

ORDINANCE NO. 2010-262

**AN ORDINANCE OF THE TOWN OF WINDSOR
AMENDING CHAPTER 6 AND CHAPTER 7
OF TITLE III PUBLIC WELFARE
OF THE TOWN'S MUNICIPAL CODE
TO ESTABLISH A BUSINESS LICENSE PROGRAM**

**THE TOWN COUNCIL OF THE TOWN OF WINDSOR DOES HEREBY
ORDAIN AS FOLLOWS:**

SECTION I – Chapters 6 and 7 of Title III Amended.

Chapter 6 Business Registration and Chapter 7 Street Vendors of the Town of Windsor Municipal Code are hereby amended as follows:

CHAPTER 6. BUSINESS LICENSE

3-6-100 Purpose.

The purpose of a business license is to regulate businesses in order to promote improved enforcement of Town, state, federal, or otherwise applicable codes, rules, regulations or laws, at lower public cost, with a higher level of protection of the public. Licensing helps protect the public against threats to public peace, health, safety and welfare, by ensuring compliance with Town ordinances, including those designed to ensure building safety and discourage public disturbances and nuisances.

(Ord. No.)

3-6-105 Definitions.

As used in this chapter, the following terms and phrases shall have the indicated meanings:

- a. *Administrative Services Director* means the Administrative Services Director or his/her designee.
- b. *Engaged in business* means the commencing, conducting, operating, managing or carrying on of a business enterprise, whether done as owner, or by means of an officer, agent, manager, employee, servant or otherwise, whether operating from a fixed location in the city or coming into the city from an outside location to engage in such activities.
- c. *Hearing officer* means a person to whom the Town Manager has assigned the responsibility for conducting a hearing required by this chapter. The Town Manager shall be authorized to assign hearing responsibilities to any person that the Town Manager finds that, by training and experience, is qualified to act as a hearing officer, including, but not limited to Town management personnel and individuals retained by contract to conduct hearings, such as attorneys or administrative law judges.

- d. *Person* means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture or other individual or entity engaged in business.

(Ord. No. 2010-262)

3-6-110 Enforcement; Inspections.

- a. The Administrative Services Director and the Enforcement Officer as defined under Section 1-1-220, are responsible for enforcing this chapter and inspecting businesses which are licensed and/or regulated by the Town. The Administrative Services Director and the Enforcement Officer may enter any business subject to this chapter for the purpose of inspecting for compliance with this Code.
- b. The Administrative Services Director may, during the term of a license, require the licensee to complete a license information update form for the purpose of ensuring continued compliance with this chapter. The licensee shall, within 15 calendar days of the date of mailing of such an information form by the Administrative Services Director, return the completed form to the Administrative Services Director.

(Ord. No. 2010-262)

3-6-120 License Required.

- a. Unless specifically exempt by this Code, no person shall engage in, operate or conduct a business within the Town, unless under and by the authority of a valid, unexpired and unrevoked business license issued pursuant to this chapter.
- b. A person shall be deemed to operate or conduct an enterprise and violate this section if the person, without a required business license in effect, supervises, directs, organizes, manages or controls or is in any way responsible for or in charge of the business for which the license is required.
- c. As defined in Chapter 7 of Title III of this Code, no person shall engage in vending within the Town, including itinerant merchants, street merchants and mobile vendors, without obtaining a business license.
- d. Unless specifically exempt elsewhere in this chapter, a business license shall be required for any business or activity operated or conducted as a home occupation, as home occupation is defined by the Town's zoning code.
- e. Neither the issuance nor receipt of a business license shall be deemed to constitute a representation that the business complies with all Town, state, federal, or otherwise applicable codes, rules, regulations or laws, or that the business is housed on property or premises that complies with all such laws; nor shall the existence of such an unrevoked license be deemed to preclude any criminal or civil remedy for violation of such ordinances or laws, including but not limited to revocation of the business license. The possession of a business license shall not be deemed to relieve the licensee of the requirement to obtain any other licenses or permits required by Town, state, federal, or otherwise applicable codes, rules, regulations or laws.

(Ord. No.2010-262)

3-6-125 Number of Licenses Required.

