

**PALMER LAKE, COLORADO
ORDINANCE NO. 13-2021**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 5.02 OF TITLE 5 OF
THE PALMER LAKE MUNICIPAL CODE CONCERNING BUSINESS LICENSES**

WHEREAS, PALMER LAKE IS A STATUTORY TOWN WITH THE AUTHORITY TO REGULATE AND LICENSE BUSINESSES PURSUANT TO C.R.S. §31-15-501(C); AND

WHEREAS, BY ORDINANCE 6-1974 THE TOWN OF PALMER LAKE ADOPTED PROVISIONS RELATED TO GENERAL BUSINESS REGISTRATION AS SET FORTH IN CHAPTER 5.02 OF TITLE 5 OF THE PALMER LAKE MUNICIPAL CODE; AND

WHEREAS, THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE DESIRES TO AMEND AND UPDATE THE PROVISIONS OF CHAPTER 5.02 OF TITLE 5 OF THE PALMER LAKE MUNICIPAL CODE IN ORDER TO MOST EFFICIENTLY AND EFFECTIVELY SUPPORT THE REGISTRATION AND LICENSING OF LOCAL BUSINESSES IN THE TOWN OF PALMER LAKE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, EL PASO COUNTY, COLORADO, AS FOLLOWS:

Section 1. Chapter 5.02 of Title 5 of the Town of Palmer Lake Municipal Code is hereby repealed and shall be replaced to read in full as follows:

Chapter 5.02

BUSINESS LICENSES

5.02.010 Purpose. The purpose of this Chapter is to require registration and the maintaining of a register of all licensed business activities physically located within the Town in order to protect the health, safety and welfare of the Town's inhabitants.

5.02.020 Definitions. As used in this Chapter, unless otherwise noted:

Applicant means a person who has filed an application for a business license.

Application means an application for a business license.

Business means all trades, vocations, occupations, professions, enterprises and establishments and all other kinds of activities which are conducted for gain, financial profit, advantage or benefit either directly or indirectly, on any location regardless of whether of a permanent or temporary nature in this Town, including but not limited to all retail sales, wholesale sales, services and including contractor services. *Business* shall not include: (1) billboards and signs; (2) coin-operated amusement machines; (3)

peddlers; (4) solicitors and canvassers; ~~(5) tourist camps and house-cars~~; and (6) individuals who engage in ~~at home office work from their residence for a remotely located business~~.

License means the document issued by the Town Clerk evidencing the registration of a business pursuant to this Chapter.

Licensed Business means a business which has been registered and licensed by the Town pursuant to this Chapter.

Location means the premises upon which the business is located and any adjacent property under the ownership and control of the licensed business.

Person means any natural person or non-natural entity, including but not limited to a corporation, partnership, unincorporated association or joint venture.

Premises means all lands, structures and places related to the business of the licensed business and its operation. It also means equipment and appurtenances connected or used therewith in any business and also any personal property that is either affixed to or is otherwise used in connection with any business conducted on such premises.

5.02.030 Business License Required and License Term.

(a) It shall be unlawful for any person operating a business within the Town to fail to obtain and maintain a business license at all times while operating said business. Upon application approval, the Town Clerk shall issue an appropriate license evidencing such registration.

(b) Business licenses issued under this Chapter shall be issued for a period of one (1) year, commencing on the date of license issuance and expiring one year (365 days) from the date of license issuance. Each license shall explicitly set forth the date of issuance and expiration. Note: Applications for renewal of a license **are due a maximum of sixty (60) days prior to the date of license expiration. A renewal application will be mailed approximately thirty (30) days prior to expiration, although the responsibility to renew lies solely with the business owner.** License applications received after the expiration date shall be subject to a late fee as set forth in the Town fee schedule as adopted and as amended from time to time by the Town Board.

(c) A separate business license shall be required for each fixed location of a business operating within the Town.

