

ORIGINAL ORDINANCE NO. 332

INTRODUCED BY:

AN ORDINANCE ESTABLISHING BUSINESS LICENSES AND FEES FOR THE TOWN OF HANNA, WYOMING

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HANNA, WYOMING:

Section 1. Chapter 5.10 of the Hanna Municipal Code is hereby created and entitled "Business Licenses Generally." Sections 5.10.005, 5.10.010, 5.10.015, 5.10.020, 5.10.025, 5.10.030, 5.10.035, 5.10.040, 5.10.045, 5.10.050, 5.10.055, 5.10.060, 5.10.065, 5.10.070, 5.10.075, 5.10.080, 5.10.085, 5.10.090, 5.10.095, 5.10.100, 5.10.105 and 5.10.110 are hereby created.

Section 1. Section 5.10.005 of the Hanna Municipal Code is hereby created to read as follows:

5.10.005 Applicability.

The purpose of this Chapter is to license and regulate certain type of businesses and events held within the Town to protect the health, safety and general welfare of those receiving goods and services, and to provide uniform regulations for providers of goods and services. The provisions of this chapter are pursuant to authority granted cities and towns under Wyoming Statutes 15-1-103(a)(xiii). The provisions of this chapter govern every occupation or business specified except where the ordinances of the Town provide more specific regulations and requirements for the business or activity for which a license or permit is issued

Section 2. Section 5.10.010 of the Hanna Municipal Code is hereby created to read as follows:

5.10.010 Definitions.

Wherever in this title the following words are used they shall unless the context requires otherwise have the following meanings:

A "Amusement exhibition, amusement show" means any amusement activity not defined elsewhere which is open to the public for a fee and which does not include gambling, but comprises a live show of unusual or unique talents, events or skills performed for the monetary gain of the operators and for the amusement or entertainment of others (i.e.: boxing, live fighting, mud wrestling, exotic dancers, sexually oriented shows, carnivals, circuses, concerts, live performances).

B. "Business" means an activity, which includes the sale, purchase, pawn, proposed sale or rental of goods, services, facilities or entertainment including,

but not limited to, retail sales, wholesale, amusements, exhibitions or solicitation by telephone. "Retail business" for the purpose of this chapter is every business conducted for the purpose of selling, or offering for sale, any goods, wares or merchandise, other than as a part of a "wholesale business" as hereinafter defined. "Wholesale business" is every business conducted solely for the purpose of selling goods, wares or merchandise in wholesale lots to retail merchants for resale or retail. "Home business" means conducting part or all of your business from your home.

C. "Engaged in business" means engaged in the business as owner or operator.

D. "Fixed place of business" is the premises within the town where a business is continuously conducted from day to day and regularly kept open for the purpose of said business. "Regular place of business" for the purpose of this chapter has the same meaning as "fixed place of business".

E. "License" means the authority granted by the Town to a person to engage in a specific business or occupation, or to conduct an event for which a license or permit is required. Each license and permit issued is signed by the Mayor and Clerk under the Town seal.

F. "Nonresident business" means a business which is located within the Municipal boundaries, but does not have a local address or street location or has its principal office other than in the town.

G. "Person" means and includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, and partnerships of every kind, clubs, business trusts, societies, and individuals transacting and carrying on any business in the town other than as an employee.

H. "Transient business" is defined as any business venture that is operating from a vehicle, trailer, bus, motor home —RV, camper or portable unit of any kind that is intended for the dispensing of materials, goods, merchandise, or food products to the general public. Further any business that is recognized as only temporary in nature and is mobile in any manner. The transient business or vendor shall not be licensed or permitted unless involved in those special events approved by the town from time to time during the year.

Section 3. Section 5.10.015 of the Hanna Municipal Code is hereby created to read as follows

5.10.015 Evidence of Conducting a Business

A. Whenever any person by the use of signs, circulars, cards, telephone books, newspapers, or the internet advertises, holds out, or represents that he is in business in the town, or when any person holds an active license or permit issued by a governmental agency indicating that he is in business in the town, and such person fails to deny by a sworn statement given to the town clerk that he is not conducting a business in the town, after being requested to do so by the town clerk, then these facts shall be considered prima facie evidence that he is conducting a business in the town.

