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ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 5 – COUNTY BUSINESS LICENSE ORDINANCE TO UPDATE COUNTY DEPARTMENT NAMES AND REMOVE OUTDATED ADMINISTRATIVE PROCEDURES

THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES ORDAIN AS FOLLOWS:

Section 1. Title 5 of the El Dorado County Ordinance Code, Chapter 5.04 – General Provisions, is hereby amended to update County department names, remove references to outdated administrative procedures and to require e-mail and website addresses of Business License applicants, as set forth in Exhibit “A” attached hereto.

Section 2. This ordinance shall become effective thirty (30) days following adoption hereof.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the _____ day of _____, 2018, by the following vote of said Board:

ATTEST
JAMES S. MITRISIN
Clerk of the Board of Supervisors

Ayes:

By _____
Deputy Clerk

Noes:

Absent:

Chair, Board of Supervisors

APPROVED AS TO FORM
MICHAEL J. CICCOZZI
COUNTY COUNSEL

By: _____

Title: _____

ATTACHMENT A

CHAPTER 5.04. - GENERAL PROVISIONS

Sec. 5.04.010. - Title.

This title shall be known and may be referred to in all proceedings as the County Business License Ordinance.

(Prior Code, § 6211; Code 1997, § 5.04.010)

Sec. 5.04.020. - Purpose.

The ordinance from which this title is derived is enacted pursuant to Business and Professions Code § 16100 for the purpose of regulating all kinds of lawful businesses transacted and carried on within the unincorporated territory of the County. Those occupations regulated by the State are regulated in this title pursuant to the California Constitution, Article 11, Section 7. The regulation of cardrooms shall be governed by the provisions of Chapter 9.45.

(Code 1997, § 5.04.020; Ord. No. 3515, § 2, 1985)

Sec. 5.04.030. - Reserved.

Sec. 5.04.040. - Applicability.

This title shall apply to all businesses being operated and conducted within the unincorporated territory of the County including the soliciting of orders or the delivery of merchandise in vehicles owned or operated by the seller within such territory whose principal place of business is not within the unincorporated territory of the County.

(Code 1997, § 5.04.040; Ord. No. 3515, § 4, 1985)

Sec. 5.04.050. - Definitions.

The following words and phrases, when used in this title, shall be construed as follows, unless the context or subject matter otherwise requires:

Business shall have the same meaning as the phrase "any kind of business not prohibited by law," as it is used and interpreted in Business and Professions Code § 16100, and shall include any occupation, trade, profession, pursuit, employment or enterprise regularly engaged in, either exclusively or not.

Carnival means any circus, sideshow or amusement arcade; and the operation of any two or more of the following devices within 500 feet of each other: merry-go-round, Ferris wheel, and carnival-type ride, shooting gallery or pony ride.

Contractor and *contracting* shall have the same meaning as those terms are defined and used in Chapter 9, Division 3 (commencing at Business and Professions Code § 7000) of the Business and Professions Code.

Fixed place of business means any permanent warehouse, building or structure owned in fee or leased for a term of one year or more at which the owner or lessee carries on a legitimate

permanent business in good faith and at which stocks of merchandise are produced, stored or kept in quantities usually carried and reasonably adequate to meet the requirements of the business, or, if the business is one of performing services, where the services are performed. The term "fixed place of business" does not mean tents, temporary stands or other temporary structures, or permanent structures occupied pursuant to a temporary arrangement or lease for a term of less than one year.

Fortunetelling means engaging in the business of foretelling or pretending to foretell future events or the prophecy of the future.

Itinerant business includes the soliciting or negotiating the sale or purchase of any merchandise at any place other than a fixed place of business, including, but not limited to, sales from tents, temporary stands, or other temporary structures, either in person or by telephone, such as a traveling merchant, hawker, peddler, traveling photographer, magazine or book salesmen, or any person who solicits business for persons engaged in such occupations. The term "itinerant business" also includes the business of cleaning cesspools or septic tanks for hire, the installation or removal of tire chains for compensation at any place other than the fixed place of business which is owned by, or whose owner employs, the person who is installing or removing tire chains; the soliciting of alms, donations or gifts for the solicitor's own use; the soliciting of any kind of business from door to door; and the soliciting of business of any kind at the residence of the customers, either in person or by telephone.