5.02.040 Town Clerk Duties.

The Town Clerk shall:

- (a) Enforce all reasonable rules and regulations approved and adopted by the Town Clerk as necessary for the operation and enforcement of this Chapter;
- (b) Review business license applications;
- (c) Keep confidential all proprietary, confidential or privileged information provided by an applicant (such information shall not be subject to public inspection except for that information available to the public under the Colorado Open Records Act or through a court order);
- (d) Notify applicants of the approval or denial of their applications;
- (e) Issue licenses evidencing such registration to all qualified applicants;
- (f) Collect license fees; and
- (g) Maintain records of all licenses and revenues received therefor.

5.02.050 Procedures for Issuance.

Each applicant for a business license must submit, on forms approved by the Town Clerk, information necessary to determine compliance with this Chapter.

5.02.060 License Fee.

- (a) Each application for a business license or an application for renewal of a business license shall be accompanied by an annual license fee paid in cash or certified funds, in the amount as set forth in the business license fee schedule resolution adopted by the Town Board, as amended from time to time.
- (b) In the event of cessation of any business prior to expiration of any license issued hereunder, no portion of any license fee shall be refunded.

5.02.070 Denial of License.

- (a) The Town Clerk shall approve or deny an application for a business license within thirty (30) days of receipt of a completed application and fee.
- (b) An application for a business license may be denied for any of the following reasons:
 - (1) To the extent reviewed by the Town Clerk for compliance, all applicable provisions of this Chapter and state and local law have not been met;
 - (2) The required fee has not been paid in full;
 - (3) The application is incomplete or contains false, misleading or fraudulent statements; or

(4) The applicant is in arrears on taxes, fees, or other charges owed to the Town for ~~any~~ **all** licensed business owned by the applicant.

(c) If the Town Clerk denies an application, the Town Clerk shall provide by first class U.S. mail written notice of such denial, the reason for the denial, a description of the appeal process, and a refund of the license fee submitted by the applicant.

(d) Notwithstanding any provision herein, the issuance of a business license shall not be construed or relied upon as any representation by the Town or by the Town Clerk regarding conformity of the licensed business with the zoning and/or any other applicable provisions of local, state or federal law or regulations that may affect the business and its operations.

5.02.080 Hearings.

(a) An applicant may appeal a denial of his or her license by the Town Clerk to the Town Board of Trustees and shall be entitled to a hearing before the Town Board of Trustees. The appeal shall be made in writing, stating the grounds for appeal, within (15) fifteen working days of the date the notice of denial is mailed by the Town Clerk.

(b) At the hearing, the Town Board shall hear such statements and consider such evidence as is offered that is relevant to the grounds alleged for denial. The Town Board shall make findings of fact from the statements and evidence offered as to whether such grounds exist. If the Town Board determines by a preponderance of the evidence that cause for denial exists, it shall issue an order denying the license within ten (10) days after the hearing is concluded, based on the findings of fact. If the Town Board does not find based on the findings of fact by a preponderance of the evidence that cause for denial exists, it shall issue an order granting the license and ordering the Town Clerk to issue the required license within ten (10) days after the hearing is concluded. A copy of the order shall be mailed by first class U.S. mail to or served on the applicant at the address on the application.

(c) The order of the Town Board made pursuant to subsection (b) above shall be a final decision and may be appealed to the District Court in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure. Failure of an aggrieved party to timely appeal said order constitutes a waiver of any right such aggrieved party may otherwise have to contest the denial of the license.

(d) The Town Clerk shall have the power to administer oaths, issue subpoenas, and when necessary grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books and records necessary to the determination of any hearing that the Town Board conducts. It is unlawful for any person to fail to comply with any subpoena issued by the Town Clerk. A subpoena shall be served in the same manner as a subpoena issued by the Municipal Court.

(e) All hearings held before the Town Board regarding denial of a license shall be recorded ~~stenographically or~~ by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the Town Clerk, and shall pay all costs of preparing such record.

5.02.090 Duplicate Licenses.

A duplicate license valid for the remainder of the license period, shall be issued by the Town Clerk to replace any license previously issued which has been lost, stolen, defaced or destroyed. Duplicate license fee amounts, if any, shall be those set out in the business license fee schedule adopted by the Town Board by resolution, as amended from time to time.