B. The provisions of this chapter shall not be deemed or construed to require the payment of a license fee to conduct, manage or carry on any business, occupations, event or activity, from any institution or organization which is conducted, managed or carried out for the benefit of religious, charitable, philanthropic or education purposes; provided that convincing evidence is furnished to the town clerk which establishes that the organization has been granted or qualifies for such status under regulations promulgated by the United States Department of Treasury, Internal Revenue Service.

Section 4. Section 5.10.020 of the Hanna Municipal Code is hereby created to read as follows:

5.10.020 License Fee.

A. In addition to the tax on property, there is levied and collected annually, or more often where provided for, a privilege license fee on trades, professions, agencies, business operations, exhibitions, circuses and all subjects authorized to be licensed as set out in the schedule of occupational fees.

B. Nothing contained in this chapter shall be construed to prevent the Town Governing Body from imposing, from time to time as they may see fit, such taxes as are not specifically defined in this title or from increasing or decreasing the amount of any special license fee or from prohibiting or regulating the business or acts licensed.

C. All licenses granted shall be subject to the provisions of this code, existing ordinances or those hereafter enacted.

Section 5. Section 5.10.025 of the Hanna Municipal Code is hereby created to read as follows

5.10.025 License—Required.

It is unlawful for any person or his or her agent to engage in or carry on a business in the Town for which there is required a license without first having paid the required license fee and obtained the license. For the purposes of this section, the

opening of a place of business or offering to sell followed by a single sale or the doing of any act or thing in furtherance of the business shall be construed to be engaging in or carrying on such business.

Section 6. Section 5.10.030 of the Hanna Municipal Code is hereby created to read as follows

5.10.030 License—Each business separate.

The payment of any particular fee imposed by this title shall not relieve the person paying the same from the payment of any other fee imposed by this title for any other business he or she may carry on, unless so provided by the section imposing such tax or fee. License fees prescribed by various sections of this title applicable to any business shall be cumulative except where otherwise specifically provided.

Section 7. Section 5.10.035 of the Hanna Municipal Code is hereby created to read as follows

5.10.035 License—Each place of business separate.

A license issued for the privilege of conducting a business shall be valid only for the business conducted at the place and by the licensee named therein. Every person doing business in more than one place of business shall secure a separate license for each such place of business, unless such places of business are contiguous, communicate directly with and open into each other and are operated as a unit. If the business is moved or if the licensee sells to another, a new license shall be required unless a special permit to continue business under the original license is obtained from the Town council.

Section 8. Section 5.10.040 of the Hanna Municipal Code is hereby created to read as follows

5.10.040 License—Application—Approval.

A. Every application for a business license shall be made to the Town Clerk. Such application shall state the name in full of the person desiring such license, the location or address where such business shall be conducted and all other information that may be required. Such application shall be signed by the applicant.

B. When any person makes his or her first application for the operation of a specified business or for a location not theretofore used by such applicant for such business within the Town, such application shall be submitted to the Town Council, whose approval shall be required before any such new license may be issued.

Section 9. Section 5.10.045 of the Hanna Municipal Code is hereby created to read as follows

5.10.045 License—Issuance—Fees.

Each person making application for a business license shall at the time of making such application pay the required license fee. In every case where a bond or insurance is required, the same shall be approved by the Town Council. Every license shall be signed by the Town Clerk under the Town seal, pursuant to the order of the Town Council. No person shall be deemed to be licensed until the license is issued in due form as provided by this section and no license shall authorize any person other than the licensee to conduct business thereunder. No license shall be granted for a longer period than one year or for an amount less than the stipulated license fee.

Section 10. Section 5.10.050 of the Hanna Municipal Code is hereby created to read as follows

5.10.050 License—Fee refund.

No refund shall be made to any licensee by reason of discontinuance of any business licensed under this code or other ordinances of the Town for any reason whatsoever.

