Chapter 1.28

BOROUGH BUSINESS LICENSE

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1.28.005 Definitions. In this Chapter,

A. "business" means a for profit or nonprofit entity engaging or offering to engage in a trade, a service, a profession, or an activity with the goal of receiving a financial benefit in exchange for the provision of services, or goods or other property.

B. "line of business" means a business category in which one or more related business activities may be conducted under a single business license. For the lines of business and activities applicable to a Borough business license, the Borough adopts the Business Classification System established by the State of Alaska, Department of Community and Economic Development, under 12 AAC 12.990 and the State business license program.

C. "person" or "entity" include an individual, firm, partnership, joint venture, association, corporation, estate trust, business trust, receiver, or any group or combination acting as a unit.

1.28.010 Business License.

A. Prior to the undertaking of business within the Borough, the owner of the business shall apply for and obtain a Borough business license.

B. If a business is already being undertaken within the Borough at the time of enactment of this ordinance, the

owner of the business shall apply for and obtain a Borough business license within sixty days of enactment of this ordinance.

C. The application for a Borough business license shall be submitted on a form provided by the Borough and accompanied by a nonrefundable license fee in the amount provided for in CCBY 1.28.020.

D. A separate business license is required for each line of business in which the applicant seeks to engage in the Borough.

1.28.020 Business License Fee, Term and Renewal.

A. A Borough business license is issued for either an annual or a biennial license period. Except as provided in paragraph C below, an annual license expires on December 31st of the year it was purchased, and a biennial license expires on December 31st of the year after it was purchased.

B. The fee for an annual license is $25.00. The fee for a biennial license is $50.00. If an entity is required to have more than one Borough business license under CCBY 1.28.010(D), the fee for each additional license is $20.00 for an annual license and $40.00 for a biennial license.

C. If the Borough issues an initial license on or after November 1, the license period shall consist of the remainder of the calendar year in which the business license is issued and all of the following calendar year, in the case of an annual license, or two calendar years, in the case of a biennial license.

D. Prior to the expiration of a Borough business license, and if the owner intends to continue to conduct business within the Borough, the owner of the business shall apply for and obtain a renewal of that license, on a form provided by the Borough.

1.28.030 Penalty for Failure to Obtain.

A. The undertaking of any business within the Borough without first obtaining the license required under section .010 of this Chapter, or the undertaking of business upon an expired license or a suspended or revoked license, shall constitute a violation of the Code of the City and Borough of Yakutat, and shall be punishable by a fine of not more than $500.00, which may be imposed in addition to injunctive and compensatory relief. Each day that a violation continues constitutes a separate violation.

B. The Borough may request any federal or state agency that issues permits to commercial enterprises within the Borough to revoke said permit.

1.28.040 Failure to File Tax Returns or Pay Tax Due. No license shall be issued or renewed under this Chapter if the business for which the license is sought is delinquent in the filing of returns, or payment of tax due, for Borough sales tax or Borough Transient Accommodation/Vehicle rental tax.

1.28.050 Display of Business License. A license shall be prominently displayed in the premises of the business for which it was obtained, and, upon request, shall be exhibited to the Borough Manager, or his designee. If the business has no fixed place of business, the owner shall carry the license on his person while engaging in the business and shall display that license, upon request, to the Borough Manager, or his designee, or to any person with whom the business is conducted.

1.28.060 Nontransfer of License. A license may not be sold, conveyed or otherwise transferred by the holder thereof to any other person at any time, and any such license purportedly sold, conveyed or otherwise transferred shall be invalid as to the new holder thereof. A successor in interest to any person, entity or business licensed under this Chapter shall make original application for a license if it wishes to continue or resume the licensed business or activity.

1.28.070 Grounds for suspension or revocation of License. The Borough Manager, or his designee, may revoke or suspend a license issued under this Chapter at any time during its term if the licensee fails to timely file tax returns or pay tax due for Borough sales tax and/or Borough Transient Accommodation and Vehicle Rental tax.

