

ORDINANCE No. 08-263

AN ORDINANCE ADOPTING TITLE 5 CHAPTER 4 OF THE DUCHESNE COUNTY CODE ESTABLISHING RULES AND REGULATIONS FOR THE LICENSING AND OPERATION OF BUSINESSES WITHIN DUCHESNE COUNTY

WHEREAS, Duchesne County has an interest in regulating and licensing businesses within Duchesne County; and

WHEREAS, Duchesne County currently does have an ordinance pertaining to business licensing, but desires to update said ordinance; and

WHEREAS, it is in the best interest of Duchesne County to update its business licensing ordinance.

BE IT HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS that:

SECTION I. Title 5 Chapter 4 to the Duchesne County Code shall be amended and adopted to read as follows:

Chapter 5.04

BUSINESS LICENSES GENERALLY

Sections:

5.04.010 Licenses generally.
5.04.020 Application.
5.04.030 Term.
5.04.040 Categories and Fees.
5.04.050 Fees for Unlisted Categories
5.04.060 Revocation.
5.04.070 Violation and Penalty.

5.04.010 Licenses generally.

A. There is created the Duchesne County Business License Department which shall function directly under, and be responsible to, the Duchesne County Commission.

B. The licensing clerk of the License Department shall have the authority to make investigation and may call upon other departments of the county for the purpose of determining whether or not any applicant for a business license has, in fact, qualified for the issuance thereof.

C. The licensing clerk of the License Department shall have the authority, and may call upon other departments of the county for the purpose of inspecting business licenses. The licensing clerk and all other authorized inspectors, in the discharge and performance of their official duties, shall exercise the power to enter free of charge, during business hours, any place of business for which a license is required by this chapter, and to demand the exhibition of a current license from any such person engaged or employed in the transaction of such business. If such person shall then and there fail to exhibit such license, such person or persons shall be liable to the penalty provided for a violation of this chapter.

D. It is unlawful for any person, firm or corporation or any employee thereof, to commence, engage in, carry on, or operate any business in Duchesne County without first obtaining a license from the county to do so. Every person, partnership or corporation engaged in, carrying on or operating any business, trade, or occupation, including any internet business, in Duchesne County shall secure, from the license department, a license for such business or profession. A separate license shall be obtained for each separate place of business maintained within Duchesne County.

E. Every such license shall specify by name the person, firm, or corporation to whom it shall be issued and shall designate the particular place at which the business shall be carried on, provided that when a license is issued to a firm or co-partnership, such license in addition to the firm or co-partnership name, shall specify by name the members of such firm or partnership.

F. It is unlawful for any licensee to sell, transfer or trade any business license issued under this chapter, and shall not allow any person, firm or corporation other than the one therein named or mentioned to do business as authorized by the business license. If a licensee chooses to relocate his business to another site in the county, the licensee shall first make application with the licensing department to relocate. The licensing department may call for investigation reports from other county agencies in keeping with the purpose of this chapter. The Commission, after receiving reports furnished by the licensing department, may at their discretion, deny or grant the transfer of the license strictly within the limitations set out in this chapter. The licensee shall pay a transfer fee equal to one half of a new license fee for that business as listed in this chapter. If the application is denied, then the money so deposited shall be refunded.

G. All business license applications must be approved for proper zoning by the county building inspector or zoning administrator.

H. All business license applications must be approved by the Duchesne County Commission prior to issuance of a license by the licensing clerk.

I. No license fee or any part thereof shall be refunded for any reason whatsoever once the license has been granted or issued by Duchesne County.

J. No license or fee shall be required under the terms of this chapter for the conducting of lectures, entertainment, concerts, fairs, exhibitions, bazaars, luncheons, dinners or dances conducted, given or made by the citizens of the county residing therein, conducted or given wholly for benevolent or charitable purposes.

K. Every certificate of license shall be posted by the licensee in a conspicuous place upon the walls of the building, room, or office of the store, or place in which such licensed business, trade, or profession is carried on so that the same may be easily seen. No certificate of license that is not in force shall be permitted to remain posted after the term of such certificate has expired.

L. The licensing clerk shall, on a regular basis, make investigation to discover status of all businesses or persons who have been issued a license. When necessary, the county clerk shall inactivate the status of those businesses or persons no longer doing business within Duchesne County.

M. A License shall not be issued to any applicant who has been convicted of a felony.

N. Seasonal businesses shall pay a full license fee if the business is operated during the entire season.

O. No business License is required for the sale of agricultural products which are produced in Duchesne County.

P. It is further provided that this chapter does not apply to the licensure of taverns or beer parlors which are governed by other ordinances.

5.04.020 Application.

A. All applications for licenses shall be made in writing and submitted to the licensing clerk upon a prepared form which may be obtained from the licensing clerk. The amount of such licenses as herein after provided shall be paid in advance to the licensing clerk.

