

188 - ORDINANCE NO. 2009-44
BUSINESS LICENSE CODES

AN ORDINANCE REPEALING AND REPLACING 113-ORDINANCE NO 2005-03 PROVIDING FOR BUSINESS LICENSES AND FEES FOR THE TOWN OF ALPINE.

NOW, THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ALPINE, WYOMING IN REGULAR SESSION DULY ASSEMBLED THAT:

SECTION I-Ordinance Repealed

113 ORDINANCE NO. 2005-03, of the Municipal Code of the Town of Alpine and all amendments thereto are hereby repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION II-Effective Date

This ordinance will establish an effective date at its passing on the third and final reading.

SECTION III-Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or application thereof to any person or circumstances is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

SECTION IV

There is hereby adopted a new Title III, Chapter 2 General Business Licenses of the Municipal Code of the Town of Alpine to read as follows:

CHAPTER 2
GENERAL BUSINESS LICENSES

188-01	Purpose- Authority – General Provision
188-02	Exemptions
188-03	License Required – Documentation
188-04	Fine & Penalties
188-05	Revocation/ Suspension
188-06	Proposal of Funds
188-07	Installation Permit / Expositions
188-08	License Fees

188-01 PURPOSE – AUTHORITY – GENERAL PROVISION

a. Purpose

- i. The purpose of this chapter of licensing and regulating certain types of businesses and events held within the town is to protect the health, safety and general welfare of those receiving goods and services, and to provide uniform regulations for the providers of goods and services.

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- ii. The provisions of this chapter are pursuant to authority granted cities and towns under Wyo. Stat. Section 15-1-103 (a) (xiii).
 - iii. The provisions of this chapter govern every occupation or business specified except where other chapters of town code provide more specific regulations and requirements for the business or activity for which a license or permit is issued.
- b. Definitions
- i. “License” or “permit” means the authority granted by the town to a person or persons to engage in a specific business or occupation, or to conduct an event for which a license or permit is required. Each license and permit issued is signed by town clerk and mayor under the town seal.
 - ii. “Business” means an activity, which includes the sale, purchase, pawn, proposed sale or rental of goods, services, facilities or entertainment including, but not limited to, retail sales, wholesale, amusements, exhibitions or solicitation by telephone. “Retail business” for the purpose of this chapter is every business conducted for the purpose of selling, or offering for sale, any goods, wares or merchandise, other than as a part of a “wholesale business” as hereinafter defined. “Wholesale business” is every business conducted solely for the purpose of selling goods, wares or merchandise in wholesale lots to retail merchants for resale or retail. “Home business” means conducting part or all of your business from your home.
 - iii. “Fixed place of business” is the premises within the town where a business is continuously conducted from day to day and regularly kept open for the purpose of said business. “Regular place of business” for the purpose of this chapter has the same meaning as “fixed place of business”.
 - iv. “Nonresident business” means a business which is located within the Municipal boundaries, but does not have a local address or street location or has its principal office other than in the town.
 - v. “Person” means and includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, and partnerships of every kind, clubs, business trusts, societies, and individuals transacting and carrying on any business in the town other than as an employee.
 - vi. “Transient business” is defined as any business venture that is operating from a vehicle, trailer, bus, motor home –RV, camper or portable unit of any kind that is intended for the dispensing of materials, goods, merchandise, or food products to the general public. Further any business that is recognized as only temporary in nature and is mobile in any manner. The transient business or vendor shall not be licensed or permitted unless involved in those special events approved by the town from time to time during the year.
 - vii. “Auctioneer” means an individual who sells personal or real property of another at public auction for a fee or commission, provided, however, that such definition shall not include a public employee who performs such as a portion of his or her duties.