5.02.100 Supplemental Information.

A licensed business shall report in writing any change in information contained in his or her or its last application within thirty (30) days of such change, and a supplemental license may be issued and additional fees collected or refunded where appropriate.

5.02.110 Contents of Licenses.

Each license shall contain the following information:

- (a) Name and address of the licensed business and any other name under which such business is to be conducted;
- (b) ~~Nature of business operations;~~
- (c) Address of each location of business licensed; and
- (d) Date of issuance and expiration.

5.02.120 Duties of Licensed Businesses.

All persons holding licenses shall:

- (a) Refrain from operating the business unless a valid license therefor has been issued.
- (b) Post and maintain such license at the registered location in a place visible at all times and, when working outside the registered location, carry a copy of the license at all times.
- (c) Timely pay all taxes, fees, and other charges owed to the Town for the licensed business.

(d) Operate the Licensed Business in compliance with all federal, state and local laws and regulations.

(e) At all times, operate the Business in a manner representing good moral character.

5.02.130 Change of Business Locations.

Upon changing the location of the licensed business, the person holding a license shall file a written application for change with the Town Clerk.

5.02.140 Nontransferability.

All business licenses are nontransferable. If a business is sold or transferred to a different owner, the new owner must apply for a new license before resuming operation of the business. Sale or transfer of the business is defined as the acquisition of fifty percent (50%) or more of an ownership interest by any person.

5.02.150 License register.

The Town Clerk shall keep a register listing every license issued under this Chapter, including:

- (a) The ~~name of the applicant~~ owner information;
- (b) The name of the business;
- ~~(c) The type of the business;~~
- ~~(d) The number of employees;~~
- (e) The location of the business;
- (f) Emergency contacts; and
- (g) The date of issuance and expiration of the license.

5.02.160 Enforcement and fines.

~~In addition to any other remedies available to the Town,~~ this Chapter may also be enforced in the Municipal Court or any court of competent jurisdiction. The Municipal Court is authorized to revoke a business license for non-compliance with this Chapter in addition to any other remedies authorized by law. Any person who violates the requirements of this Chapter may be punished in accordance with the general penalty provisions set forth in Chapter 1.16 of Title 1 of this Code.

5.02.170 Renewal of license.

~~At any time within sixty (60) days prior to the expiration of the current license, a licensee may make application for a license renewal for the succeeding year and pay the required fees. Unless otherwise provided by this title, if application is so made and no action or proceeding is pending against the licensee for suspension or revocation of the current license or licenses, and upon payment of the required fee, the licensee may continue the business for the succeeding period~~

unless or until the application for license renewal is denied. Within thirty (30) days, a renewal application will be mailed to the business owner.

In the event a suspension or revocation proceeding is pending when the licensee applies for renewal, the business may continue during the pendency of the proceeding, but the renewal application shall not be acted upon until the suspension or revocation proceeding has been completed and the time to appeal such decision has expired.

Every renewal application shall be evaluated in accordance with the requirements of this title applicable to the initial issuance of a license. In addition to local compliance, if there are more than two (2) findings of complaints about the business operation on file with the Town, the Clerk shall inform the business owner and schedule a review of the license renewal before the Town Board of Trustees to determine renewal or a conditional license with criteria to address within another six or twelve months of the succeeding licensing year.

Whenever any renewal application and accompanying license fee payment is not received on or before the expiration date of any license issued for the current license term, and the licensee continues to engage in the business for which the license was issued, a penalty fee in the amount set by resolution of the Board of Trustees shall be imposed for each month of delinquency. The Town Clerk shall be authorized to waive or adjust any and all of such penalty and additional fee whenever in the clerk's judgment the delinquency is not the fault of the licensee or when collection or payment would constitute an injustice.

The failure of a licensee to exercise the privilege of renewal granted under a license for a period of sixty (60) days beyond the expiration of the license shall be *apparent* evidence that the renewed license is abandoned.

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

INTRODUCED, PASSED AND ADOPTED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 9TH DAY OF DECEMBER, 2021.

ATTEST:

TOWN OF PALMER LAKE, COLORADO

Dawn A. Collins
Town Administrator, Clerk

BY: _____
Bill Bass
Mayor