B. Business applications shall show the following information and shall be submitted to the licensing clerk:

1. The name, physical and mailing addresses, and telephone numbers of the person(s) and partner(s) and/or legal agent(s) desiring the license;
2. Other names the business has been known by (if applicable);
 - a. Day Care – Adult and Child. Proof of application for a state license must be attached to the application, thereafter, upon receipt of state-issued license, a copy of said license must be submitted to the business licensing clerk and attached to every business license renewal thereafter;
 - b. Animal Related. If applicable, applicant must attach copy of a kennel license as issued by Duchesne County and to every business license renewal thereafter;

- c. Food Related. A copy of a current Food Handlers Permit must be attached to the application and to every business license renewal thereafter;
 - d. Transportation Business. A copy of current insurance policy must be attached to the application and to every business license renewal thereafter;
 - e. Recreational business. A copy of current liability insurance must be attached to the application and to every business license renewal thereafter;
 - f. Contractor License. A copy of the license must be attached to the business application and to every business license renewal thereafter;
 - g. List of other licenses and their number(s) required by other state and/or federal agencies;
3. Any other information required by the licensing clerk that may be necessary for the purpose of fixing the amount of the license fee.

C. The business license application shall be accompanied by a completed Duchesne County Assessor Business Information Form and a Duchesne County Business License Zone Clearance Form. This form must be completed and returned to the licensing clerk prior to a license being issued.

D. The licensing clerk shall, utilizing predetermined fee schedules, determine license categories and fees.

E. Each time the ownership of a business changes a new application for a license shall be submitted. This shall be done prior to the business opening or operating under the new owner.

5.04.030 Term

A. No license, unless otherwise provided for, shall be issued for a shorter period than three months or for a longer period than one year. All annual licenses shall commence January 1st and shall be effective through the following December 31st. New business licenses issued between January 1st and December 31st shall pay a pro-rated fee based on a quarterly assessment.

B. The County Clerk shall, on November 30th of every year, or the next business day immediately following the 30th, mail renewal notices to all businesses or persons holding an active business license. The renewal notice shall state the renewal fee amount, the date by which the fee must be remitted to the County Clerk, and information regarding penalties for non-renewal. The renewal notice shall be accompanied by a request for updated information regarding all particulars of the business or person holding the license. Updated information must be provided prior to renewal of the license.

C. The license department shall not issue a business license until all penalties associated with business licensing and legally assessed against the applicant have been paid in full.

D. Any business commencing operation without a license shall be assessed the fee as set forth and is subject to all criminal and civil penalties as set forth herein.

5.04.040 License Categories and Fees.

A. Fees charged for business licenses and classification of various classes of businesses shall be set pursuant to resolution adopted by the Duchesne County Commission. Any changes in classification or fee as applicable to a currently licensed business shall not be in force until the current license expires.

B. Every person, firm, or corporation before engaging in any business, or profession hereinafter listed in this section shall obtain a license therefore and make payment to the county clerk in advance as follows:

1. **Large Scale Wholesale and Retail Sales.** Any person, firm or corporation dealing directly or indirectly in any manner in motor vehicles, petroleum, mining machinery and equipment and all other types of machinery and equipment, steel distribution or supply, appliances of any kind, hardware, chemicals, milk, food, permanent fruit and vegetables sales, restaurants, fast food sales, coffee houses, bakery products, groceries, meat, fish, poultry, dry goods, clothing, sporting goods, notions, drugs, jewelry, soft drinks, nurseries, flowers, furniture and real estate or any other goods, wares or merchandise of any kind or description, and any other type of heavy industrial or commercial sales of any type or description and not otherwise specifically licensed by this chapter for each place of business operated.

