

PAHRUMP TOWN ORDINANCE NO. 35

AN AMENDMENT TO ORDINANCE NO. 35 OF THE UNINCORPORATED TOWN OF PAHRUMP, TO REVISE AND RESTATE THE TOWN’S LICENSING OF BUSINESSES, INCLUDING BUT NOT LIMITED TO: LICENSE REQUIRED; STATE LICENSE REQUIRED; QUALIFICATIONS OF APPLICANTS; LICENSE APPLICATION AND PROCEDURE; EXCEPTIONS; LICENSE TERM; NONPROFIT PERMITS; APPLICABLE BUSINESSES; REPEAL OF PAHRUMP TOWN ORDINANCES NO. 31 AND 52, AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, the Town Board of the unincorporated Town of Pahrump is desirous of licensing and keeping accurate statistics on businesses in the unincorporated Town of Pahrump; and

WHEREAS, the Town Board of the unincorporated Town of Pahrump is desirous of insuring that citizens and customers will not be subject to illegal or unethical business practices; and

WHEREAS, the Town Board of the unincorporated Town of Pahrump realizes that the licensing of businesses will contribute to the health, safety and welfare of the citizens and consumers of Pahrump; and

WHEREAS, to accomplish this it is appropriate to replace current rules regarding the licensing of businesses within the Town of Pahrump in their entirety.

NOW, THEREFORE, the Town Board of the unincorporated Town of Pahrump, Nye County, Nevada, does hereby ordain as follows:

**BUSINESS LICENSES
PAHRUMP TOWN ORDINANCE NO. 35**

SECTION:

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- 35.250 Criminal Penalty
- 35.260 Responsibilities of Event Organizers
- 35.270 Constitutionality
- 35.280 Repeal of Conflicting Ordinances
- 35.290 Severability
- 35.300 Effective Date

35.000 DECLARATION OF TOWN POLICY: It is declared to be the policy of the Town of Pahrump to license the operation of businesses in a manner that is consistent with the Nevada Revised Statutes.

35.010 PURPOSE OF ORDINANCE: The business license provisions as set forth herein have been established to license and regulate all lawful trades, callings, industries, occupations, professions and businesses, as more fully set forth in NEV. REV. STAT. 269.170, conducted within the unincorporated limits of the Town and to protect the health, safety and general welfare of the public.

35.020 SHORT TITLE: This ordinance shall be known and may be cited as PAHRUMP, NEVADA, BUSINESS LICENSE ORDINANCE.

35.030 SCOPE: It shall be unlawful for any person, either directly or indirectly, to engage in or carry on any business, trade, profession or calling, within the limits of the Town without first applying for and obtaining a license or permit as hereinafter set forth.

35.040 DEFINITIONS: For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein, unless the context clearly indicates a different meaning:

APPLICANT: A person who has applied for a Town business license.

BUSINESS: Vocations, occupations, performance of services wherein a charge is made or compensation accepted, as set forth in Section 35.240 herein, professions and enterprises carried on or conducted for profit or benefit within the Town, specifically excluding, however, employees of another with wages and or commissions as the sole compensation.

LICENSE OR PERMIT:	Permission granted by the licensing authority to engage in the business or activity for which the license or permit is granted.
LICENSE FEE OR PERMIT FEE:	Money required by Town ordinances or resolutions to be paid to obtain, renew, or maintain a license or permit.
LICENSE OFFICER:	The Town Manager or the Town Manager's designee.
NONRESIDENT:	Places of business located outside of Town.
RESIDENT:	Places of business located within the Town.
PEDDLER/MERCHANT:	Any person or vendor who performs any of the acts defined as peddling, soliciting or as a temporary merchant.
PEDDLE OR SOLICIT:	Means selling, offering for sale or soliciting orders for goods or services upon the streets, sidewalks or alleys of the Town, or by going from dwelling to dwelling or place to place whether by foot or by other means of transportation.
PERSON:	Natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations; or any officers, agents, employees, factors or any kind of personal representatives of any thereof, in any capacity, acting either for himself or for any other person, under either personal appointment or pursuant to law.
PREMISES:	Lands, structures, places and any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.
PRINCIPAL:	(A) Any person who is an officer, director, trustee, personal representative or general partner or who has an ownership interest in, or voting control of, the business equal to or greater than ten percent (10%) of the entire ownership or voting control of such business. If the ownership interest or voting control is held by a person other than an individual, then each representative or general partner of such person is principal. (B) Any person who is or will be directly engaged in the administration or supervision of the business; and (C) Any other person if, in the License Officer's opinion, exercises, or is capable of exercising, significant influence over the business.
TEMPORARY MERCHANT:	Any person who engages in the temporary business of selling, offering for sale or soliciting orders for goods or services from a