- a. A separate business license is required for each location or branch of a business within the Town. A business license issued for a fixed location is only valid for the location listed on the license.
- b. When space within an office building, shopping center, warehouse, department store or other structure or property is leased for business or commercial use, each tenant of the premises operating a business required to be licensed under this chapter shall apply for and obtain a separate license.

(Ord. No.2010-262)

3-6-135 Application; Application Filing.

- a. The application for a business license shall be filed on a form and shall contain such information as prescribed by the Administrative Services Director.
- b. Applications for business licenses shall be filed in the office of the Administrative Services Director. The Administrative Services Director shall collect any fees required for the application, including processing fees and license fees, ensure the application is complete and refer the application to the relevant Town departments for review.
- c. An application is deemed complete and validly filed when the Administrative Services Director has received all information required by the business license application and this Code, and has received any fees associated with the application or application processing. However, where a building permit is necessary as a prerequisite to occupancy of a building, the business license application is not complete and validly filed until proof of the application for a building permit is provided to the Administrative Services Director.

(Ord. No.2010-262)

3-6-140 License Fees.

- a. The Administrative Services Director shall impose nonrefundable fees to recover the administrative costs of processing applications; issuing and renewing business licenses; and administering this chapter. Such fees shall be established by resolution of the Town Council, amended from time to time.
- b. All fees for the issuance, processing, and renewal of licenses shall be paid at the time of filing the application with the Administrative Services Director. All fees for an appeal shall be paid at the time of and with the filing of the appeal. No application or request for approval or appeal shall be deemed valid or complete until all prescribed fees have been paid.
- c. Business licenses applied for and issued after October 1 of any year shall be valid through the succeeding calendar year.

(Ord. No.2010-262)

3-6-145 Investigation and Issuance.

- a. The Administrative Services Director shall refer the application to the relevant Town departments for review. Each department shall examine the application to determine whether any conditions should be attached to issuance of the

license. Inspection of the site shall be conducted as necessary to determine applicability, compliance with, or the adequacy of corrections to achieve compliance with Town, state, federal, or otherwise applicable codes, rules, regulations or laws.

- b. The Administrative Services Director shall issue the business license not later than 60 days after the date a complete application is filed, unless grounds for denial established in this chapter exist.

(Ord. No.2010-262)

3-6-150 Conditions.

- a. The Administrative Services Director may issue the business license upon such conditions as are necessary to ensure safety and prevent the business from disturbing the peace and tranquility of the neighborhood in which it is located. The conditions may include, but are not limited to, the following:
 1. Limitations upon hours or days of operation, when required in order to prevent disturbance of the peace and quiet of a neighborhood caused by the business or the patrons of the business;
 2. Requirement that the business provide licensed or other qualified security personnel for the exterior or interior of the business during operating hours;
 3. Requirement that the business fund any additional law enforcement services required as a result of the operation of the business;
 4. The installation of on-site improvements required to prevent operation of the business from disturbing its neighbors at a particular location; or
 5. Other conditions related to operations or improvements demonstrated under the particular circumstances to be necessary in order to prevent hazards; disturbance of the peace, quiet or safety of the neighborhood; or other nuisance.
- b. Such conditions may be imposed at the time a business license is initially issued, upon renewal of the license, or at any time during the term of the license.

(Ord. No. 2010-262)

3-6-160 Procedure for Imposition of Conditions.

- a. The Town shall provide written notice of conditions imposed on the business license and the reasons for the conditions to the applicant or holder.
- b. Conditions imposed at the issuance of an initial business license become effective immediately following the date of service of the notice thereof. The holder of the business license is entitled to appeal the conditions within the time and manner prescribed; however, the business license shall not be effective until the appeal is finally determined.
- c. Conditions imposed at the time of renewal or during the term of the business license become effective 15 days following the date of service of the notice thereof; however, if an appeal is filed within the time and in the manner prescribed, the conditions shall not become effective until the appeal is finally determined.

(Ord. No. 2010-262)

3-6-165 Transferability.

- a. A business license shall not be transferable or assignable from one person to another, or from one location to another.
- b. Each business license shall automatically terminate and have no further force or effect upon a change of the primary function or operation for which the license has been issued.

(Ord. No. 2010-262)

3-6-170 Contents and Posting of Licenses.

