

TOWN OF NEDERLAND, COLORADO

ORDINANCE NUMBER 689

AN ORDINANCE AMENDING ARTICLE 1 OF CHAPTER 6 OF THE NEDERLAND MUNICIPAL CODE CONCERNING BUSINESS LICENSES

WHEREAS, pursuant to C.R.S. § 31-15-501, the Town of Nederland, Colorado (“Town”) possesses the authority to regulate the operation and licensing of businesses generally within its jurisdiction; and

WHEREAS, under this authority, the Town Board of Trustees (“Board”) previously adopted a set of regulations governing the licensing of businesses in Town, such regulations codified as Article I of Chapter 6 of the Nederland Municipal Code (“Code”); and

WHEREAS, the Board now desires to make certain amendments to said Article I, as reflected in this Ordinance.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Nederland, Colorado, as follows:

Section 1. Article I of Chapter 6 of the Nederland Municipal Code, concerning Business Licenses, is hereby amended as follows:

ARTICLE I

Business Licenses

Sec. 6-1. Purpose.

The purpose of this Article is the regulation and registration of businesses operating within the Town to protect the health, safety and welfare of the citizens of the Town and ensure the proper collection of taxes which support the Town.

Sec. 6-2. License required.

Every person or entity ~~who~~ is responsible for collecting municipal sales taxes must obtain a license from the Town before operating, conducting or carrying on any trade, profession or business within the Town. Businesses that serve the public but do not collect sales tax due to the service nature of their operations must also obtain a license. A separate license shall be obtained for each location of the business, and multiple businesses housed in the same fixed location shall require separate licenses. A change of business location or ownership shall necessitate application for a new license. It is unlawful for any person to engage in the business of selling tangible personal property at retail without having obtained such license. Non-profit ~~state~~ organizations, federal, state or municipal corporations, are hereby exempt from the license requirements set forth in this Article.

Sec. 6-3. License application.

An application for a business license shall be made to the Town Clerk on forms provided by the Town. Every applicant shall state under oath or affirmation such facts as may be required for the granting of such license. It is unlawful for any person to make any false statement or misrepresentation in connection with any application for a license. The Town Administrator is hereby authorized to promulgate any necessary rules or regulations associated with the license application.

Sec. 6-4. License fees.

Each application for a new or renewal license shall be accompanied by an annual license fee as set forth in the Town's fee schedule. If a licensee submits a renewal application after the end of the quarter in which it is due, he shall be assessed a \$20.00 late fee in addition to the annual license fee. If the applicant submits the completed Town application and a valid Colorado sales tax license by February 28 of each calendar year, the fee shall be reduced as indicated in the fee schedule.

Sec. 6-5. Payment of fee.

Before issuance of any license, the fee required for the license must be paid at the office of the Town Clerk.

Sec. 6-6. Issuance.

Upon receipt of the required fee and compliance with Section 6-4, the Town Clerk will issue a license that indicates that the license ~~tax~~ application or renewal fee has been paid for the specified year.

Sec. 6-7. Carrying or posting license required.

The license for a particular business location shall be posted at all times in a conspicuous place in the place of business. If the business is not operated, conducted or carried on at a fixed location, then the licensee must carry the license upon his or her person when operating, conducting or carrying on any retail trade, profession or business. Every licensee shall produce his or her license for examination when requested to do so by any Town police officer or by any person representing the Town.

Sec. 6-8. License nontransferable.

Except as provided in Section 6-7, no license issued under the provisions of this Article shall be transferable from person to person or place to place.

Sec. 6-9. Period of license; renewal.

All licenses shall ~~expire December 31 of each calendar year~~ be valid for one year, and shall expire on the last day of the calendar quarter within which the license was originally issued. The licensee shall be responsible for renewing the license each year. The Town Clerk may not refuse to issue such renewal except for revocation of the prior license for cause, as provided in this Code.

Sec. 6-10. Suspension.

A license may be suspended by the Town Administrator or a designated representative after notice and an administrative hearing:

- (1) When any money due the Town has not been paid. This includes failure to pay civil penalties, fines, taxes, impact fees or any other money owed to the Town.
- (2) When any activity conducted by the licensee, his or her employee or agent violates any federal, state or local rule, regulation or law.
- (3) Upon failing to comply with the terms and conditions of the license.
- (4) Upon any grounds of suspension provided by ordinance.

Sec. 6-11. Probation Following Suspension.

Each license suspended pursuant to Section 6-10 above shall, immediately after the period of suspension is completed, commence a ninety (90) day probationary period. During the probationary period, the licensed business may operate. The purpose of the probationary period is to provide the licensee with adequate time to cure the condition(s) that formed the basis for the suspension. At the conclusion of the probationary period, the Town Administrator or a designated representative shall investigate the licensee's efforts to remedy the relevant conditions. If the Administrator or a designated representative determines that said conditions have been eliminated or otherwise adequately cured, no further action shall be taken by the Town. If the Administrator or designated representative determines that the reasons for suspension have not been eliminated or otherwise adequately cured, the Administrator shall conduct a hearing on the revocation of the license in accordance with Section 6-12.