Merchandise means any goods, wares, merchandise, products or chattels of any description. The term "secondhand merchandise" is limited to, and includes, any of the following property which has been used:

- A. Any firearms;
- B. Jewelry, including watches and cameras;
- C. Tangible personal property as defined in Business and Professions Code § 21627 and means any secondhand personal property which bears a serial number or personalized initials or inscription, including any such property which at the time it is acquired by the secondhand dealer bears evidence of having had a serial number or personalized initials or inscription, excluding, however, motor vehicles and used merchandise traded in upon new merchandise of the same kind, purchased at retail.

Pawnbroker means a person engaged in conducting, managing or carrying on the business of pawnbroking, or the business of lending money for himself or herself or for any other person upon personal property, pawns or pledges, or the business of purchasing articles from the vendors or their assignees at prices agreed upon at or before the time of such purchase.

State Law reference— Similar provision, Financial Code § 21000.

Secondhand dealer means and includes any person who buys, sells, trades, takes in pawn, accepts for consignment, accepts for auctioning or auctions any secondhand merchandise.

Sell or sale includes offer for sale, solicit a sale, expose for sale, have in possession for sale, exchange, barter, trade, or any transaction in which merchandise is given for joining or making a contribution to any organization or business.

Special business license means a license issued by the Sheriff and required pursuant to the provisions of Chapters 5.14 and 5.34 for specific types of business which are potentially injurious to the public interest, are not regulated by the State in such a manner as to preempt local regulation, and which the health, safety and welfare of the community demand be operated by responsible persons in compliance with all laws, including any special regulations applicable to such businesses.

Transact or operate means the ownership, management or receipt of all or part of the profits of commissions by a person from a business, or the solicitation, negotiation or engaging by a person in any itinerant business.

(Prior Code, § 6215; Code 1997, § 5.04.050; Ord. No. 3311, § 2, 1982; Ord. No. 3515, § 5, 1985)

CHAPTER 5.08. - LICENSE REQUIREMENTS AND PROCEDURE

Sec. 5.08.010. - Application.

Any person desiring to obtain a County business license shall make application therefor upon a form supplied by the Tax Collector. The application shall state the name, address and telephone number of the business to be licensed; whether the business is owned by an individual, partnership, or corporation; the names and addresses of the individual owner, of all partners and of all corporate officers of the business; all of the kinds of business to be transacted at the fixed address of the fixed place of business for which the application is made; and include the signature, address, email address, website and telephone numbers of the applicant. A separate application shall be made for each fixed place of business at which the business is transacted.

(Prior Code, § 6251; Code 1997, § 5.08.010)

Sec. 5.08.020. - Forms and accounting.

The Tax Collector shall deposit all daily license fees received with the County Treasurer. Copies of the licenses shall be available to the County Auditor/Controller during normal business hours for inspection or auditing purposes.

(Prior Code, § 6252; Code 1997, § 5.08.020)

Sec. 5.08.030. - Refusal.

The Tax Collector may refuse to issue a County business license for any one or more of the grounds specified in Section 5.08.090 by endorsing upon the application a statement of the grounds for the refusal and the date of the refusal over the signature of the Tax Collector or his or her authorized employee.

(Prior Code, § 6253; Code 1997, § 5.08.030)

Sec. 5.08.040. - Revocation.

The Tax Collector may revoke any County business license for any one or more of the grounds specified in Section 5.08.090 by delivering a notice of revocation to the owner to the business in any one of the following ways:

- A. By certified or registered mail addressed to the owner of the business as the owner's name and address appear on the application for the permit;
- B. By delivering the notice to the owner, any partner or corporate officer named in the application for the permit in person;
- C. By delivering the notice to any employee of the owner at the fixed place of business specified in the license;
- D. By posting the notice in a conspicuous place upon the premises of the fixed place of business specified in the license. The notice of revocation shall identify the license affected by number, date and name of business and specify the grounds for which the license was revoked and be dated and signed by the Tax Collector or any authorized employee. The revocation shall be effective at the time the notice of revocation is delivered personally or posted or 48 hours after the notice is deposited in the United States mail as shown by the postmark on the envelope and the date the revocation becomes effective shall be stated in the notice.

(Prior Code, § 6254; Code 1997, § 5.08.040)

Sec. 5.08.050. - Appeals.