- a. The contents of each business license shall include, but need not be limited to, the following:
 - 1. The name of the business or person licensed;
 - 2. The physical address of the business or person licensed;
 - 3. The date of issuance and date of expiration of the license;
 - 4. A complete description of the business authorized by the license;
 - 5. The number of employees employed at the business address;
 - 6. A description of any and all conditions upon which the license was issued.
- b. The original business license issued to the business, with any applicable conditions, shall be posted conspicuously on the premises in full public view. Original, for purposes of this section, shall not include photocopies or reproductions of the license issued by the Town.

(Ord. No. 2010-262)

3-6-175 Term.

- a. Business licenses expire at the end of the calendar year, or sooner if the person to whom the license is issued ceases operations authorized by the license or the license is revoked.

(Ord. No. 2010-262)

3-6-180 Renewal of License.

- a. At least 60 days prior to expiration of a business license, the Administrative Services Director shall mail the licensee an application for renewal. The application for renewal shall be on such a form, and shall include such information, as prescribed and required by the Administrative Services Director, including the following:
 - 1. A description of any change in the type of business conducted on the premises since the last license was issued; and
 - 2. A description of any and all improvements which the applicant has made upon the premises since the last license was issued.
- b. The licensee shall file the application for renewal, and any required fees, with the Administrative Services Director prior to the expiration of the immediately preceding license.

- c. The Administrative Services Director shall investigate and process an application for renewal of a business license in the same manner as an initial application for a business license. Within 60 days of receiving a complete application, the Administrative Services Director shall issue the business license unless grounds for denial identified in this chapter exist.
- d. With respect to any application for renewal which is filed on or before the date of expiration of the immediately preceding license, the Administrative Services Director shall extend the term of the immediately preceding license, without charge, during the period of any investigation required in order to determine whether the license should be renewed.

(Ord. No. 2010-262)

3-6-185 Added Processing Fee for Late Application or Renewal.

- a. A business determined to be operating without a business license, when one is required, shall have ten (10) days to obtain the necessary business license. If a complete application is not received by the end of the ten-day period, the applicant will be subject to a penalty of 50 percent of the application fee. If the business continues to operate beyond the ten-day period, the business may also be subject to other penalties authorized by the Town Code.
- b. An application for a renewal of a business license will be deemed received late and subject to a penalty of 50 percent of the processing fee if the complete application, including all fees, is not received by the Administrative Services Department within 60 days of the date of expiration of the immediately preceding license. If the business continues to operate without a valid license, the business may be subject to all other penalties authorized by the Town Code.

(Ord. No. 2010-262)

3-6-200 Grounds for Denial.

- a. The Administrative Services Director shall deny an initial application or application for renewal of a business license if the Administrative Services Director finds in writing:
 - 1. The applicant failed to provide sufficient or adequate plans or information necessary to permit determination as to whether the business complies with all Town, state, federal, or otherwise applicable codes, rules, regulations or laws; or
 - 2. The Administrative Services Director determines the business, or the property or building in which the business is housed, violates Town, state, federal, or otherwise applicable codes, rules, regulations or laws; or
 - 3. Pursuant to Business and Professions Code § 16000(c), the applicant or business fails to hold a valid, unexpired, unsuspended, unrevoked contractor's license issued by the State of California Contractor's State License Board.
- b. The Administrative Services Director shall also deny an application for renewal of a business license if he/she determines that one or more conditions

applicable to the previous license have been violated and, pursuant to Section 3-6-150, it is determined that such conditions are also applicable to the renewed license.

(Ord. No. 2010-262)

3-6-205 Method of Denial.

- a. The Administrative Services Director's denial of an initial application or application for renewal of a business license shall be in writing, with the reasons stated therefor. The Administrative Services Director's written notice of denial and a copy of this Code, shall be served upon the applicant.
- b. Denial of an initial application or application for renewal of a business license shall relate solely to the location at which the enterprise is proposed and shall not affect the conduct of such enterprise at another location within the Town.
- c. With respect to denial of an application for renewal, immediately preceding business license shall be deemed to be in full force and effect for a period of 15 days following the date of service upon the applicant of the notice of denial. If the holder of the license files an appeal within the time and manner prescribed, the license shall remain in effect until the appeal is finally determined.