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- viii. "Amusement exhibition, amusement show" means any amusement activity not defined elsewhere which is open to the public for a fee and which does not include gambling, but comprises a live show of unusual or unique talents, events or skills performed for the monetary gain of the operators and for the amusement or entertainment of others (i.e.: boxing, live fighting, mud wrestling, exotic dancers, sexually oriented shows, carnivals, circuses, concerts, live performances).
- ix. "Construction contractor" means any person or entity engaged in the construction, erection, location, alteration, repair or restoration of any building, structure, sidewalk or street, including the installation, repair, alteration or restoration of any electrical or plumbing services, concrete or masonry painting, roofing or carpentry.
- x. "Contractor" means any person or firm engaged in the building trades industry that charges a fee or receives an incentive to perform such work for another.
- xi. "Sub Contractor" means any person or firm engaged in the building trades industry that charges a fee or receives an incentive to perform such work under a general contractor. Sub contractors shall have separate business license from main contractors and shall abide by all rules and regulations of this ordinance.
- xii. "Electrical contractor" means a person who is engaged in the business of installing, altering, repairing or servicing electrical wiring, fixtures, conductors, devices, equipment, materials, apparatus and similar items in buildings or structures and who contracts with another to perform such work for another.
- xiii. "General contractor" means a person who is engaged in the building trades industry, other than electrical, plumbing or mobile home installation, who charges a fee to perform such work for another.
- xiv. "Plumbing contractor" means a person who is engaged in the business of the erection, installation, alteration, addition, repair, relocation, replacement, maintenance or use of any plumbing system, or portion thereof, who charges a fee to perform such work for another.
- xv. "Secondhand dealer" means any person who engages in the business of buying, selling, exchanging or dealing in personal property which has been previously owned or used, but not from an original source. It shall not include those persons engaged in the pawn business.
- xvi. "Pawnbroker" means a person who engages in the business of lending money on security of a person's property deposited or placed in pawn, on the condition of selling them to the holder of a receipt at a stipulated price or of reselling those goods to the general public.
- xvii. "Solid - liquid waste hauler" means a person who engages in the business of collecting or transporting any solid or liquid waste, garbage, refuse or other waste materials intended to be discarded.
- xviii. "Sexually oriented businesses" are those businesses designated and defined as such in Town of Alpine Municipal Code, 100 Ordinance 2003-13, Section 100-06.

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- xix. "Art Studio" means the working place solely to be used for the creating and teaching of painting, sculpture, drawing, etc. Bars, saloons, private clubs, gentleman's clubs will not be considered in any way an art studio and will not be given license to do such in their establishments. "Gallery" means a place where a person engages in the business of selling and showing art work for retail sale.
- c. Separate Violations
- i. The carrying on of any business as aforesaid, without first having procured a license from the town to do so, or without complying with any and all regulations of such business contained in this ordinance and Title III, Chapter I of the Town of Alpine Code shall be deemed a separate violation of this chapter for each and everyday that such business, trade, calling, profession or occupation is carried on.
- d. Evidence of Doing Business
- i. Whenever any person by the use of signs, circulars, cards, telephone books, newspapers, or the internet advertises, holds out, or represents that he is in business in the town, or when any person holds an active license or permit issued by a governmental agency indicating that he is in business in the town, and such person fails to deny by a sworn statement given to the town clerk that he is not conducting a business in the town, after being requested to do so by the town clerk, then these facts shall be considered prima facie evidence that he is conducting a business in the town.
- e. Nuisances
- i. No business, licensed or not, shall be so conducted or operated as to amount to a breach of the peace or a violation of the Town ordinance regarding noise.

188-02 EXEMPTIONS

- a. The provisions of this chapter shall not be deemed or construed to require the payment of a license tax to conduct, manage or carry on any business, occupations, event or activity, from any institution or organization which is conducted, managed or carried out for the benefit of religious, charitable, philanthropic or education purposes; provided that convincing evidence is furnished to the town clerk which establishes that the organization has been granted or qualifies for such status under regulations promulgated by the United States Department of Treasury, Internal Revenue Service.