Any person owning or having an interest in any business for which a County business license was refused or revoked by the Tax Collector may appeal the refusal or revocation to the Board of Supervisors by filing a written notice of appeal stating the name and address of the appellant and his or her desire to appeal the refusal or revocation of the license, to which is attached a copy of the application for the license with the refusal endorsed thereon or a copy of the notice of revocation with the Board of Supervisors within ten days following the date of the refusal or revocation. The Board of Supervisors shall fix a date for hearing the appeal not more than 30 days following the date the notice of appeal is filed and shall mail notice of the time and place of the hearing to the person filing the notice of appeal not less than five days prior to the date of hearing. The appellant may appear in person or by counsel and present any relevant evidence relating to grounds for refusal or revocation of the license or the lack of such grounds and the Tax Collector may present evidence in rebuttal thereof. The hearing may be continued from time to time not to exceed 30 days in all. The Board of Supervisors shall find and determine from the evidence submitted whether one or more of the grounds specified in Section 5.08.090 for the refusal or revocation of the license existed and by order enter in the minutes directing the reinstatement or issuance of the license if the finding is that no such grounds existed or affirming the refusal or revocation if the Board's finding is that the grounds do exist. The decision of the Board of Supervisors shall be final.

(Prior Code, § 6255; Code 1997, § 5.08.050)

Sec. 5.08.060. - Businesses subject to license.

It is unlawful for any person to transact any kind of business in the unincorporated territory of the County without possessing an unexpired and unrevoked County business license unless the business is exempt from the license requirements by this chapter.

(Prior Code, § 6221; Code 1997, § 5.08.060)

Sec. 5.08.070. - Exemptions.

The following pursuits are exempt from the County business license requirements of this title:

- A. *Agriculture.* The production of timber, fruit, nuts, livestock, hay, grain, pasture, milk, poultry and other agricultural products and the sale of such products upon the premises where it is produced;
- B. *Employment.* A person who works for another at an agreed rate of compensation per unit of time or piece of work done is exempt from the requirements of this title;
- C. *Public agencies.* The officers, boards, departments and agencies of the Federal, State and local governmental agencies;
- D. *Charities.* Religious, service, fraternal, farmers, church, charitable and nonprofit organizations, their officers and members while acting for such organization;
- E. *Newspapers.* The solicitation or obtaining of subscriptions or advertising for or the sale of newspapers published for the dissemination of local or telegraphic news of a general character at regular intervals;
- F. *Fair concessions.* All concessions operated under contract at the County fair shall be exempt from the license requirements of this title; provided that all restaurants, itinerant restaurants, vehicles and vending machines so operated shall be subject to the requirements of the County Restaurant Ordinance.

(Prior Code, § 6222; Code 1997, § 5.08.070; Ord. No. 3311, § 3, 1982; Ord. No. 3515, § 6, 1985)

Sec. 5.08.080. - Multiple businesses.

A separate business license is required for each separate place of business, even though two or more of the businesses are owned or operated by the same person. Where a combination of two or more kinds of businesses are operated at the same fixed place of business by the same person, only one license specifying the kinds of business operated is required therefor, and the fee to be paid shall be the highest fee for the kinds of business so operated imposed by this title. Where two or more businesses operated by different persons are located at the same fixed place of business, a separate license shall be required for each such business. A separate business license is required for each individual engaged in any itinerant business even though any two or more of the individuals are employed by the same person or are associated together in the same business.

(Prior Code, § 6223; Code 1997, § 5.08.080)

Sec. 5.08.090. - Grounds for refusal or revocation.

No person shall be refused a County business license nor have the license revoked except for one or more of the following grounds:

- A. Failure or refusal to complete and submit the application required for the license;
- B. Failure to pay the required fee for the license unless the applicant is exempt from the payment of the fee by State law or the provisions of this title;
- C. Failure to pay unsecured property taxes upon property used in the business before the taxes become delinquent;
- D. Failure to present with the application the unrevoked and unexpired certificates and permits required by Chapter 5.12;
- E. Making false statements in the application for the license;
- F. The violation of any State or Federal law or any County ordinance regulating the business, the construction, alteration or repair of buildings and sewage disposal systems used in the business or regulating the use of the land upon which the business is operated;
- G. The purchase or receipt for trade, pawn or resale of any secondhand merchandise without reporting each such transaction to the Sheriff's office not later than 12:00 noon of the day following acquisition of the property;
- H. Failure to file with the county clerk of the county in which the principal place of the business is located, as stated in the application for the license, a fictitious name certificate with respect to any name used to identify the business as required under State law;
- I. Failure to file with the County Clerk a copy of the articles of incorporation of any corporation having its principal office or owning land in the County as required by Corporations Code § 311 or 312;
- J. Revocation or expiration of a permit or certificate required by Chapter 5.12.