(Ord. No. 2010-262)

3-6-210 Grounds for Revocation.

A business license may be revoked for any of the following reasons, if the Administrative Services Director finds in writing:

- a. The business is operated in a manner or is housed on premises or within a building which violates or is in violation of any Town, state, federal, or otherwise applicable codes, rules, regulations or laws; or
- b. The holder of the license has violated one or more conditions upon which the license has been issued; or
- c. Pursuant to the Business and Professions Code § 16000(c), the applicant or business no longer holds, a valid contractor's license issued by the State of California, Contractor's State License Board.

(Ord. No. 2010-262)

3-6-215 Method of Revocation.

- a. The Administrative Services Director may revoke a business license by issuing a written notice of revocation, stating the reasons therefor, and serving the notice, together with a copy of this Code, upon the holder of the license.
- b. The revocation shall become effective 15 days following the date of service upon the applicant of the notice of revocation. If the holder of the license files an appeal within the time and manner prescribed, the license shall remain in effect until the appeal is finally determined.
- c. A business license may be temporarily suspended pending expiration for the time of appeal, if the Administrative Services Director finds that such temporary suspension is necessary in order to protect against a serious and immediate threat to the health, safety or welfare of the public caused by

exercise of the license or permit. If the Administrative Services Director orders a temporary suspension, the notice of suspension shall be delivered to each place of business licensed or to which the permit relates, served upon the licensee, and shall contain the following:

1. The finding justifying the temporary suspension;
2. The time, date and place at which the licensee may appear in advance of the commencement of the temporary suspension for the purpose of showing cause to the hearing officer as to why the suspension is not necessary; and
3. The time and date on which the temporary suspension commences, which shall not be earlier than 24 hours following the time and date of delivery of the notice.

(Ord. No. 2010-262)

3-6-220 Appeals.

- a. The holder of a business license, or applicant for a business license, may file an appeal from the following:
 1. The denial of an initial application for or application for renewal of a business license; or
 2. The imposition of conditions on the business license at the time of issuance; or
 3. The imposition of conditions on the business license at the time of renewal of the license or during the term of the license; or
 4. The revocation of a business license.
- b. An appeal pursuant to this section shall be in writing, shall state the specific reasons for the appeal and the grounds asserted for relief, and be accompanied by a non-refundable appeals processing fee set by Town Council resolution. The appeal shall be filed with the Administrative Services Director, no later than 15 days after the date of service of the notice providing the grounds for appeal. The failure to file an appeal within the time or in the manner prescribed in this section, or to include the appeal processing fee, waives the right to appeal.

(Ord. No. 2010-262)

3-6-225 Appeal Hearing.

- a. No later than 20 days following the filing of a timely appeal, a hearing shall be held to determine whether the appeal should be granted. The Town shall provide the appellant written notice of the time, date, and place of the hearing no later than ten days before the hearing date.
- b. The Administrative Services Director shall have the burden of proof during the hearing. The provisions of the California Administrative Procedure Act (Government Code § 11500 et seq.), and the formal rules of evidence do not apply at the hearing. At the conclusion of the hearing, the Hearing Officer shall prepare a written decision which either grants or denies the appeal and contains findings of fact and conclusions of law. The written decision shall be filed with the Administrative Services Director not later than seven (7) days

following the date on which the hearing is closed. The Administrative Services Director shall, within three (3) days of the filing of such decision, serve the applicant with notice and copy of the written decision.

- c. With regard to an appeal from the imposition of conditions on a new license, during the term of a business license, or on an application for renewal of a business license, the Administrative Services Director must demonstrate by substantial evidence the necessity of the conditions. If the conditions are upheld, the Hearing Officer's decision shall provide findings regarding the evidence within the record supporting the determination.

(Ord. No. 2010-262)

3-6-230 Finality of Determination.

- a. With respect to appeals from the denial of an initial application for a business license or the imposition of conditions on an initial application for a business license, the Hearing Officer's decision is final upon service of the Hearing Officer's decision on the appellant.
- b. With respect to an appeal from the denial of a renewal of a business license, from the imposition of conditions on a business license at renewal or during the term of a business license, or from the revocation of a business license, the Hearing Officer's decision is final 15 days after service of the Hearing Officer's decision on the appellant.

