



Introduced by: Mayor, Fannie Suvlu  
Date: 9/28/17  
Public Hearing: 10/26/17

Action: Passed  
Vote: 5 to 0

## ***CITY OF UTQIAGVIK, ALASKA***

### **ORDINANCE #09-2017**

#### **AN ORDINANCE REPEALING AND REENACTING CHAPTER 6.04 OF THE CITY OF UTQIAGVIK CODE OF ORDINANCES REGARDING BUSINESS LICENSES**

**WHEREAS** the City of Utqiagvik desires to modernize and clarify its business license code;

**BE IT ORDAINED** by the City Council of Utqiagvik, Alaska, that:

**SECTION 1. Classification.** This ordinance is permanent and general in nature and shall be incorporated into the City of Utqiagvik Code of Ordinances (“Code”).

#### **SECTION 2. Repeal and Reenactment of Chapter 6.04, entitled “Business Licenses Generally.”**

Chapter 6.04 of the Code shall be repealed and reenacted as follows:

Sections:

<b>6.04.010</b>	<b>Definitions.</b>
<b>6.04.015</b>	<b>License required.</b>
<b>6.04.020</b>	<b>Application - Fee.</b>
<b>6.04.025</b>	<b>Review of application.</b>
<b>6.04.030</b>	<b>Denial of an application for a business license or application for renewal of a business license.</b>
<b>6.04.035</b>	<b>Information on business license.</b>
<b>6.04.040</b>	<b>Transfer of business.</b>
<b>6.04.045</b>	<b>Suspension or revocation of business license.</b>
<b>6.04.050</b>	<b>Inspections.</b>
<b>6.04.055</b>	<b>Violations - Remedies.</b>

**6.04.010 Definitions.** In this chapter, unless the context requires otherwise:

- (1) “business” means a for profit or nonprofit entity engaging or offering to engage in a trade, service, profession, or another activity with the goal of receiving a financial benefit in

exchange for the provision of services, goods, or other property in a sale, lease, rental, exchange, or other transaction;

- (2) “line of business” means the particular trade, service, profession or other activity engaged in by a business;
- (3) “person” includes a corporation, company, limited liability company, partnership, limited partnership, firm, association, organization, business trust, a joint venture, or any other form of business or business entity, as well as a natural person;
- (4) “transaction” includes a sale, lease, rental, exchange, service, negotiation, or other action involved in conducting business.

**6.04.015 License required.**

- A. No person may engage in business in the city without a current business license issued by the city under this chapter. A person must have a current business license for every business that the person operates under a separate name, even if a person operates more than one business in a particular line of business.
- B. A business license is issued for a calendar year, and expires on December 31st of the calendar year for which it was issued. The city will issue one business license for all locations at which the licensee engages in business in the city.
- C. A business license is not transferable.

**6.04.020 Application - Fee.**

- A. Within fifteen (15) days of the commencement of any business, an application for a business license shall be submitted to the city clerk on a form provided by the city clerk, and shall be accompanied by the fee required under subsection B of this section. The application shall include the following information, and any additional information that the city clerk may reasonably require:
  - 1. The name of the applicant.
  - 2. The applicant’s mailing address, telephone number and email address.
  - 3. The street address and legal description of each location in the city where the applicant will engage in business.

4. If the applicant is not a natural person, the applicant's type of business organization, and the state or other jurisdiction under whose laws the applicant was organized.
- B. The fee for an annual business license is one hundred and fifty dollars (\$150). The fee is not prorated if the business license is issued after the calendar year commences. The fee must be submitted to the city at the same time that the application is submitted to the city.
- C. An application by a current licensee for renewal of a business license shall be filed with the city clerk by December 1<sup>st</sup> of each calendar year. Any application for renewal of a business license filed after December 1<sup>st</sup> shall be subject to an additional fee of one hundred dollars (\$100) in addition to the fee provided for in subsection B.