(Prior Code, § 6224; Code 1997, § 5.08.090)

Sec. 5.08.100. - Term.

The term for a business license shall be for a period of one year commencing with the first day of the calendar month during which the license is issued and expiring on the last day of the 12th succeeding month.

(Prior Code § 6225; Code 1997, § 5.08.100; Ord. No. 3737, § 1, 1987)

Sec. 5.08.110. - Transfer.

Where the ownership of a business subject to license under this title is transferred, any County business license issued for the business shall automatically expire upon the date of the transfer. It is unlawful for the new owner to operate the business until a new County business

license is issued therefor. The new owner of a previously licensed business shall be credited with that portion of the fee paid for the prior license which the number of full months (disregarding portions of a month) the prior license had yet to run before expiration, if the business had not been transferred, bears to the total number of months for which the prior license was issued in the payment of the fee for the new license.

(Prior Code, § 6226; Code 1997, § 5.08.110)

Sec. 5.08.120. - Display.

Every licensee having a fixed place of business shall post his or her County business license in a conspicuous place in the place of business. Every licensee not having a fixed place of business shall have his or her County business license in his or her possession at all times he or she is transacting the business. It is unlawful for any County business licensee to fail to post or possess the license as required in this section or to refuse to exhibit the license to any person upon demand.

(Prior Code, § 6227; Code 1997, § 5.08.120)

Sec. 5.08.130. - Review by Sheriff.

The Sheriff or the County Tax Collector may require applicants to appear at the Sheriff's office for fingerprinting.

(Prior Code, § 6274; Code 1997, § 5.08.130; Ord. No. 3173, § 8(part), 1981; Ord. No. 3670, § 2, 1986)

Sec. 5.08.140. - Environmental Management Department permit.

Every person applying for a license to handle food or food products must present with the application a permit from the County Environmental Management Department.

(Prior Code, § 6275; Code 1997, § 5.08.140; Ord. No. 3173, § 8(part), 1981; Ord. No. 3737, § 2, 1987)

Sec. 5.08.150. - Sanitation Inspector permit.

Every person applying for a license to install, pump or repair septic tanks must present with the application a permit from the County Sanitation Inspector.

(Prior Code, § 6276; Code 1997, § 5.08.150; Ord. No. 3173, § 8(part), 1981)

Sec. 5.08.155. - Fire district approval.

A. Every person applying for a license to operate the businesses listed in Subsection B of this section must present with the application an indication of the inspection and approval of the

intended use by the fire district. Fire district review shall be obtained as directed by the office of the Treasurer/Tax Collector.

- B. Those businesses requiring fire district approval as set forth in this section are all businesses conducted from fixed locations where such locations are situated within commercial or industrial zone districts within the unincorporated area of the County.

(Code 1997, § 5.08.155; Ord. No. 3515, § 7, 1985)

Sec. 5.08.160. - Community Development Services, Planning and Building Department review.

- A. Prior to issuance of a license, all applications shall be referred to the Community Development Services, Planning and Building Department to review for consistency with the County Zoning Ordinance.
- B. This section shall not apply to the following businesses: automatic ice machines, music playing machines, vending machines, miniature billiard or pool table and automatic washing machines.

(Prior Code, § 6277; Code 1997, § 5.08.160; Ord. No. 3173, § 8(part), 1981)

Sec. 5.08.170. - Inspection authority.

It shall be the duty of all peace officers and the Tax Collector to exercise due diligence in the enforcement of this title, and to that end they shall be permitted at any reasonable time and place to enter all types and classes of business establishments licensed and regulated by this title.

(Prior Code, § 6278; Code 1997, § 5.08.170; Ord. No. 3173, § 8(part), 1981)