(Ord. No. 2010-262)

3-6-235 Effect of Revocation.

(a) With respect to any business required to have a business license, revocation of the business license shall terminate only the privilege of doing business at the location to which the license relates.

(Ord. No.)

3-6-240 Other Procedures.

Any administrative remedy, including an appeal procedure, shall be exhausted prior to having a right to judicial review.

(Ord. No. 2010-262)

3-6-250 Violations.

- a. Operating a business without a business license in violation of this chapter, after service of written notice advising of the violation and ordering a cessation of operations, is deemed to be a public nuisance and shall constitute a misdemeanor.
- b. Except as otherwise specifically provided, any violation of this chapter shall constitute an infraction subject to the fines and administrative penalties as provided in Section 1-1-250.
- c. The city may use all available legal means to enforce this chapter, including but not limited to, injunctions or other civil proceedings.

(Ord. No. 2010-262)

3-6-260 Administration.

- a. Except as otherwise provided, the Administrative Services Director is responsible for administering business licenses and is authorized from time to time to promulgate and enforce such rules or regulations consistent with the purposes, intent, and express terms of this Code.
- b. No rules or regulations promulgated by the Administrative Services Director, or amendments thereof, shall be enforced or become effective until 30 calendar days following the date on which the proposed rules or regulations are filed with the Town Clerk.

(Ord. No. 2010-262)

3-6-265 Notices.

- a. Any notice or writing issued pursuant to this chapter shall be deemed served and effective on the date when the notice is either personally delivered to the party to whom it is directed or is addressed to the party and deposited in the United States mail, postage prepaid. When any notice or other writing is authorized or required to be filed, it shall not be deemed to have been filed until it is received in the office of the official with whom filing is required.
- b. Any notice or writing sent to a licensee or applicant regarding a business license or business license application, including but not limited to, denial of an application, conditions imposed on a license, or revocation of a license, shall also be sent to the property owner of the building or premises where the business is housed. However, failure of the property owner to receive or respond to such notice shall not affect the validity of the application or any proceedings under this chapter.

(Ord. No. 2010-262)

3-6-280 Exemptions.

- a. This chapter shall not apply to any person or business who is otherwise exempted from the requirements of this chapter by any State or Federal law.
- b. The provisions of this chapter shall not be deemed or construed to apply to any non-profit, charitable, religious, benevolent, congressional chartered veterans organization or fraternal organization, or to projects conducted solely for non-profit purposes.
- c. As defined in Section 3-7-130 of the Town Code, certain activities, entities and persons are exempt from the provisions of Chapter 7 Street Vendors of Title III and are therefore exempt for the requirements of this chapter.

(Ord. No. 2010-262)

CHAPTER 7. STREET VENDORS

3-7-110 Business Registration; Required.

It is unlawful for any person to vend any product, or to allow other persons under that person's employ to vend any product, within the corporate limits of the Town, without

first licensing that business with the Town, as required in Title III, Chapter 6 of this Code.
(Ord. 2005-199 § 1 (part))

SECTION II – Statutory Severability.

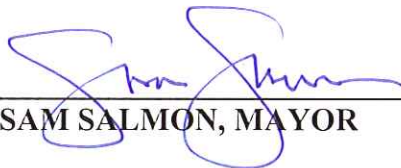
If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The Town Council hereby declares that it would have passed and adopted this Ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions may be declared unconstitutional, unlawful or otherwise invalid.

SECTION III – Effective Date. This Ordinance shall take effect and be in force thirty (30) days following its adoption.

SECTION IV – Posting. The Town Clerk of the Town of Windsor shall cause this Ordinance to be published or to be posted in at least three (3) public places in the Town of Windsor in accordance with Section 36933 of the Government Code of the State of California.

PASSED, APPROVED, AND ADOPTED this 5TH day of May 2010, by vote as follows:

**AYES: COUNCILMEMBERS ALLEN, FUDGE, GOBLE, SCHOLAR AND
MAYOR SALMON**
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE



SAM SALMON, MAYOR

ATTEST:



MARIA DE LA O, TOWN CLERK