

AN ORDINANCE TO REPEAL CHAPTER 3, ARTICLE 2
AND
TO AMEND CHAPTER 10
OF THE
TOWN CODE OF SILVERTON, COLORADO

WHEREAS, the Board of Trustees for the Town of Silverton, Colorado has the authority pursuant to C.R.S. 31-15-501 to regulate, license, and tax businesses situated within the municipal boundaries;

WHEREAS, the Town Board has the authority pursuant to C.R.S. 31-15-901 to appropriate moneys for the purpose of advertising the business, social, and educational advantages, the natural resources, and the scenic attractions of the municipality;

WHEREAS, the Town of Silverton provides services to the business community which directly benefit that community and effect higher costs of services to the community-at-large;

WHEREAS, the Town Board finds, determines and declares that the provision of services primarily benefiting the business community requires a proper, just and equitable distribution of the cost of such services within the Town; and

WHEREAS, the Town Board, after considering all matters in relation to the distribution of business service expenses within the Town the assessment of license fees on each business herein defined is reasonable, proper, uniform and non-discriminatory and necessary for a just and proper distribution of governmental service expenses within the Town;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SILVERTON, COLORADO that:

1. Chapter 3, Article 2 of the Town Code of the Town of Silverton, Colorado is hereby repealed.
2. Chapter 10 of the Town Code of the Town of Silverton, Colorado is hereby amended to add a new Article to read:

“ARTICLE 4

BUSINESS LICENSE FEE

10-4-1	Definitions
10-4-2	Distribution of Financial Cost of Governmental Services
10-4-3	Business License Required
10-4-4	Exemptions
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10-4-1 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) Business means all activities engaged in or caused to be engaged in with the object of gain, benefit, advantage, or livelihood, direct or indirect, to include all trades, occupations, avocations, professions, or calling of any kind.
- (2) Engaged in business means performing or providing services or selling, leasing, renting, delivering, or installing tangible personal property for storage, use or consumption. "Engaged in business" in the town includes, but is not limited to, any of the following activities by a person:
 - (a) Directly, indirectly, or by a subsidiary maintaining a building, store, office, salesroom, warehouse, or other place of business within the jurisdiction;
 - (b) Sending one (1) or more employees, agents or commissioned sales persons into the jurisdiction to solicit business or to install, assemble, repair, service or assist in the use of its products or for demonstration or other reasons; or
 - (c) Maintaining one (1) or more employees, agents or commissioned sales persons on duty at a location within the jurisdiction..
- (3) Employees means persons working within the town for remuneration under the control and direction of an employer.
- (4) Home occupation means any business situated in a residential zone; conducted principally within a dwelling unit, enclosed garage, or accessory building; and carried on by the residents of said dwelling. Provided, however, such business use must be clearly incidental and secondary to the use of the property for residential purposes and shall neither change nor adversely affect the character of the property, adjoining properties, or the neighborhood for residential purposes.
- (5) Nonprofit corporation means a corporation in which no part of the income or profit is or could be distributed to its members, directors, or officers and is incorporated in the State of Colorado as a nonprofit corporation.

10-4-2 Distribution of Financial Cost of Governmental Services

The Board of Trustees hereby finds, determines and declares that considering the relationship of businesses and occupations in the Town to the municipal welfare and the provision of governmental services within the Town require a proper, just, and equitable distribution of the financial cost of governmental services within the Town. After due consideration of all matters related to the municipal welfare and the provision of governmental services within the Town, the business fees imposed herein are declared to be reasonable, proper, uniform, non-discriminatory, and necessary for a just and equitable distribution of the cost of governmental services within the Town. It is intended that revenues raised from the assessment of business fees herein shall be expended for the purpose of providing services that directly benefit the business community and that such revenues shall not be used for general governmental purposes.

10-4-3 Business License Required

- (1) It shall be unlawful for any person to establish any place of business in the town, or engage in business within the town, without first obtaining a business license to conduct such business. Any person or corporation shall be subject to the requirement of obtaining a business license if by himself or through an agent, employee, or partner, he holds himself forth as being engaged in business; solicits patronage therefor, actively or passively; or performs or attempts to perform any part of such business in the Town.