permanent or fixed location. A business shall be deemed temporary if its fixed location is for a period of thirty one days or less.

TRADE: The performance of a person's means of livelihood for pay without being an employee of a person who holds a valid license within the Town for such occupation.

TRADESMAN: A person residing in the Town, who for his livelihood, operates a business that does not require commercial office space and travels to the job site to perform the service or contract.

TOWN: The unincorporated Town of Pahrump, County of Nye, State of Nevada.

LICENSEE: A person who has been granted a license or permit.

35.050 LICENSE REQUIRED: It is unlawful for any person to commence, carry on, engage in, or continue in the Town any business without holding a valid, unexpired license issued pursuant to this Ordinance. Each day or portion thereof in which a violation is committed, continued or permitted constitutes a separate offense.

35.060 LICENSE OFFICER, POWERS AND DUTIES; INVESTIGATION OF APPLICANTS: The License Officer shall be responsible for the collection of all license fees and shall issue licenses in the name of the Town to all persons qualified under the provision of this Ordinance.

The License Officer shall:

- (A) Adopt Forms. Adopt all forms and prescribe the information to be given therein as to character and other relevant matters for all necessary papers.
- (B) Require Affidavits. Require applicants to submit all affidavits and oaths necessary to the administration of this Ordinance.
- (C) Investigate. Investigate and determine the eligibility of any applicant for a license as prescribed herein and the compliance by the applicant with all Town regulations.
- (D) Give Notice. Notify any applicant of the acceptance or rejection of his application and shall, upon his refusal of any license or permit, at the applicant's request, state in writing the reasons thereof and deliver them to the applicant.

35.070 STATE LICENSE REQUIRED: No license to conduct any business shall be issued unless the required State license has been obtained therefore.

35.080 QUALIFICATIONS OF APPLICANTS: The general standards below prescribe the qualifications to be considered and applied by the License Officer to every applicant for a license:

- (A) License History. The license history of the applicant in this or another state. Whether a prior license has been revoked or suspended, the reasons therefore, and the demeanor of the applicant subsequent to such action.

- (B) Personal History. Such other facts relevant to the general personal history of the applicant as shall be found necessary to a fair determination of the eligibility of the applicant for a license.
- (C) No Obligation to the Town. The applicant shall not be in default under the provisions of this Ordinance or indebted or obligated in any manner to the Town except for current utilities.

35.090 LICENSE APPLICATION AND PROCEDURE: Every person required to procure a license under the provision of this Chapter shall submit an application to the License Officer as follows:

- (A) Form. A written statement upon forms provided by the License Officer, to include an affidavit to be sworn to by the applicant, before a notary public of this State or the License Officer.
- (B) Contents Required for a business organized pursuant to chapter 82 of NEV. REV. STAT.:
 - a. A copy of their articles of incorporation; and
 - b. A description of their permanent location and mailing address; and
 - c. Identification of the fictitious name of the business, if applicable; and
 - d. A fire inspection by the Pahrump Valley Fire-Rescue Service of any and all real property to be utilized by the licensee in the Town.
- (C) Contents Required for nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c):
 - a. A letter from the Internal Revenue Service evidencing current 501(c) status; and
 - b. A description of their permanent location and mailing address; and
 - c. Identification of the fictitious name of the business, if applicable; and
 - d. A fire inspection by the Pahrump Valley Fire-Rescue Service of any and all real property to be utilized by the licensee in the Town.
- (D) Contents Required for all other businesses:
 - 1. A current copy of their business license issued by the State of Nevada; and
 - 2. A description of their permanent location and mailing address; and
 - 3. Identification of the fictitious name of operation, if applicable; and
 - 4. A fire inspection by the Pahrump Valley Fire-Rescue Service of any and all real property to be utilized by the licensee in the Town.