Sec. 6-112. Revocation of license.

A license may be revoked by the Town Administrator or a designated representative after notice and an administrative hearing:

- (1) When it appears that the license was obtained by fraud, misrepresentation or false statements within the application;
- (2) When it appears that the activity conducted pursuant to such license is a public nuisance as defined by this Code or statute or violates any federal, state or local rule, regulation or law.
- (3) Upon failing to comply with the terms and conditions of the license.
- (4) Upon a licensee's failure, during a post-suspension probationary period, to adequately cure the reasons for suspension of the license in accordance with Section 6-11.
- (45) Upon any ground of revocation provided by this Code.

Sec. 6-123. Notice and hearing prior to suspension or revocation.

All hearings to revoke, ~~or suspend or cancel~~ a license shall be before the ~~Board of Trustees~~ Town Administrator or a designated representative. Should the licensee or his representative fail to appear at the hearing, the official conducting the hearing (the "hearing officer") may still conduct the hearing and take action if proper notice was given. For purposes of this section, notice of a hearing shall be deemed proper if sent to the licensee's last known mailing address by regular U.S. Mail, First Class, postage prepaid, postmarked at least ten (10) days prior to the hearing date. The suspension or revocation of any license shall not release or discharge anyone from his or her civil liability for the payment of the taxes, penalty and interest nor from criminal prosecution for any related offense. The hearing officer shall give prompt written notice of his or her decision to the licensee.

Sec. 6-14. Appeal of suspension or revocation to Board of Trustees.

A licensee may appeal a hearing officer's decision to suspend or revoke his or her license to the Board of Trustees by filing a written request with the Town Clerk within ten (10) days of the date of the hearing officer's written decision. The Town Clerk shall set the appeal before the Board of Trustees at the next available regular meeting for which the Board's packet deadline can be met. The Board of Trustees shall give prompt written notice of its decision to the licensee. The Board of Trustees' decision shall constitute the Town's final decision on the matter and may be appealed to District Court in accordance with the Colorado Rules of Civil Procedure.

Sec. 6-15 Cease and desist.

If any business is operating without a license, the ~~Mayor~~ Town Administrator or his or her designee may issue an order to the business to cease and desist all further operation until a license is issued for the business. The order shall give the business three (3) days to pay all amounts due the Town; or to post a bond in the amount owing the Town and to request in writing a hearing. If the business does nothing, it shall cease operations on the third day. The hearing, if requested, will-shall be before the Board of Trustees and scheduled as provided by Section 6-13. These proceedings shall not relieve or discharge anyone from the civil liability for the payment of the taxes, penalty and interest nor from criminal prosecution for any related offense.

Sec. 6-164. Penalty.

Failure to comply with the terms of this Article shall constitute a civil infraction punishable by the Municipal Court. Any person who is found guilty of, or pleads guilty or nolo contendere to the commission of, the civil infraction shall be subject to the fine as set forth in Section 1-72 of this Code. For each day, or portion thereof, during which any violation continues, a person may be cited for a separate civil infraction. The penalties specified in this Section shall be cumulative and nothing shall be construed as either prohibiting or limiting the Town from pursuing such other remedies or penalties, including an action at law or equity.

Sec. 6-17. Special Event Permits; temporary businesses.

At the request of a sponsor of a community-wide event, the Town Administrator or a

designated representative may issue a special event permit to such sponsor in accordance with Article IV of Chapter 6 of this Code. Such a special event permit shall allow all concessionaires, temporary merchants, street vendors and other invitees of the sponsor who would otherwise be required to obtain individual business licenses under this Chapter to operate for the limited duration of the special event under the sponsor's special event license.

Sect. 6-18. Non-profit organization required to register.

Non-profit organizations providing services or other otherwise operating within Town limits, are required to register with the Town Administrator and provide proof of their tax-exempt status on forms provided by the Town Administrator.

Secs. 6-195—6-30. Reserved.

Section 2. Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 3. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

INTRODUCED, ADOPTED AND ORDERED PUBLISHED THIS 1st DAY OF FEBRUARY, 2011.

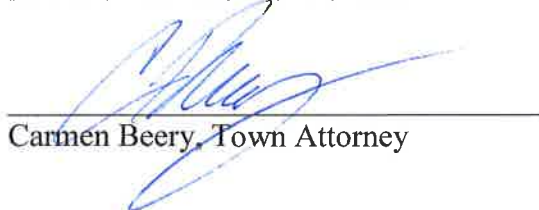
TOWN OF NEDERLAND, COLORADO


Sumaya Abu-Haidar, Mayor

ATTEST:


Teresa Myers, Town Clerk

APPROVED AS TO FORM:


Carmen Beery, Town Attorney