- (2) Only one (1) general business license shall be required for any establishment operating as a single enterprise. Separate general business licenses shall be required for each location of an enterprise operating at more than one (1) location within the town limits. Specialty licenses shall be required in addition to general business licenses when applicable. Business licenses cannot be transferred upon a change of ownership.
- (3) The sponsor or organizer of a special event involving the conduct of business by one or more vendors (e.g. arts and crafts festival, music festivals, etc.) shall be responsible for securing and paying for a temporary business license to cover all vendors and businesses associated with the special event. In making application for a group business license, the sponsor or organizer shall provide the Clerk-Treasurer with a complete and accurate listing of all participating vendors and businesses, and their respective sales tax account numbers. The sponsor/organizer shall secure the group business license prior to staging their event by paying a business license fee, calculated on the basis of the number of vendors times the number of days the event is scheduled to entail times the daily business fee rate as set by resolution of the Town Board. The Town Clerk-Treasurer, or a designated official, is authorized to periodically visit the special event site and inspect all business activities to ascertain that all business activities are properly covered by the group business license issued. If businesses are found to be operating without authorization under the group business license issued, the sponsor or organizer shall immediately secure and pay for additional temporary business licenses as necessary to cover all vendors participating in the event, including the payment of late fees for each business found to be operating without authorization under the group business license.

10-4-4 Exemptions

The business license requirements provided for in this article shall not apply to federal, state, county, or municipal offices and activities. Such requirements shall not apply to utility companies for which an occupational tax has been assessed and the fee for the privilege of doing business inside the town limits has been waived by ordinance of the Town Board. Employees and nonprofit corporations are exempt from the business license and fee requirements provided for in this article. Yard or garage sales are exempt from the business license and fee requirements of this article provided such sales do not exceed three days in any calendar year.

10-4-5 Contents, Applications, and Records

- (1) All licenses shall specify the name of the licensee; a business address; the nature of the business; the term of the license; the place to which the license attaches; the amount payable thereon; and the date upon which the license expires.
- (2) Applications for business license shall be on forms provided by the Town Clerk-Treasurer. After receipt of a complete application, including the payment of all applicable fees therefor, and the results of any pertinent investigation of an application, the Town Clerk-Treasurer may issue a business license. The Clerk-Treasurer may impose any reasonable and necessary terms and conditions to any business license issued as authorized in Section 10-4-7 of the Town Code. Each license issued shall bear the signatures of the Mayor, which may be affixed by facsimile, rubber stamp, or other method, and attested to by the Town Clerk-Treasurer.
- (3) The Clerk-Treasurer shall keep an adequate record of all business licenses issued on file.

10-4-6 Investigations

- (1) Upon receipt of an application for a new business license, the Town Clerk-Treasurer shall refer such application to the appropriate officer, official, or department for making an investigation or inspection of the subject application and premises within seventy-two (72) hours of the time of such receipt. The entity charged with making such investigations(s) shall make a report of its findings within ten (10) days after receiving a copy of said application and request for an investigation.
- (2) Whenever it is necessary to inspect the premises of any business or proposed business, it shall be the duty of the licensee or the person in charge of the business premises, to admit thereto any authorized officer, employee, or agent of the Town, for the purpose of making such inspection. It shall be unlawful for such licensee or person to fail or refuse to admit an authorized officer, employee, or agent of the Town, at any reasonable time, for the purpose of making such inspection(s).

10-4-7 Denial

Application for a business license shall be made to the Town Clerk-Treasurer who shall have the power to grant or deny such business license in accordance with this section. The Clerk-Treasurer shall have authority to impose conditions on any business license to assure that the licensed business operates in compliance with all provisions of the Town Code and all Town Regulations and to mitigate adverse impacts to other lawful land uses under the provisions of the Town Code. Denial shall be for cause. Due notice of the denial shall be provided the applicant, which notice shall include the grounds for denial. The license fee paid for any license so denied, excepting any fee assessed for a new license, shall be returned to the applicant. Any of the following reasons may be considered cause for denial of a business license:

- (1) Failure to file any reports, to pay any required fees or taxes, or to furnish information as may be required in the investigation or inspection of any application for a business license;
- (2) Previous revocation or suspension of a business license held by the applicant;
- (3) Nonconformance of the premises or building to be used for the business with the requirements of pertinent city codes;
- (4) Nonconformance of the business with current zoning or, in the case of home occupations, incompatibility with adjacent land uses;
- (5) Undue congestion of public thoroughways;
- (6) Creation of a potentially hazardous or unsafe condition;
- (7) Posing a danger to public health; or
- (8) Any fact or condition exists which, if such fact or condition had existed or had been known to exist at the time of application for a business license, would have warranted the denial of such business license.

10-4-8 Fees

- (1) The license fee upon every business in the Town, except those exempted in Section 3-2-2, shall be determined according to the number of employees hired, whether full or part time. The number of employees shall be determined as the greatest number of employees anticipated to be hired in the subject year, based upon the greatest number of employees actually hired in any one month during the preceding year. The license fee for a new business shall be based on the estimated greatest number of employees to be hired in any month during the subject year. The license fee to be paid by each business shall be in accordance with a business license fee schedule adopted by resolution of the Town Board as the same may be adopted and amended from time to time. An owner shall be considered an employee for the purposes of this section.