Section 11. Section 5.10.055 of the Hanna Municipal Code is hereby created to read as follows

5.10.055 License—Fee schedule.

A. The amounts of the license fees levied on each trade, profession, agency, business or other subject shall be as determined by the Town Council by resolution from time to time. Such schedules shall be deemed to be part of this title as if set out in this section in their entirety.

B. All such schedules of license fees shall be maintained on file in the office of the Town Clerk where they shall be available for public inspection during the regular office hours of the Town Clerk.

Section 12. Section 5.10.060 of the Hanna Municipal Code is hereby created to read as follows

5.10.060 License—Display—Possession.

A. Every business licensed under this code or other ordinance of the Town shall at all times have such license prominently displayed in the place of business.

B. Every person who is licensed to work at any specified occupation within the Town shall be in possession of such current license at all times while engaged in such work.

Section 13. Section 5.10.065 of the Hanna Municipal Code is hereby created to read as follows

5.10.065 License—Expiration.

Unless otherwise provided by this code or other ordinances of the Town pertaining thereto each license shall expire on June 30th following the date of issuance.

Section 14. Section 5.10.070 of the Hanna Municipal Code is hereby created to read as follows

5.10.070 License—Transfer.

Licenses are personal privileges to the person to whom they are issued but may be transferred on the approval of the Town Council. Such transfer may be accomplished by the assignee's filing with the Town Clerk a copy of the assignment, executed by the licensee within thirty days of the sale of the business covered by the license, paying to the Town Clerk such fee as may be set by the Town Council and filing proper application for a new license in the assignee's name. No additional fee shall be required for the balance of the year in which such new license shall be issued.

Section 15. Section 5.10.075 of the Hanna Municipal Code is hereby created to read as follows

5.10.075 License—Location—Restriction.

Every business or shop licensed under this code or other ordinance of the Town shall be conducted in or from the location so licensed and in or from no other place. Separate licenses shall be secured for additional locations. No business shall be licensed or conducted from any location unless the business is in compliance with the provisions of the zoning ordinance of the Town.

Section 16. Section 5.10.080 of the Hanna Municipal Code is hereby created to read as follows

5.10.080 License—Location—Change request.

Each business license issued shall entitle the licensee to operate such business only in the location described in such license. Should any such licensee desire to move to a different location, he or she shall present a formal request for such

change in location to the Town Clerk, who in turn shall submit such request to the Town Council for approval. No such licensee shall move such business to or operate such business in any location other than the one described in his or her license, unless and until such approval is given.

Section 17. Section 5.10.085 of the Hanna Municipal Code is hereby created to read as follows

5.10.085 License—Register.

The Town Clerk shall maintain a license register in which shall be entered the full name of each licensee, the address at which such business is conducted, the date of issuance, the purpose for which the license is issued, the amount paid therefor, the time such license will continue in force and in every instance where bond is required the amount of the bond furnished and the name of the bondsman.

Section 18. Section 5.10.090 of the Hanna Municipal Code is hereby created to read as follows:

5.10.090 License—Renewal.

A. Every person licensed to conduct or engage as operator in any business in the Town shall, if such business or work is to be continued, promptly and voluntarily renew such license at the time of expiration in the office of the Town Clerk.

B. All annual licenses shall expire June 30th and shall be delinquent if not renewed before August 1st of the following year. No delinquent license shall be renewed after July 31st, unless the licensee pays to the clerk in addition to the renewal license fee a penalty for delinquency in an amount as set by the Town Council.

C. The Town Clerk shall refuse the issuance of a license to any person whose license had become delinquent within the year immediately preceding, unless such licensee shall pay the penalty provided by this section.

Section 19. Section 5.10.095 of the Hanna Municipal Code is hereby created to read as follows:

5.10.095 License—Suspension—Revocation.

The Town Council may suspend or revoke any business or occupational license if the licensee fails or refuses to comply with the provision of this code or other ordinances of the Town under which such license is issued; provided, that such suspension or revocation shall not bar the imposition of the penalties provided for a violation of this code or other ordinances of the Town by Section 1.16.010.

