

ORDINANCE NUMBER 645-08

**AN ORDINANCE OF THE TOWN OF FOWLER, COLORADO,
REQUIRING BUSINESS LICENSES FOR BUSINESSES AND
OCCUPATIONS LOCATED WITHIN THE TOWN OF FOWLER,
COLORADO AND ESTABLISHING FEES FOR SAID LICENSES**

WHEREAS, the Town of Fowler is a statutory town authorized pursuant to C.R.S. § 31-15-501(1)(c) to license and regulate any lawful occupation or business located within the town; and

WHEREAS, the town finds that in order to track businesses and ensure adherence of town regulations a requirement for a business license should be implemented.

WHEREAS, the Fowler Board of Trustees believes that it is necessary that each business within the Town of Fowler shall obtain an annually renewable business license issued by the Town of Fowler; and

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Fowler, Colorado:

a. DEFINITIONS.

A When not clearly otherwise indicated by the context, the following terms, words, and phrases, as used in this chapter, shall have the following meaning:

i “BUSINESS” means any lawful business, trade, occupation, profession, avocation, or calling of any kind having a fixed or transitory situs within the Town of Fowler.

ii “ENGAGED IN BUSINESS” means performing or providing services, or selling, leasing, renting, delivering, installing or any activity in connection with the selling, leasing, renting, delivering, or installing in the Town of Fowler tangible personal property by retail or wholesale sale for use, storage, distribution, or consumption within the Town of Fowler. The term “Engaged in Business” does not include:

I Any person who owns commercial or residential real property offered for lease or rent in the ordinary course of business that does not employ one or more employees who perform any services or other activities within the Town in relation to the lease, rental, operation or maintenance of such property for any period of time in a calendar month.

II Any homeowners’ association that does not employ one or more employees who perform any services or other activities within the Town in relation to the operation or maintenance of such association and its property for any period of time in a calendar month;

III Any non profit organization;

IV Any person engaged exclusively in the business of selling commodities which are exempt from taxation under this Code.

- b. LICENSE REQUIRED. No person who is engaged in a business within the Town of Fowler shall be permitted to operate without a valid business license.
- c. EACH ESTABLISHMENT TO BE LICENSED. In case business is transacted at two or more separate places by the same business entity, a separate license for each place of business shall be required. An owner or owners of different businesses located at the same location must obtain a separate license for each business.
- d. APPLICATION CONTENTS. The business license shall be granted only upon application stating the name, address, and date of birth of the person desiring such license, the name of such business and the character thereof, the applicable federal identification number and State of Colorado license number of the business, the physical location of the business, the physical location phone number, and the applicable contact phone number, fax, and email address. Other facts may be required by the Town such as, but not limited to, the date of birth, driver's license number, and social security number of an officer or owner of the business. The application must be signed and dated under penalty of perjury by an owner or officer of the business. A valid digital signature or the equivalent thereof, on a license application transmitted electronically over the internet or transmitted via other similar means is accepted and held as a written signature. A signature on a license application sent via facsimile is accepted and held as a written signature. Any person doing business as a wholesaler shall obtain a retailer's license if any sales are made at retail as defined herein. Applications for such licenses shall be made to the town clerk. The town clerk shall issue and renew such licenses.
- e. RENEWAL. The town clerk shall not renew a business license if the town clerk finds that the licensee has failed to obtain or does not possess each additional license, if any, which the licensee is required to possess under the ordinances, resolutions, rules or regulations of the Town of Fowler.
- f. LICENSE FORM. Each license shall be numbered and shall show the licensee name, physical location address, mailing address, and the expiration date of the license.
- g. LICENSE CARRYING OR POSTING REQUIRED. No licensee shall fail to carry any license issued in accordance with the provisions of this Chapter upon his or her person at all times when engaged in the operation, conduct, or carrying on of any trade, profession, or business for which the license was granted; except that where such trade or business is operated, conducted, or carried on at a fixed place or establishment, such license shall be exhibited at all times in some conspicuous place in the place of business. Every licensee shall produce his or her license for examination when requested to do so by any Town of Fowler police officer or by any person representing the Town of Fowler.
- h. NON-TRANSFERABLE. No license shall be transferable.

i. LICENSE FEE. Each application for a new license or license renewal shall be accompanied by payment of an annual fee in the amount of thirty dollars (\$30.00), for license years subsequent to December 31, 2009. A tax exempt institution shall be exempt from this license fee.

j. EXPIRATION, RENEWAL AND RENEWAL FEES

1 All licenses issued shall expire at midnight December 31st of each year. On or before December 31 of each year, the holder of a license may apply to the Town clerk for a renewal license for the next calendar year. A license for a new business or for a transfer of ownership issued on or after November 15th of each calendar year shall be valid for the next complete calendar year subject to the renewal provisions of this Section and subject further to the licensee's compliance with this Chapter. All applications for renewal license shall be made on forms prescribed and furnished by the Town clerk.