- (2) The license fee to be paid by each temporary business shall be in accordance with a business license fee schedule adopted by resolution of the Town Board, as the same may be adopted and amended from time to time.
- (3) An application/inspection fee of twenty-five dollars (\$25.00) shall be imposed upon any new application for a business license, including applications for a cancelled or temporary license; or upon any existing business that changes its location within the town limits.
- (4) Licenses expiring on December 31st shall be renewed and fees paid annually by May 1st of each calendar year. If such licenses are not renewed by June 1st, they shall automatically be cancelled without further notice or hearing. A late fee of twenty-five dollars (\$25.00) shall be assessed and collected in conjunction with renewals completed after May 1st or the issuance of any business license after the applicant has already opened for business or engaged in business, whichever is appropriate to the situation.
- (5) All applicable fees shall be paid at the time application for a business license is filed with the Town Clerk-Treasurer.

10-4-9 Posting and Exhibiting

Every license granted under the provisions of this article shall be posted in a conspicuous place at the business location for the full term of the license. Licenses shall be removed upon expiration. It shall be the duty of each person, or a designated representative or agent, to whom a license has been issued to show the same at any proper time if requested to do so by any town official.

10-4-10 Expiration of License Term

- (1) Excepting only temporary business licenses, all business licenses shall expire on December 31st of each calendar year.
- (2) Temporary business licenses shall expire upon such date as specified on the temporary business license.

10-4-11 Revocation

- (1) The Town Administrator shall have the power to suspend any business license now or hereafter issued, upon seven (7) days written notice to the licensee stating the contemplated action and, in general, the grounds thereof, and after reasonable opportunity to be heard, revoke any license issued by the Town if he finds that:
 - (a) Fraud, misrepresentation or any false statement contained in the application for license;
 - (b) Conduct of business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public;
 - (c) Conviction of any violation of federal, state, or municipal law in the course of operation of the licensed business;
 - (d) Repeated violations of one or more town ordinances at the licensee's place of business, by the licensee or employees or patrons of the business;
 - (e) The conduct of the licensee's business causes the Town to expend public funds beyond normal requirements to protect the public health, welfare and safety as a result of the conduct of the licensee's business;
 - (f) The licensee remains in arrears in payment of sales tax to the State longer than thirty (30) days after payment is due; or
 - (g) For any other reason listed in this article.

(2) In the event that any license is revoked, all moneys paid therefor shall be and remain the moneys of the Town and no refund shall be made to any licensee.

10-4-12 Appeals

A license applicant may appeal any license denial by the Clerk-Treasurer or license revocation by the Town Administrator to the Town Board. The appeal shall be in writing, stating the grounds for the appeal, and shall be filed, together with a review fee of three hundred dollars (\$300), with the Clerk-Treasurer within five (5) days of the decision of the Clerk-Treasurer or Administrator. Upon receipt of an appeal, the Town Board shall provide the appellant opportunity for a public hearing, and following a reasonable time for the appellant to appear before the Board and show cause why his license should not be denied or revoked, the Town Board shall decide to uphold, modify, or overturn the decision of the Clerk-Treasurer or Administrator. If the decision of the Clerk-Treasurer or Administrator is overturned by the Town Board, the review fee shall be refunded in its entirety to the appellant.

10-4-13 Legal Right of Town

The Town of Silverton shall have the right to recover all sums due by the terms of this article by judgment and execution thereon in a civil action in any court of competent jurisdiction. Such remedy shall be cumulative, with all other remedies provided herein for the enforcement of this article.


10-4-14 Violations

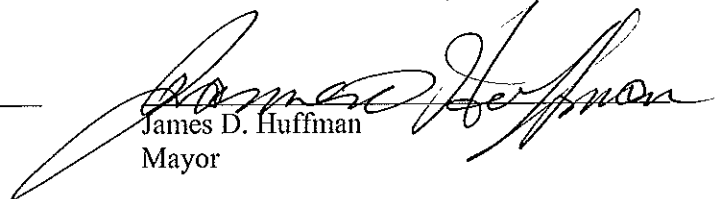
Failure to comply with the terms of this article by payment of fees or to otherwise comply with the terms of this article shall constitute a violation. Any person convicted of a violation of this article shall be fined an amount not to exceed three hundred dollars (\$300) or imprisoned for a period not to exceed ninety (90) days, or both."

ADOPTED this 8th day of MARCH, 2004.

ATTEST:

TOWN OF SILVERTON, COLORADO


Arlene Gonzales
Clerk-Treasurer


James D. Huffman
Mayor