35.100 EXCEPTIONS:

The following are not subject to licensing requirements under this Ordinance:

- (A) A governmental entity.
- (B) A person who operates a business from his or her home and whose net earnings from that business are not more than $66 \frac{2}{3}$ percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NEV. REV. STAT. and rounded to the nearest hundred dollars.
- (C) A natural person whose sole business is the rental of four or fewer dwelling units to others.
- (D) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, “motion pictures” has the meaning ascribed to it in NRS 231.020.

(E) A business organized pursuant to chapter 84 of NEV. REV. STAT.

Upon demand by the Town Manager or designee, all persons and entities operating within the Town as an excepted person or entity pursuant to this section must evidence their qualifications for exempt status by competent documentation.

Persons wrongfully claiming exemption are subject to the civil and criminal penalties under this Ordinance.

35.110 LICENSE RESTRICTIONS: No license shall be issued if:

- (A) The conduct of any business or performance of any act in connection thereto would involve a violation of any Ordinance of the Town or the business has engaged in a pattern of unethical business practices.
- (B) An unsatisfactory report is received from a health department having jurisdiction in the Town in connection with the care and handling of food and the preventing of nuisances and the spread of disease, for the protection of health.
- (C) The conduct of any business or performance of any act would involve a violation of any statute of the State of Nevada or other licensing authority, including the County of Nye.

35.120 LICENSE POSTING:

- (A) It shall be the duty of the person conducting a business in the Town of Pahrump to keep their license available for public inspection during normal business hours. Failure to post the license may be grounds for revocation of the license.
- (B) In the event a license is revoked or terminated prior to its expiration date, it shall be removed from display and may be picked up by the License Officer or designee.

35.130 CHANGE OF LOCATION: The permanent location and mailing address of any licensed resident business or occupation, or of any permitted act, may be changed, including a resident home business; provided that ten (10) days written submission of a revised application, together with any required fees. Failure to comply with this Section will result in the assessment of a penalty fee.

35.140 CHANGE OF OWNERSHIP: No license may be assigned or transferred to any person other than those named therein to carry on the business. In the event that the ownership of the business changes, a new application must be submitted by the new owner. Any prepaid license fee by the prior owner will be retained by the Town. Failure to comply with this Section will result in the closing of the business and a penalty assessed.

35.150 ONE ACT CONSTITUTES DOING BUSINESS: For the purposes of this Ordinance, a person shall be deemed to be in business or engaging in a profit enterprise, and thus subject to the requirements of this Ordinance, if that person does one of the following acts within the Town:

- (A) Selling any goods or service, excluding a private sale between individuals of real and/or personal property which private sale is unique, exclusive and singular in nature, such as the sale of a private residence or a “garage sale” at a private residence and which sale

cannot be construed as a continuous sale of goods or services to the general public at large.

- (B) Soliciting business or offering goods or services for sale or hire.
- (C) Acquiring or using any vehicle or any premises for business purposes.
- (D) Advertising by sign, exhibit, publication, displaying on a motor vehicle or business card indicating that such person is engaged in a business, trade or profession.

35.160 SEPARATE LICENSE FOR BRANCH ESTABLISHMENTS: A license shall be obtained for each branch or location staffed with at least one full-time employee as if each such branch or location is a separate business, provided that warehouses, storage yards and distributing plants used in connection with and incidental to a licensed business shall not be deemed to be separate places of business or branches, but the addresses of such warehouses, storage yards and distributing plants must be included on the business license application.

35.170 SEPARATE LICENSE FOR DIFFERENT BUSINESS NAMES LOCATED IN THE SAME BUILDING: If more than one business is conducted in the same building, with different business names, the license fee shall be assessed separately for each business at such location.

35.180 LICENSE TERM: All licenses issued pursuant to the provisions of this Ordinance shall be subject to payment of the required licensing fees and shall be renewed each year on or before the last day of the anniversary month the license was issued.

