICENSE OR PERMIT.

Every licensee under this Ordinance shall: Post and maintain the license upon the licensed premises in a place where it may be seen at all times.

Section 12: SUSPENSION/REVOCAION/SUMMARY ACTION.

- (1) In addition to the powers and duties set forth in Section 5 of this Ordinance, the Town License Officer shall have the power and authority to suspend or revoke the license of any licensee for cause shown, upon notice to the licensee specifying the reason for the suspension or revocation. A suspended or revoked licensee may appeal the Town License Officer's decision, pursuant to Section 13, "Right of Appeal". Continuance of the licensed activity during suspension or revocation of the license shall constitute a violation of this Ordinance.

(2) When the conduct of any licensee, agent or employee is so inimical to the public health, safety and welfare as to constitute a nuisance, and thus give rise to an emergency, the License Officer shall have the authority to summarily order the cessation of business, the closing of the premises, and/or suspension or revocation of the subject license.

Section 13: RIGHT OF APPEAL

Any person aggrieved by any decision of the License Officer, shall have the right to appeal to the Town Council by filing a written appeal with the Town Council within thirty (30) days following the effective date of the action or a decision complained of.

(1) Contents of appeal. The appeal shall set out a copy of the order or decision appealed from and shall constitute a statement of the facts relied upon to avoid the order.

(2) Notification of License Officer. At the time of filing any appeal, a copy of it shall be filed by the appellant with the License Officer.

(3) Hearing. The Town Council shall fix a time and place for hearing the appeal and shall serve a written notice, upon the appellant informing him of the hearing date, time and place. Notice shall also be provided to the License Officer, who shall be entitled to appear and defend the order. The hearing shall be held within 30 days, absent exceptional circumstances, except, any hearing on an appeal of a Summary Order shall be held as soon as is reasonably practicable.

(4) Effective decision. The findings of the Town Council shall be final and conclusive and shall be personally served upon the appellant by hand delivery, or by certified mail, return receipt requested.

Section 14: LIABILITY OF VIOLATION

(1) The amount of any unpaid license fee, the payment of which is required pursuant to this ordinance, shall constitute a debt due the Town. The Town Solicitor shall, at the direction of the License Officer, institute civil suit in the name of the Town to recover any unpaid fee, interest, the costs of said suit and reasonable attorney's fees. No civil judgment or any act by the Town Solicitor, the License Officer or the violating licensee, shall bar or prevent a criminal prosecution for each violation of this ordinance.

(2) Any individual, firm, business, association or corporation failing to comply with the provisions of this ordinance, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$50.00 nor more than \$200.00, plus costs for said action, reasonable attorney's fees, and shall be liable for the payment of any unpaid license fee. Each day of noncompliance shall constitute a separate, severable and distinct violation of this ordinance.

ENACTED AND ORDAINED this 2nd day of July, 2007.

TOWN COUNCIL OF THE
TOWN OF WYOMING, DELAWARE

BY: Frankie Dale Rife
Frankie Dale Rife, Mayor

Adopted: 7-2-07

Amended Date: 7-2-07

Legally Posted: 7/3/07

Effective Date: 7/13/07