#### **6.04.025 Review of application.**

- A. The city clerk shall issue a business license to an applicant upon finding that the application includes all required information, the applicant has paid any required application fee, and the applicant has satisfied the requirements of subsection B of this section.
- B. The city clerk shall review a business license application to determine whether the applicant is delinquent in paying any amount to the city for any purpose. The city clerk shall notify the applicant in writing of any delinquency that is found. In response to the notice, the applicant shall either:
  1. Provide evidence satisfactory to the city clerk that the delinquent amount has been paid; or
  2. Provide a plan for paying the delinquent amount with security, satisfactory to the city clerk, for the payment of the delinquent amount within thirty (30) days. Failure to make such payment on time shall result in revocation of the business license.

#### **6.04.030 Denial of an application for a business license or an application for renewal of a business license.**

- A. The city clerk shall deny an initial or renewal business license to an applicant that cannot meet the requirements of section 6.04.025.B.
- B. The city clerk may investigate whether the applicant has violated any local, state or federal laws related to the conduct of the business for which the applicant seeks a license, and shall deny an initial or renewal business

license to an applicant that has violated any such local, state or federal laws.

- C. The city clerk may investigate whether the premises to be used by the applicant are in an unsafe condition, or are constructed or operated in such a way as to be detrimental to the public welfare, or in violation of any local, state or federal laws. If such violations are found, the city clerk shall deny an initial or renewal business license to the applicant.
- D. If, after investigation, the city clerk finds that any information on the license application form is false or misleading, the city clerk shall deny an initial or renewal business license to the applicant.
- E. If the city clerk denies an initial or renewal business license to an applicant, the city clerk shall notify the applicant, in writing, by following the procedures set forth in section 6.04.045. The applicant may appeal to the mayor in accordance with the procedures set forth in section 6.04.045.

#### **6.04.035 Information on business license.**

- A. A business license shall state the information concerning the licensee that the city clerk may reasonably require.
- B. A licensee shall notify the city clerk in writing within ten (10) days of any change in the information required by the city clerk on the business license. In response to the notice, and upon the surrender of the prior business license, the city clerk shall issue a new business license with the updated required information. There shall be no charge for the issuance of a new business license under this subsection.
- C. The licensee shall display prominently the business license at the licensee's principal business location in the city, and a copy of the business license at each other business location of the licensee in the city.

#### **6.04.040 Transfer of business.**

- A. A business license expires upon the effective date of a transfer of a business. Not later than ten (10) days after the effective date of the transfer, the licensee shall provide written notice to the city clerk of the transfer as well as the business transferee's name, address, form of business organization and jurisdiction where the business organization was formed, and surrender the licensee's business license to the city clerk.
- B. In subsection A of this section, the term "transfer" includes any of the following:

1. A change in voting control or ownership interest in a licensee;
2. A sale of substantially all of the assets used in the business of the licensee; or
3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the licensee's gross receipts from sales, rentals, services or any other form of transaction.

**6.04.045 Suspension or revocation of business license.**

- A. The city clerk may suspend or revoke a business license when the city clerk determines that the licensee:
1. is delinquent in paying business license fees, other fees, or taxes owed to the city;
  2. has otherwise failed to comply with the requirements of this chapter or any other provision of the Code, or another local, state or federal law regarding the licensee's business operations;
  3. is using the premises upon which the business is conducted in an unsafe condition, or the premises are constructed or operated in such a way as to be detrimental to the public welfare, or in violation of any local, state or federal laws; or
  4. provided false or misleading information on the business license application.
- B. The city clerk shall not suspend or revoke a business license without first providing notice and an opportunity for a hearing on the suspension or revocation under this subsection except as provided in subsection F.
1. At least 15 calendar days before suspending or revoking a business license, the city clerk shall mail notice of a proposed suspension or revocation by certified mail, return receipt requested, to the last-known address of the licensee, or email the notice to the last-known email address of the licensee.
  2. The notice of proposed suspension or revocation shall identify the licensee, and describe the payment delinquency or other cause for the suspension or revocation, state that unless a hearing is requested, the city clerk will suspend or

revoke the licensee's business license under this section upon the expiration of 15 calendar days from the date of the notice, state that the right to a hearing will be waived if not timely requested, and state the contact information of the city clerk or other city representative to be contacted concerning the proposed suspension or revocation.