35.190 LICENSE RENEWAL:

- (A) The License Officer shall mail a notice of renewal to all licensees not later than thirty (30) days prior to the expiration of such license.
- (B) License fees shall be paid on or before the anniversary month of each license issued. Failure to make such payment shall be grounds for revocation of one's license, in addition to other penalties imposed in accordance with this Ordinance.
- (C) Failure to mail a renewal notice by the Town or the failure of the licensee, for any reason, to receive the notice shall not serve as an excuse or justification for the licensee to fail to obtain a license or renewal thereof, nor shall it constitute a defense in any civil or criminal action for operation of a business without a license or refusal to pay the penalties as provided in this Ordinance.
- (D) If a business license is cancelled due to failure to make payment of required fees and a subsequent application for a license is made, the applicant shall pay the required fee plus any penalties before the requested license may be issued.

35.200 SOLICITORS, PEDDLERS, AND TEMPORARY MERCHANTS: Any solicitor, peddler, or temporary merchant engaging in or transacting business within the Town for the sale of any goods, wares, or merchandise, or for the purpose of selling the same must first obtain a business license as provided herein.

35.210 ENFORCEMENT:

- (A) Notice to Comply. When an inspection report indicates a violation of this Ordinance or of any law or ordinance, the License Officer shall issue to the affected person a notice to comply.

1. The notice issued in compliance with this Ordinance, shall be in writing, sent via certified mail, and shall apprise the person affected of his specific violations, including allegations of unethical business practices. In the absence of the person affected or his agent or employee, copy of such notice shall be affixed to some structure on the same premises. Depositing such notice in the United States mail shall constitute service thereof.

(B) Compliance Required.

1. The notice shall require compliance within seven (7) calendar days of service on the affected person.
2. If the affected person was found to be operating a business without the proper license, the notice will so state that the business is to cease operations immediately and remain closed until such time that a proper license has been obtained.

35.220 APPEAL:

(A) An applicant who has been denied a license, or whose license has been suspended or revoked, may appeal such denial, suspension or revocation to the Town Board. The Town Clerk will place the appeal on the next available Town Board agenda. The decision of the Town Board will be final.

(B) The Town reserves any and all civil remedies and authority available to it, including the authority to seek an injunction or restraining order for the prevention of any threatened violation and for the recovery of any damages suffered.

35.230 CIVIL PENALTIES: Any person violating the provisions of this Ordinance shall be liable for the penalties provided herein or adopted by resolution. Every day of violation of this Ordinance constitutes a separate offense.

35.240 APPLICABLE BUSINESSES: This ordinance shall be applicable to all professions, trades or businesses that the Town has the power to license according to NEV. REV. STAT. 269.170, as amended.

35.250 CRIMINAL PENALTY: In addition to the civil fines imposed pursuant to this Ordinance, any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and shall be sentenced to pay a fine of not more than one thousand (\$1,000.00) dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

Every day of violation of this Ordinance constitutes a separate offense.

35.260 RESPONSIBILITIES OF EVENT ORGANIZERS: Persons, even if they qualify as an exempt business pursuant to Section 35.100, that organize events within the Town with multiple vendors subject to this Ordinance are required to communicate the licensing requirements and forms adopted pursuant to this Ordinance to those vendors and ensure their compliance with this Ordinance before the start of the event.

35.270 CONSTITUTIONALITY: If any section, clause, or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

35.280 REPEAL OF CONFLICTING ORDINANCES: All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance hereby adopted are hereby repealed. Ordinances 31 and 52 are repealed in their entirety.

35.290 SEVERABILITY: Every Section of this Ordinance, and every part of each section hereof is hereby declared to be independent of each other and parts of sections, and the holding of any section or any part thereof to be voided or ineffective for any reason, shall not be deemed to affect, nor shall it affect, any other section or part of section in this Ordinance contained.

35.300 EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage, adoption and second publication in a publication having general circulation within the Town.

Motioned by Town Board Member: Dr. Tom Waters

Seconded by Town Board Member: Mrs. Vicky Parker

Adopted on the 14th day of February 2012.

Vote: 4 to 1 AYES: Mrs. Parker, Mr. Kulkin, Dr. Waters, Mrs. Endersby
 NAYS: Mr. Darby

Attest:

Town Board Chairman, Mr. Darby

Town Board Clerk, Mr. Kulkin