

ORDINANCE NUMBER 193

BUSINESS LICENSE AND REGULATIONS

WHEREAS, the Elsinore Town Planning Commission and Town Council identified a need to Regulate and license businesses and occupations within the corporate limits of the town and to maintain a list of currently licensed businesses and to raise revenues for the town.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE ELSINORE TOWN COUNCIL AS FOLLOWS:

Article 1. Interpretation

Definitions: for the purpose of this chapter, the following words and phrases shall have the meanings set forth herein:

BOND: A financial guarantee of cash by a business license applicant or a corporate surety bond by a bonding company licensed in the state of Utah.

BUSINESS: any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers do not constitute a separate business.

CONTRACTOR: any person who, for a fixed sum, price, fee, percentage or other compensation, other than wages, undertakes with another to improve any building, highway, road, railroad, excavation or other structure, project development or improvement of any kind, other than to their own personal property for personal use. This shall not include anyone who merely furnished materials or supplies to the contractor.

HOME OCCUPATION: business carried out in a residential dwelling. (See also Elsinore Town Land Use Ordinance, Section: Home Occupation.)

LICENSE: a certificate or document issued by the town evidencing permission or authority of its named holder to carry on particular business.

LICENSEE: the person to whom a license has been issued pursuant to the provisions of this chapter.

PERSON: Any individual or natural person, receiver, assignee, trustee in bankruptcy, trust, firm, partnership, joint venture, corporation, club, company, business trust, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

PLACE OF BUSINESS: a location from which the licensee engages in business. A person's home shall be deemed the place of business if no formal offices are maintained.

PLEDGOR: a person pledging or delivering goods in pledge to a pawnbroker.

TEMPORARY BUSINESS: a business whose presence or services are provided on a noncontiguous basis and of a nature likely to be established or provided in the city in future years. Temporary business shall include, by way of example, professionals whose primary place of business is located outside of the town while providing services on a periodic basis within the city, seasonal businesses such as fruit and vegetable stands and boutiques selling locally handcrafted items and the like.

TRANSIENT BUSINESS: a business who sells at wholesale or retail commercially manufactured goods and whose methods of operation are such that its operations in the city are likely to be on a one time basis only. Transient businesses shall include solicitors.

Article 2. License Regulations

193-2-1: UNLAWFUL TO OPERATE WITHOUT LICENSE:

Except as otherwise provided in this chapter, it is unlawful for any person to engage in business within the city without first obtaining a license for doing so, and it is unlawful to continue in business without maintaining a valid license. It is also unlawful to continue in business once a license for such business has been suspended or revoked.

193-2-2: SEPARATE LICENSE FOR EACH BRANCH:

A separate license must be obtained for each separate place of business and shall be issued to authorize the licensee to engage only in the business licensed at that location.

193-2-3: EXTENT OF AUTHORITY GRANTED:

A license shall authorize the licensee to conduct only that business described in the license and only at the location which is indicated thereon.

193-2-4: LICENSE TRANSFERS:

No license shall be transferred from one person to another or from one place of business to another.

193-2-5: EXEMPTIONS:

The following businesses, ventures or activities are exempt from licensing and fee requirements of this chapter:

1. Any business that is exempt by state law;
2. Any organization carried on or managed wholly for the benefit of charitable purposes;
3. Any activity the receipt from which is to be appropriated entirely to any church, school or religious or benevolent purpose;
4. Any activity conducted by a religious, charitable, fraternal, educational, military or governmental organization so long as the receipts from such activity are appropriated for the purposes and objects for which such organization is formed and no individual, firm or profit corporation directly or indirectly derives a profit there from.

193-2-6: LICENSE ADDITION TO ALL REGULATORY LICENSES:

The license and fee requirements imposed by this chapter shall be in addition to any and all other taxes or licenses imposed or required by any other provisions of the ordinances of the city, and all businesses in the city shall comply with all the requirements of the land use management and development code of the town.