188-03 LICENSE REQUIRED

- a. Person subject to license
- i. Whenever a license is required for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person or corporation shall be subject to the requirement if by himself or through an agent, employee or partner, he holds himself forth as being engaged in the business or occupation ; or solicits patronage therefore, actively or passively; or

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performs or attempts to perform any part of such business or occupation in the Town.

- b. License required
 - i. It is unlawful for any person, either for himself or for any other person, or for anybody, corporation or otherwise, to commence or carry on any kind of lawful business, trade, calling, profession or occupation in the town, without first having procured a license from the town to do so, or without complying with any and all regulations of such business, trade, calling, profession, or occupation contained in this Ordinance or other applicable governmental regulations.
- c. Home Occupations
 - i. Are permitted as indicated within each zone district's regulations, subject to the following: the business is conducted entirely within the dwelling and shall not change the character; delivery services are permitted that are customary to a residence; the area of the home occupation shall be no more than 25% of the gross floor area of the dwelling; the number of employees is within each zoning district allowance; and signs shall be subject to the zoning district allowances. See Alpine Land Use and Development Code, Article 3.
- d. Separate License
 - i. A separate license must be obtained for each branch, establishment, or separate place of business in which the business is conducted.
- e. Application
 - i. Each person required to obtain a license or permit under provisions of this chapter shall submit an application to the town clerk. Application forms will be provided by the town clerk. The applicant must provide all information requested on the form for each particular type of license or permit sought, including the applicant's name, business and / or event name, location or street address where the business or event will be conducted. All applications must be signed by the applicant as being true and correct.
 - ii. Supporting or additional documentation will be required prior to issuance of any license or permit. The following is required:
 - 1. A current Wyoming sales tax license number, when applicable.
 - 2. A Federal Identification number for workers compensation / unemployment.
 - 3. If food (other than soda-pop or bottled drinks) is to be sold, a health inspection must be completed and a copy of the State Health Permit attached to the application.
 - iii. Each new business license request will be reviewed for compliance with this ordinance by the submittal of a written application to the Town. Businesses renewing their licenses do not have to appear before the council, but must come into the office to renew their license and show proof of liability insurance.
- f. Forms

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of any business or performance of any act which would involve a violation of the land development regulation of the town.

m. Posting License

- i. Every business which operates under a license issued under this chapter shall exhibit the current, valid license in a conspicuous place in an area open to the public.

n. Change of Location

- i. The location of any licensed business or occupation, or of any permitted act, may be changed provided, fourteen (14) days' notice thereof is given to the Town Clerk, in the absence of any provision to the contrary; provided that the building and zoning requirements of all Town ordinances are complied with. Notice must be given in the form of a new business license application and an administrative fee of ten (\$10) dollars will be charged for each change of address.

o. Transfer of License Prohibited

- i. No license granted under this title shall be assignable or transferable from the person or entity to whom such was issued. Any attempt to assign or transfer a license shall void such license.

p. Appeal

- i. In the event that a license is refused or denied by the town clerk, mayor/council the applicant may appeal within five days of receiving notice of the decision by giving written notice of such intent to appeal to the office of the town mayor. The town mayor shall hold a hearing wherein the applicant shall be allowed to present evidence and argue his or her case, opposed by the town clerk, mayor/council, who may be assisted by the town attorney. A majority decision of the town council shall determine the appeal. Further appeal may be had to municipal court and district court utilizing the same time periods. Appellant may approach the council at any time in the appeal process to amend the ordinance.

188-04 FINES & PENALTIES

a. Violations

- i. Each violation is subject to a fine of up to \$750.00 upon conviction and shall be subject to abatement proceedings. Each day, during which such violation shall continue, shall be deemed to be a separate offense.
- ii. No additional business licenses shall be granted to an individual or entity until all fees and fines shall have been paid in full.

b. Effect on civil obligation

- i. The conviction and punishment of any person for transaction any business without a license, shall not excuse or exempt such person from the payment of such business license fee due or unpaid at the time of such conviction.