2. **Small Scale Wholesale and Retail Sales.** Any person, firm or corporation dealing directly or indirectly in any manner in appliances of any kind, hardware, chemicals, milk, food, permanent fruit and vegetables sales, restaurants, fast food sales, coffee houses, bakery products, groceries, meat, fish, poultry, dry goods, clothing, sporting goods, notions, drugs, jewelry, soft drinks, nurseries, flowers, furniture and real estate or any other goods, wares or merchandise of any kind or description and not otherwise specifically licensed by this chapter, for each place of business operated.
3. **Large Scale Industrial Business.** All businesses dealing with the manufacturing, processing, fabrication of goods, electrical generating plants, coal loading and washing and storage facilities, refineries, and other similar industries.
4. **Small Scale Industrial Business.** All rendering and packing plants, wrecking and salvage, and other smaller scale industrial businesses
5. **Professional Businesses.** All attorneys, auctioneers, insurance brokers, physicians, dentists, veterinarians, accountants, engineers, surveyors, morticians and all other professions not herein stated.
6. **Hospitals and Medical Clinics.** All hospitals and medical clinics offering medical services.
7. **Recreational Businesses.** All billiard halls, bowling alleys, dance halls and studios, resorts, skating rinks, swimming pools, theatres, amusement centers, recreation centers, spas, hunting lodges, fishing camps, and all other recreational businesses not herein stated.
8. **Rental Storage Business.** All rental storage businesses including warehouses, storage buildings and cold storage units. The fee shall include a base fee plus an assessment for each separate rental unit.
9. **Motels, Hotels, Mobile Home Parks and Recreational Vehicle Courts.** All motels, hotels, mobile home parks and recreational vehicle courts. The fee shall include a base fee plus an assessment for each separate rental unit.
10. **Apartment and Board Houses.** All apartment houses (three apartments or more) and office buildings which rent or lease space.
11. **Equipment Rental.** All equipment rental businesses.
12. **Financial Businesses.** All banks, savings and loan, credit unions, etc. and all other financial businesses not herein stated.
13. **Service Related Businesses and Trades.** All repair and service facilities, dry cleaning, delivery, dog kennels, printing, junk collecting, laundry supply, barbers, beauty parlors, taxis, welding, upholstery, vulcanizing, garbage collection, and all other services.
14. **Contractors.** All general contractors and contractors for plumbing, heating, and air conditioning, electrical, carpentry, painting, cement, road surfacing, grading and all other contractors not herein stated.
15. **Trucking Businesses.** All trucking businesses related to oil hauling, motor freight, and other trucking not herein listed. The fee shall include a base fee plus an assessment for each separate transport vehicle.
16. **Mining and Oil and Gas.** All mining, oil and gas exploration, drilling projects, and other mines not herein stated.
17. **Small Scale Mining Operations.** Small scale sand and gravel operations.
18. **Home Businesses.** All businesses conducted solely within the confines of the home of the operator. Home Businesses shall consist of craft assembly, seamstress and alterations, book-keeping, word processing, proofreading, scrap booking, genealogical research, pet grooming, custom cake decoration, dance instruction, gift baskets, medical transcription, and all other similar services not herein stated.
19. **Itinerant Merchant.** An Itinerant Merchant shall be identified as any person, whether a resident of Duchesne County or not, who engages in a temporary business activity located within the unincorporated limits of Duchesne County selling and/or delivering goods, wares or services, or who conducts meetings open to the general public where franchises, distributorships, contracts, or business opportunities, goods, wares or services are offered to the public during the course of, or any time within, six months after a lecture or public meeting pertaining to such items. Each person obtaining a license shall first show proof of landowner permission for the use of the site on which the temporary use will be undertaken.

C. Whenever more than one business, trade, profession, calling or occupation is being carried on by one licensee under one roof, the licensee is required to apply for a business license for each business, trade, profession, calling or occupation. Multiple business activities will be defined and delineated by the entity numbers issued by the Utah Department of Commerce.

D. Any person whose only business activity in Duchesne County is the delivery in the county of a service or merchandise sold or provided by him and whose regular place of business is maintained by him/her outside of the unincorporated Duchesne County limits shall procure a business license based upon the category corresponding to his principle business activity.

E. It is unlawful for any person to engage in the business of an itinerant merchant without first having procured a license from the county licensing department. All itinerant merchant licenses shall expire one hundred twenty (120) days after the date of issuance thereof.

F. Reciprocal recognition of licenses. No license fee shall be required by Duchesne County for any business whose only business activity in the county is the mere delivery of a service or of merchandise sold or provided by them and whose regular place of business is located, licensed and maintained within the cities of Duchesne, Roosevelt, and Myton and the Towns of Altamont and Tabiona where:

1. Such business or person is at the time of such delivery or service licensed by any of the above listed cities in which such place of business is situated; and
2. The authority licensing such business grants to licensees of Duchesne County making delivery within its jurisdiction the same privileges, upon substantially the same terms as are granted by this section; and
3. Neither the facilities or equipment by which the product was manufactured, produced or processed are subject to inspection by any authority of Duchesne County for compliance with locally adopted health, safety, fire and building codes; and
4. The person or business providing a service or merchandise within the county shall provide a copy of the license to the licensing clerk of Duchesne County, and upon receiving such evidence of licensing the county shall issue a Duchesne County business license and waive all license fees.

Notwithstanding any of the above, should a business operate a facility in the county, as defined herein, whereby business activities are carried on, the business will be required to pay Duchesne County license fees, in addition to any fees required by any city. "Facility" means stationary buildings or trailers, pipelines, oil derricks, storage tanks supported directly upon grade, pump jacks, storage yards, compressor stations, relay towers, transmission line.