Article 3. Administration

193-3-1: APPLICATION:

1. An applicant for a business license shall submit to the town clerk a completed application along with all fees and any other information reasonably required by the town.
2. The application form shall be provided by the town and shall contain the following information:
 - a. Business name, address, mailing address and phone;
 - b. Owner's name, address and home phone number;
 - c. Type of business; with brief description;

193-3-2: INSPECTIONS OF NEW BUSINESSES:

Prior to the issuance of a license to engage in a new business, the applicant shall allow inspections to be made of the prospective place of business by the appropriate departments of the town or other governmental agency to ensure compliance with the building, fire and health codes. No license shall be granted unless the premise to be licensed is found to be in compliance with all applicable codes.

193-3-3: ISSUANCE OF LICENSE:

Upon the submission of a completed application and the payment of all fees required, the applicant must attend the Planning and Zoning Meeting to obtain signatures of approval. If the Planning Commission is not available, approval may also be granted by the Town Council. The Planning and Zoning or Town Council shall issue a business license after appropriate time is allowed for the research of the license, such as: if the business is allowed in the zone in which it will be located, if the place of business complies with all applicable building, fire and health codes, and if the business is not prohibited by any federal, state or local law.

193-3-4: APPEAL:

If a license is denied for any of the reason set forth in Town Ordinances, the applicant may appeal to the Town Council in writing within ten (10) days of the denial. If the Town Council denied the original request the appeal will be addressed to the Appeals Board.

193-3-5: DURATION OF LICENSES:

All licenses issued pursuant to this chapter shall expire on December 31 of the year for which they are issued. It shall be the duty of a licensee who desire to continue in business past that date to renew the license.

193-3-6: FEES:

1. Unless otherwise provided in this chapter, a yearly business license administration fee shall be paid by every person required to have a business license. Annual fees shall be due on January 1 of each year that at licensee intends to do business and shall become delinquent if not paid. Licenses are past due February 1 and will incur a late fee.
2. When a business fails to apply and pay for a business license by March 1, the town clerk shall send a letter to the owner of the business asking him to comply to this ordinance within ten (10) days from the date shown on the letter. In the event the owner/operator fails to comply, the town clerk shall refer the matter to the police and the town attorney.
3. No license shall be issued until all penalties for late payment have been paid in full.
4. Every business operated within the city shall pay a fee which is set by the town's fee schedule.

Article 4. Enforcement

193-4-1: POWER AND DUTIES OF POLICE:

1. All police officers, are appointed inspectors of licenses and have the power to enter free of charge upon a showing of proper identification, at any time, any place of business for which a license is required; to demand the exhibition of a current license by any person engaged or employed in the conduct of such business; and, if such person shall then and there fail to exhibit such license, such a person shall be liable for the penalties provided for violation of this chapter. Officers shall also have the authority to require any solicitor to display his license upon demand.
2. To make arrests for the violation of any provisions of this chapter.
3. Any person violating any of the provisions of this ordinance shall be guilty of a class C misdemeanor and shall, upon, conviction, be punished according to the law.

193-4-2: INSPECTIONS FOR CODE COMPLIANCE:

Existing places of business licensed within the city shall be inspected periodically for compliance with the fire code. They may also be inspected for compliance with the building code in cases where any structural change may have been made to the business premises since a business license was last issued or renewed or where the inspection for fire code compliance reveals a possible building code violation. Written notice shall be given to a licensee upon the finding of any code infractions, which notice shall provide for a reasonable period, not to exceed sixty (60) days, in which to correct such infractions, the failure of which may result in the revocation of the license. The same procedure shall be following if a business is found to be in violation of any health code upon inspection by any governmental entity other than the city.

193-4-3: REVOCATION:

Any license issued pursuant to the provisions of this chapter any be suspended or revoked for the violation by the licensee of any provisions in this chapter or any other applicable code, ordinance or law and falsification of the application and following a full and complete hearing as described in this ordinance. Notification of a business license revocation shall be sent by the town clerk to the licensee by certified mail.

193-4-4: REVOCATION BY THE TOWN COUNCIL:

The town council shall hear and determine all suspensions and revocations of licenses. No license shall be revoked until a show cause hearing has held by the council. Written notice of such hearing shall be served at least ten (10) days prior to the date thereof upon the licensee or his agent. Such notice shall state the grounds of complaint against the licensee and the time and place where the hearing shall be held.

THIS ORDINANCE SHALL TAKE EFFECT UPON ADOPTION AND POSTING.

PASSED AND ADOPTED THIS 10TH DAY OF JULY, 2014

MAYOR

TOWN CLERK