3. The licensee may request a hearing on the proposed suspension or revocation in writing to the city clerk not more than 15 calendar days after the date of the notice of proposed suspension or revocation.
- C. Upon written request by the licensee, the mayor or the mayor's designee (hereafter "mayor") shall conduct a hearing on the proposed suspension or revocation within 15 calendar days after the request for hearing. The sole issue before the mayor shall be whether one or more of the grounds stated in subsection A of this section for suspending or revoking the business license has occurred and is continuing. The mayor shall conduct the hearing in an informal manner. The licensee may appear, present evidence, and witnesses. The hearing shall be recorded. Within ten (10) calendar days after the conclusion of the hearing, the mayor shall prepare a written decision whether to suspend or revoke the business license, and provide a copy of the decision to the licensee and the city clerk.
  - D. If the mayor's decision orders a suspension or revocation of a business license, the decision shall include an order that the licensee immediately cease and desist from engaging in business in the city unless and until the business license is reinstated or reissued.
  - E. A licensee may appeal the mayor's decision to suspend or revoke a license to the Superior Court, Second Judicial District, State of Alaska, no later than thirty (30) calendar days following the date of the mayor's decision. Review by the court shall be limited to determining whether the decision of the mayor is supported by substantial evidence in the record. A final appealable decision by the mayor shall indicate that it is a final order and that the licensee has thirty (30) days to appeal.
  - F. The city clerk may, without prior warning, notice or hearing, revoke, suspend or restrict any business license if such action is necessary to eliminate an immediate and substantial danger to the public health, safety or welfare. Such a suspension or restriction shall be effective immediately upon service of a written notice thereof on the licensee. Within five (5) calendar days of such notice, the licensee may request a hearing in accordance with subsection C.

#### **6.04.050 Inspections.**

- A. During the normal working hours of a business, the city clerk may inspect the premises used to conduct the business for the purpose of determining whether the licensee is conducting the business in accordance with the requirements of this chapter, provided that the city clerk complies with the requirements of subsection B of this section.
- B. No inspection for which a warrant would be required under the constitution of the state or the United States may be conducted under this section unless the city clerk first obtains an administrative inspection warrant authorizing that inspection. The city clerk shall apply to the Superior Court, Second Judicial District, State of Alaska for an inspection warrant, stating the name and address of the premises to be inspected, the authority to make the inspection, the nature and extent of the inspection, and those specific facts demonstrating the need for the inspection. A warrant issued under this section shall be exhibited to persons in control of the premises described in the warrant and shall be executed peaceably.

#### **6.04.055 Violations - Remedies.**


- A. It is a violation of this chapter for a person to engage in business in the city without a business license, to make a false or misleading statement in business license applications, or to otherwise violate any of the provisions of this chapter.
- B. The city may bring a civil action to:
  - 1. Collect license fees and other amounts due the city in accordance with this chapter.
  - 2. Enjoin a violation of this chapter. On application for injunctive relief and a finding of a violation or threatened violation, the Superior Court shall enjoin the violation.
  - 3. Recover a civil penalty of \$1,000 for each violation of this chapter.
  - 4. Recover any delinquent fees, penalties and full, reasonable attorney fees and costs incurred by the city with respect to such civil action.
- C. Each act or omission in violation of this chapter, and each day in which the act or omission occurs, is a separate violation of this chapter.
- D. All remedies for violations of this chapter are cumulative and are in addition to any others existing at law or in equity.

**SECTION 3. Effective Date.** This ordinance shall become effective upon adoption.

**ENACTED THIS 26th DAY OF October, 2017, by a vote of 5 in favor and 0 opposed.**

  
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**Fannie Suvlu, Mayor**

**ATTEST:**

  
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**Loyla T. Leavitt, City Clerk**