In the event the mayor or Town Council deems a license or permit should be suspended or revoked, the following procedures shall be followed:

A. The licensee will be notified, in writing, by certified mail, by the clerk-treasurer at least seven (7) days prior to the action contemplated, stating the reason therefor;

B. Upon receipt of the notice, the licensee may request a hearing. The request must be in writing and received by the clerk-treasurer within seven (7) days of receipt of the notice. Failure on the part of the licensee to request a hearing in writing within the specified time shall be deemed a waiver of the licensee's right to request a hearing.

C. If a hearing is requested, the licensee and other interested parties may be in attendance to present any information relative to the proposed suspension or revocation of the license or permit. The hearing, deliberations and notification of decision regarding the suspension or revocation will be conducted pursuant to the Wyoming administrative procedure act, Wyoming Statutes 16-3-101 et seq. The clerk-treasurer will notify the licensee in writing, by certified mail, of the governing body decision as the result of the hearing.

Section 20. Section 5.10.100 of the Hanna Municipal Code is hereby created to read as follows:

5.10.100 License—Revocation grounds.

The violation by any person licensed under this code or other ordinance of the Town of any provision of this code or other ordinance of the Town applicable to the business which he or she is licensed to conduct shall be prima facie cause for revocation without refund of any portion of the license fee of the license under which such business is conducted; provided, that such revocation shall not bar the imposition of the penalties provided for a violation of this code or other ordinances of the Town by Section 1.16.010.

Section 21. Section 5.10.110 of the Hanna Municipal Code is hereby created to read as follows:

5.10.110 License—Securing by fraud or misrepresentation prohibited.

No business shall be deemed licensed in the Town when it is found that such license has been secured through fraud or misrepresentation or in violation of any provision of this code or other ordinances of the Town. The securing of any license by fraud or misrepresentation shall be just cause for revocation of such license by the Town Council and shall subject such person to the penalty provided in Section 1.16.010.

The Mayor or Town Council may suspend or revoke a license or permit when the licensee commits one or more of the following:

- A. A violation of any provision of this chapter;
- B. A violation of any ordinance provision relating to health and safety;
- C. Securing any license or permit by fraud or misrepresentation, to specifically include false or incorrect information on the license or permit application form.

Section 22. Section 5.10.115 of the Hanna Municipal Code is hereby created to read as follows:

5.10.115 Liability of corporations.

Should there be a violation by a firm or corporation of any provision of this code or other ordinance of the Town under which they may be licensed, each partner of such firm and each officer of such corporation is guilty as an individual and punished as provided by this code. Any officer, agent or employee of a firm or corporation who is individually convicted of such violation shall be punished as provided by this code.

Section 22. Section 5.10.120 of the Hanna Municipal Code is hereby created to read as follows:

5.10.120 Emergency suspension

If the governing body finds that cause exists for an immediate suspension or revocation of a license or permit, an order for immediate suspension may be entered. The licensee upon notice of suspension or revocation, may request a hearing before the governing body and the hearing will be conducted in the manner prescribed under section 2-3-10, "Suspension And Revocation", of this chapter.

Section 23. Section 5.10.125 of the Hanna Municipal Code is hereby created to read as follows:

5.10.125 Violation; Penalty:

A person who violates the provisions of this chapter will be guilty of a misdemeanor, punishable pursuant to the provisions of the general penalty of this code.

Section 24. Repealer. All ordinances or part of ordinances in conflict herewith are hereby repealed.

Section 25. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance or application thereof to any person or circumstances is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

Section 26. This ordinance shall become effective after passage, approval and publication.

PASSED AND APPROVED THIS 11TH DAY OF MAY, 2010.

Rick Kinder, Mayor of the Town of
Hanna, Wyoming

ATTEST:

Penny Parr
Town Clerk

First Reading: April 13th, 2010
Second Reading: April 30th, 2010
Third Reading: May 11th 2010

ATTESTATION

I, Penny Parr, the Clerk of the Town of Hanna, Wyoming, do hereby attest and state that the above ordinance was published/posted in the manner required by law and that all procedures required by Wyoming State law were complied with.

By: _____
Penny Parr, Town Clerk