

Sponsor: Denison  
First Reading: 11-2-2020  
Second Reading: 1-4/2021

**ORDINANCE #55-20**

**AN ORDINANCE ESTABLISHING BUSINESS LICENSE REQUIREMENTS FOR  
BUSINESSES OPERATING WITHIN THE TOWN OF WYOMING**

**WHEREAS**, Section 18.24 of the Charter of the Town of Wyoming authorizes the Town to “license, tax and collect fees of such various amounts as the Town Council from time to time shall fix from any individual, firm, association or corporation carrying on or practicing any business, profession or occupation, or renting out any real or personal property, within the limits of the Town”; and

**WHEREAS**, in the opinion of the Wyoming Town Council, it is in the best interest of the public health, safety, and welfare to repeal the existing business license regulations and adopt clearer and more concise business license regulations.

**NOW THEREFORE, 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Establishing Business Licenses Within in the Town of Wyoming” and all subsequent amendments thereto are hereby repealed in their entirety and a new ordinance is enacted, as follows to wit:

**AN ORDINANCE ESTABLISHING BUSINESS LICENSE REQUIREMENTS FOR  
BUSINESSES OPERATING WITHIN  
THE TOWN OF WYOMING**

**Section 1. Purpose and Intent.** The Town finds businesses to be a valuable asset to the Town of Wyoming, and the Town seeks to encourage the establishment of businesses while simultaneously reducing potential risks to the public from unlawful business practices. This ordinance established a business license system intended to protect the public health, safety, and welfare by identifying owners/operators of businesses, defining the nature of business activities, requiring business activities to comply with the Town Code, and establishing enforcement and appeals procedures.

**Section 2. Definitions.** Unless the context clearly indicates otherwise, the following terms used in this Ordinance shall be defined as follows:

*Business* means any and all kinds of vocations, occupations, professions, enterprises, and establishments in which a person engages in the sale of goods or services including, but not limited to, any retail, wholesale, service, rental, food service, professional or personal service, renting or leasing of property, or other general commercial activity within the municipal limits of the Town of Wyoming.

*Employee* means any individual hired on a part-time or full-time basis, with or without pay, including seasonal employees, by any business located in Wyoming.

*Landlord* means any person engaged in the business of providing accommodations to any other person for any rental fee or other compensation.

*Licensee* means a person to whom a license has been issued under this ordinance.

*Non-resident contractor* means any person not residing or otherwise having a physical location in the Town and which conducts repairs, renovations, or any other type of general construction services within the Town.

*Peddler* means any person, whether or not a resident of the Town, 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 and activities covered under the following exceptions are not included in this definition and business licenses are not required: (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.

*Person* means any individual, firm, corporation, company, partnership, or joint venture.

*Premises* means any and all lands, structures, and places, including the equipment and appurtenances connected or used therewith in any business, along with any personal property which is either affixed to, or is otherwise used in connection with, any business conducted on the premises.

### **Section 3. Business Licenses Required.**

- (a) No person shall directly or indirectly conduct, engage in, or operate, in whole or in part, any business in the Town of Wyoming without having an active business license as required by this ordinance.
- (b) Every licensee shall post and maintain the license upon the licensed premises in a place where it may be seen at all times. For businesses without an established premise, the licensee shall carry a copy of the business license at all times when operating the licensed business.
- (c) A business license may not be transferred from one business to another business.
- (d) Every licensee shall:
  - (1) Comply with all state and federal laws and regulations applicable to the licensed business and comply with all codes and ordinances of the Town.
  - (2) Not engage in any forbidden, improper, or other practices or conditions which do or may negatively affect the public health, safety, morals or welfare.
  - (3) Refrain from operating a business after expiration of a business license or after a business license has been revoked or suspended.

### **Section 4. Exceptions.** Business licenses shall not be required for the following:

- (a) Real estate brokers, associate brokers, brokerage organizations, or real estate salespersons exempted from business license fees under 24 *Del. C.* § 2939. This exemption shall not apply to any of the aforementioned real estate professionals or organizations that have a physical office within the Town of Wyoming.
- (b) Deliveries of goods or property to a licensed business for use or resale in that business.

- (c) Charitable, religious, educational, or public service facilities, social association or clubs, or governmental agencies except to the extent that such operate a separate retail facility, provided that any third parties operating on behalf of any such entities shall not be exempted from obtaining a business license.
- (d) Yard or garage sales, book sales, and auctions where not part of a regularly recurring or continuous business activity.
- (e) Sale of agricultural or nursery items grown on the premises of the property owner.
- (f) Business activities of insurance agents and companies specifically exempted from municipal business license fees under 18 *Del. C.* § 712.
- (g) Those activities excluded from the definition of peddler.

**Section 5. Business License Qualifications.** A business license shall not be issued unless the following qualifications have been satisfied.

- (a) The person and/or business seeking a business license shall not be in violation of any of the provisions of this ordinance, shall not have any past due taxes or outstanding fees owed to the Town.
- (b) The business shall be in compliance with all provisions of the Wyoming Land Use and Development Code and the Town Code.
- (c) The business must be in compliance with all applicable fire regulations, which compliance shall be determined by the office of the State Fire Marshall.