2 The licensee fee for timely renewals shall be thirty dollars (\$30.00).

3 Failure to obtain or renew a license by January 1, 2009 shall result in payment of an increased license fee according to the following schedule.

A After February 1\$5.00 late fee.....Total Due\$35.00

B After March 1\$10.00 late fee.....Total Due\$40.00

4 Failure to obtain a renewal license by the December 31 expiration date of the original license each year commencing with the renewal license due by December 31, 2009 shall result in payment of an increased renewal fee according to the following schedule.

A Renewal after January 1\$ 5.00 late feeTotal Due\$35.00

B Renewal after February 1\$10.00 late fee.....Total Due\$40.00

C Renewal after March 1\$15.00 late fee.....Total Due\$45.00

k. MODIFICATION OF FEES. The Board of Trustees of the Town of Fowler may amend the various fees set forth herein from time to time by resolution or ordinance.

l. ENGAGED IN BUSINESS WITHOUT LICENSE. Any person engaged in business in the Town of Fowler without having secured business license in advance, except as specifically provided herein, shall be guilty of a violation of this Ordinance.

m. LICENSE SUSPENSION

1 A license may be suspended for any of the following reasons:

A Failure to pay the town any town license fee, civil penalty, fine, penalty, taxes, impact fees or any other money owed to the town;

B Conducting any activity in violation of federal, state or local law, ordinance, rule or

regulation by the licensee or licensee employees or agents;

C Failure to comply when any term or condition of the business license.

2 EMERGENCY SUSPENSION

A Where the town administrator reasonably believes that the health or safety of the public will be placed in imminent danger where a business license remains in effect prior to a hearing on suspension or revocation, the town administrator may give notice to the licensee by personal service and suspend the license immediately. An emergency suspension shall remain in force until the date and time of a hearing. In such case, the hearing shall occur forthwith but not more than three business days subsequent to the suspension. In case of a request for continuance by the licensee, the suspension shall remain effective until the date and time of the continued hearing.

3 LICENSE REVOCATION

A A license may be revoked for any of the following reasons:

- i When it appears that the license was obtained by fraud, misrepresentation or false statements within the application;
- ii When it appears that the activity conducted pursuant to the license constitutes a public nuisance as defined by this Code or statute or violates any federal, state or local law, regulation or rule;
- iii Upon failure of the licensee to comply with the terms and conditions of the license;
- iv Upon conviction of the licensee for violation of any provision of this Code in relation to the manner of carrying on the licensed business.

4 NOTICE AND HEARING

A In cases other than emergency suspension, the licensee shall be given twenty days written notice prior to any hearing on the suspension or revocation of a license under this Code. Notice may be given by certified mail return receipt requested addressed to the licensee's address provided on the application for the current business license or by personal service. Mailed notice shall be deemed delivered upon entry into the mail stream. The Notice shall include the name, address and license number of the license at issue, the hearing time, date and location, the basis for the hearing, the signature of the Town administrator.

5 CEASE AND DESIST

A The town clerk may issue a cease and desist order to any business not properly licensed under this Code. The order shall state that the business shall cease all

business with the public immediately unless a town business license is obtained or the town is provided proof that a business license was previously obtained and is current under the Code or that the business is exempt under the code. The order shall also state that where a dispute exists regarding whether a license has been issued, is currently in effect, or whether the business is exempt, the business is entitled to an immediate hearing before the town administrator prior to closing the business.

6 APPEAL. Any findings of fact and order of the town administrator revoking the license of any person or business entity may be appealed to the Board of Trustees. The determination of the Board of Trustees shall be the final decision of the town. The decision may be reviewed by the District Court upon application of the aggrieved party, in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

n. PENALTY.

1 Failure to comply with the terms of this Article shall constitute a violation of this Code. Any person found guilty of, or pleads guilty or nolo contendere to a violation of any section of this Code shall be punished in accordance with the provisions of Section 1-08-020 of this Code.

o. SEVERABILITY. If any clause, sentence, paragraph or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect application to other persons or circumstances.

p. EMERGENCY. This ordinance is necessary for the immediate preservation of the town of Fowler's peace, health, and safety. This ordinance is declared an emergency ordinance. This ordinance shall be effective following publication and upon final adoption.

q. All previously adopted ordinances and resolutions are hereby amended or repealed to conform to this ordinance.

INTRODUCED, READ IN FULL, PASSED AND ORDERED PUBLISHED ON the 12th day of January, 2009

ADOPTED AND APPROVED the 12th day of January, 2009.

TOWN OF FOWLER

DATED this 12th day of January, 2009

BY: Ray Wards
Mayor Town of Fowler

ATTEST: Shawn Pagnotta
Town Clerk