5.04.050 Categories Not Listed

It shall be unlawful for any person to conduct any business not hereinbefore listed without paying the license fee as assessed by the county clerk and board of commissioners. It shall be the duty of the licensing clerk by and with the approval of the Board of Commissioners to determine the applicable category in which a business falls by comparing the nature of business to those listed and determining which category is most appropriate. If the business is of a nature that it can not be compared to any category then the appropriate category and fee shall be established by the licensing clerk and the board of county commissioners.

5.04.060 Denials or Revocation of license.

A. In the event the commission shall deny any application for a business license, the reason therefore shall be endorsed on the application by the chairman of the county commission, and the licensing department shall return the fee deposited with a copy of the application to the applicant together with notice that the applicant may appear before the commission within forty five (45) days of the denial or revocation for the purpose of presenting reasons for setting aside such denial. If the applicant makes such appearance and presents adequate justification, the commission may, at its discretion, set aside the denial and approve the application.

B. The County Commission, upon finding that any person, firm or corporation or any employee of said firm or corporation licensed under this chapter has been convicted of a felony, or that false information has been given in the license application or that the business is being operated in a manner detrimental to the public good, may revoke that business license after public hearing on the revocation. The business license fee shall not be refunded.

C. The County Commission may, at its discretion and upon notice and a public hearing, revoke or suspend any license granted under the provisions of this chapter in order to protect the health, safety and general welfare of the present and future inhabitants of the county. The commission may also suspend any license granted

under the provisions of this chapter upon finding, after a written complaint has been filed and a proper hearing held, that the licensee has made false material statement(s) of fact in applying for a business license, or the licensee is involved or does participate or allows to take place undesirable business practices, or the licensee has allowed the licensed business and/or physical property on which it is located or in which it is housed to be operated and maintained in such a manner that it is deemed to be a public nuisance and as such an endangerment of the health, safety and general welfare of the residents of the county, or that is determined that the licensee has exceeded what is allowed in the zone, or violated any conditions attached to the operation of such business.

D. Upon receiving a written complaint of violation against a licensee, the licensing department shall make or cause to have made, a thorough investigation of the facts stated in the complaint, and shall at the same time notify the county commissioners of the complaint. The county commissioners shall set a date and time for a hearing on the matter within thirty (30) days of the initial receipt of the complaint by the licensing department, and shall notify the licensee of the complaint and the date set for the hearing.

E. The Duchesne County Commission may, at the end of the hearing: (1) take no action against the licensee; or (2) suspend the license of the licensee for a set period of time; or (3) revoke the license; or (4) continue the matter to conduct further investigations of the allegations in the complaint or allow the licensee to present further argument in his defense. But in no case shall the commission fail to take appropriate action within sixty (60) days of the date the complaint was first received by the licensing department.

5.04.070 Violation and Penalty.

A. Annual license renewals not paid by February Fifteenth (15th) shall be subject to a penalty of \$100.00 plus the license fee. Any license renewal not made before March 15th shall be subject to an additional penalty of \$250.00 plus the license fee and previous penalty. Any license renewal not made after March 15th may be collected by civil action in any court of this state having jurisdiction, or subject to criminal action set forth below.

B. Any person, firm or corporation who has commenced or carried on any business, trade, or occupation specified in this chapter prior to obtaining a business license shall be assessed a double license fee, which double assessment shall be paid before a license shall be issued.

C. The licensing clerk shall have the authority to call upon other departments of the county for the purpose of examining all places of business or persons required to obtain or maintain business licenses.

D. The licensing clerk shall monitor business activity within the county by locating existing or new businesses or persons that have either not applied for a new license or renewed an existing license. The Clerk shall then, in writing, notify said businesses or persons of business license requirements and penalties. The Clerk shall make reasonable attempts to encourage compliance.

E. At least once a year, the licensing clerk shall report to the County Attorney all businesses or persons that have failed to obtain or renew business licenses. It shall be the duty of the County Attorney to cause complaints to be filed against all persons violating any of the provisions of this chapter.

F. Any person who operates a business in violation of the provisions of this chapter shall be guilty of a Class B misdemeanor and shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), or imprisonment not exceeding six months, or both. Each day that person shall violate or continue to violate this ordinance after written notice of such violation by county or its officers or agents, shall be considered to be separate violation, and shall be punished as such.

SECTION II. Title 5 Chapter 4 of the Duchesne County Code as it exists now shall be entirely amended upon the effective date of this ordinance.

SECTION III. Effective Date.

This ordinance shall take effect, fifteen (15) days after enactment, and after depositing of a copy in the Clerk-Auditor's Office and publication in a newspaper having general circulation in the County, as required by Utah Code Annotated section 17-53-208.

Dated this 14th day of April, 2008