**Section 6. Application.** Every person seeking a business license shall be required to submit a completed application to the Town for review by the Code Enforcement Officer, and an incomplete application may be rejected. Every application shall be in writing, verified by oath or affirmation and signed by the applicant(s), and shall include the following:

- (a) Company/business name;
- (b) Phone number and street address of business (physical location, not PO Box);
- (c) The name, title, phone number(s), and address(es) of the owner(s);
- (d) Name, phone number, and email address of the authorized manager/representative;
- (e) The trade, business or occupation for which the license is being requested;
- (f) Number of regular full time and part time or seasonal employees;
- (g) A copy of any business licenses issued by the State of Delaware and/or any other approvals issued by the Division of Revenue or another governmental or quasi-governmental agency (i.e. ABCC, Insurance Commissioner, PSC, DNREC, EPA, IRS, etc.). Possession of any such license or approval shall not exempt a person from obtaining a Town of Wyoming business license; and
- (h) A statement that the business has complied with and will continue to comply with all applicable state, town, and federal laws and regulations.

After reviewing the business license application, the Code Enforcement Constable may request such other information as is necessary to answer any questions raised by the application regarding the operation of the business. Supplying false information shall be a violation of this ordinance and grounds upon which to deny an application or to suspend a license that was issued prior to the discovery of the false information.

**Section 7. Fees.** All business license fees shall be due annually on or before September 30. After October 1, interest shall accrue on any unpaid balance at the rate of 10% per month. Annual business license fees shall be as follows:

- (a) Landlord with one (1) rental unit                      \$100.00  
    Each additional rental unit                              \$ 25.00/unit
- (b) Non-resident contractors                              \$100.00
- (c) Peddlers/Solicitors                                      \$75.00
- (d) The fee for all other businesses not covered in (a), (b), or (c) shall be calculated based on the number of employees. If a business has more than one location, a business license shall be required for each location, with each business license fee being calculated based on the number of employees at each location.
  - 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

**Section 8. Suspension and Revocation of business license.**

- (a) *Suspension of business license.* The Code Enforcement Officer may order a business to cease operations and/or suspend its business license for any of the following reasons:
  - (1) The business is found to be operating in violation of the terms of this ordinance.
  - (2) The business is more than 60 days late in renewing its business license.
  - (3) The business is in violation of any town, state, or federal laws or regulations.
  - (4) The Fire Marshall or any public safety authority has requested that the business activities cease until certain conditions have been remedied.

The town shall provide written notice of the violation(s), which notice shall state that if the violations are not remediated or an appeal is not filed within 10 business days of the notice, the business shall be ordered to cease operations and its business license (if applicable) shall be suspended until such violations have been remedied. The written notice shall be either personally delivered or sent via certified mail, return receipt requested, to the business address on file with the Town. Notwithstanding the foregoing, notice shall not be required to order a business to cease operations in any emergency situation that causes an immediate threat to the health, safety, or general welfare of the public.

- (b) *Penalties.* Any business that does not remedy the violations within 10 business days shall be assessed a civil penalty of \$100.00 beginning on the date of the violation notice. Each day thereafter that the violation is not remedied shall be considered a new violation subject to a new penalty, and no additional notices of violation shall be required. Notwithstanding the forgoing, no penalties shall be assessed if (i) the business remedies the violation(s) within ten business days of the date the notice or (ii) the business files an appeal with the town council that is resolved in favor of the business. The amount of any unpaid civil penalty, including the unpaid business license fee, shall constitute a debt owed to the town, and the town may institute a civil

suit or use any other lawful methods authorized by the Town Charter or the laws of Delaware to recover any unpaid fee.

**Section 9. Appeals procedures.** The town council shall provide any business with 15 business days' written notice of the date, time, and place at which the town council shall hear the appeal. The notice shall be sent via certified mail, return receipt requested, and the hearing may be held as part of a regular town council meeting. The filing of an appeal shall stay any enforcement actions, and the business may continue to operate until a final decision is rendered by the town council. If the town council finds against the business, the business shall have five business days to remedy the violations before the town takes legal action to compel the business to cease operations. The accrual of daily violations and corresponding penalties shall not be stayed if an appeal is filed, but no penalties shall be assessed if the town council finds in favor of the business. If the town council finds against the business, the town council may waive some or all of the accrued penalties if (a) the violations are remedied within five business days following the town council's decision and (b) the town council finds the appeal was filed by the business in good faith.

**Section 10.** This ordinance shall become effective immediately upon its adoption by the Town Council.

---

### Synopsis

This ordinance repeals Ordinance #10-07 and all subsequent amendments thereto and establishes new regulations surrounding the issuance of business licenses. This ordinance specifies those businesses that need licenses and those businesses that are exempt. The requirements for business license applications are outlined in this ordinance, along with the qualifications to receive business licenses and the responsibilities of licensees. The fees associated with obtaining a business license for the different types of businesses are outlined herein. The grounds on which business licenses can be suspended are outlined in this ordinance, including penalties for ordinance violations. Individuals found to be violating the terms of the ordinance may file an appeal with the Town Council.

---

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 January 4, 2021.

Attest: *Dukey Lindale*  
Town Clerk

So Certifies:

*Stu Bidler*  
Mayor

---

This shall certify that a copy of this Ordinance was posted at the Town Hall on *January 5*, 2021.

*1/5/21*  
Date

So Certifies:

*Roseann Jaman*