188-05 REVOCATION/ SUSPENSION

a. Grounds

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- i. Any license or permit for a limited time may be revoked or suspended by the licensing body at any time during the life of such license or permit for any of the following grounds:
 - 1. violation by the licensee or permittee of the ordinance provisions relating to the license or permit,
 - 2. violation of any ordinance relating to health and safety
 - 3. Securing any license or permit by fraud or misrepresentation, to specifically include false or incorrect information on the license or permit application form;
- b. **Emergency Suspension**
 - i. If the licensing body finds that reason exists for an immediate suspension or revocation of a license or permit, it may enter an order for immediate suspension of same. The licensee or permittee, upon notice of suspension or revocation, may request an immediate hearing before the governing body and the hearing will be conducted in the manner prescribed in Section 113-03(n) above.
- c. **Additional Sanctions**
 - i. Any such revocation or revocation may be in addition to any fine imposed.

188-06 PROPOSAL OF FUNDS

- a. Three quarters (3/4) of all business licensing fees will be directed to the town’s Business and Community Development Fund. The funds will be distributed to this fund following the end of each fiscal year.

188-07 INSTALLATION PERMIT / EXPOSITIONS

- a. Notwithstanding the other provisions of this chapter, any person engaged in the business of conduction an exposition, exhibit, or sale, of any merchandise or product, including artifacts and art objects, on or along any sidewalk or on any public property, shall pay a business license fee as determined by this resolution.

188-08 LICENSE FEES

- a. The yearly business license fee for each business required to obtain a license under this ordinance shall be \$60, except for those business set out below.
- b. The following businesses shall be required to pay in accordance with the fee schedule as set forth in Table 188-1:

Table 188-1	
TYPE	CURRENT YEARLY FEE
RENEWAL (had a business license from the Town the previous year)	\$50.00
DOOR TO DOOR	\$35.00 one day
FOOD WAGON/STAND	\$35.00 (1-4 Consecutive Days)
SPECIAL EVENTS	\$35.00 (1-4 Consecutive Days)

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TEMP. TRANSIENT MERCHANT	\$35.00 (1-4 Consecutive Days)
INSTALLATION PERMIT/ EXPOSITIONS	\$35.00 (1-4 Consecutive Days)
MALT BEVERAGE PERMIT (1-DAY)	\$100.00 1-DAY PERMIT

SECTION V-This ordinance passed and approved on the following dates:

Passed on first reading this 7th day of April, 2009.

Vote: 5 yes 0 no 0 abstain 0 absent

Passed on second reading this 28th day of April, 2009.

Vote: 5 yes 0 no 0 abstain 0 absent

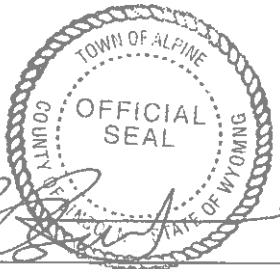
Passed on third reading this 3rd day of May, 2009.

Vote: 5 yes 0 no 0 abstain 0 absent

TOWN OF ALPINE

BY: Victoria DeCora
 Victoria DeCora, Mayor

ATTEST:



BY: Brenda Bennett
 Brenda Bennett, Town Clerk

ATTESTATION OF TOWN CLERK

STATE OF WYOMING)
 COUNTY OF LINCOLN)
 TOWN OF ALPINE)

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I hereby certify that the foregoing 188-ORDINANCE NO. 2009-44 BUSINESS LICENSE CODES was duly posted for ten (10) days in the Town Clerk's office.

I further certify that the foregoing ORDINANCE was duly recorded in the BOOK OF ORDINANCES, TOWN OF ALPINE, LINCOLN COUNTY, WYOMING.

ATTEST:

BY:



Brenda Bennett, Town Clerk