1.28.080 Procedure for Suspension or Revocation of Business License. The procedure for suspension or revocation of a license under this Chapter is as follows:

A. The Borough Manager, or his designee, shall give written notice to the owner of a licensed business that the Borough is considering revocation or suspension of the business license. This notice shall be either personally delivered to the owner, or any person operating or employed at the business premises, or sent to the owner via certified mail to the owner's last known address. This notice shall specify the grounds for

the considered revocation or suspension, and generally inform the owner of his right to a hearing and how and when to exercise that right. The notice shall also state that the license may be revoked or suspended without further notice if no demand for hearing is filed.

B. The owner of the business who receives a notice under subsection A above may request the holding of a pre-revocation or suspension hearing, provided that the owner files a written demand with the Borough within twenty days from the date of the notice required under subsection A. Failure of the owner to timely request or to attend a pre-revocation or suspension hearing shall be deemed a waiver of the right to such hearing. If no demand for a hearing is timely filed, and no information is provided to the Borough establishing to the satisfaction of the Borough Manager, or his designee, that the grounds for revocation or suspension have been eliminated or corrected, the Borough Manager, or his designee, may proceed immediately to suspend or revoke the license. Notice of the revocation or suspension shall be sent or delivered to the owner in the same manner as provided in subsection A above.

C. If requested, a hearing shall be conducted before the Borough Manager, or his designee, (hereinafter referred to as the hearing officer) no sooner than five days after receipt of the written demand from the owner. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The parties may present witnesses and evidence on their behalf, and may cross-examine opposing witnesses on matters relevant to the issue and rebut evidence presented by the other. The sole issue at the hearing shall be whether the Borough has presented sufficient evidence demonstrating grounds for revocation or suspension of the business license under CCBY 1.28.070. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the owner.

D. Either party may appeal the hearing officer's decision to the Borough Assembly, by filing a notice of appeal with the Borough Clerk within ten days of the date of the hearing officer's decision. The procedures for such an appeal shall be established by the Assembly.

E. At any time prior to revocation or suspension of the business license, the owner may submit evidence to the Borough that the grounds for revocation or suspension have been eliminated or corrected, and request that the proceedings on revocation or suspension be closed.

1.28.090 Procedures for Nonissuance or Nonrenewal. If the Borough is considering denying an application for a business license, or renewal thereof, it shall provide notice to the applicant of such considered denial. The provisions of 1.28.080 shall govern the notice requirements, and hearing and appeal rights, for such matters.

1.28.100 Exemptions. The following are exempt from the requirements of this Chapter:

A. A person engaged in the activity of commercial fisheries and required to obtain a commercial fishing license under A.S. 16.05.480;

B. A person who performs casual babysitting services. This does not exempt any person, regardless of their age, who is operating a day care service or facility;

C. A person supplying services as a bona fide employee for wages subject to federal income tax withholding; and

D. A person who makes only "casual sales" of goods or services, as that term is defined in CCBY 6.40.030(B).

1.28.110 Lien. Any unpaid business license fee, and/or any penalties imposed under this Chapter, shall constitute a lien in favor of the Borough upon all of the real and personal property of the person(s) or entity(ies) owing the fee and/or penalties. The lien also includes any administrative costs, including attorney fees and litigation costs, incurred by the Borough to bring a business into compliance with this Chapter and fees paid to the District Recorder for recording the lien and any necessary fees for recording a lien satisfaction. The lien arises immediately upon the undertaking of business within the Borough without a Borough business license, and continues until the liability is satisfied or the lien is foreclosed. A notice of lien may be filed in the office of the recorder for the Juneau Recording District. The Borough may also, at its discretion, file a notice of lien in any other recording district.

1.28.120 Regulations. The Mayor shall from time to time cause to be promulgated regulations necessary and advisable to provide for the application and enforcement of this Chapter and to submit them to the Assembly for adoption or rejection.