

DENALI BOROUGH, ALASKA
ORDINANCE NO. 10-09
VERSION A

INTRODUCED BY: MAYOR DAVID M. TALERICO

AN ORDINANCE AMENDING THE DENALI BOROUGH CODE OF ORDINANCES,
CHAPTER 3.45 TITLED BUSINESS LICENSES.

BE IT ENACTED by the Denali Borough Assembly, Alaska that:

Section 1. Classification. This ordinance is of a general and permanent nature.

Section 2. Purpose. The purpose of this ordinance is to amend the Denali Borough Code of Ordinances and create Chapter 3.45 to read as follows:

Sections:

3.45.000 Purpose.

3.45.005 Definitions.

3.45.010 License required.

3.45.020 Business License Application.

3.45.025 Fee.

3.45.030 Regulatory provisions.

3.45.050 [Borough mayor regulation promulgation authority.] Authority to Promulgate Regulations.

3.45.060 Unlawful acts.

3.45.070 Penalties.

3.45.080 Violations – Testimony/Compromise.

3.45.09[8]0 Alaska Statutes – Procedures.

3.45.000 Purpose.

The Denali Borough's business license program is established to amass a data bank that will:

- A. Be shared with potential entrepreneurs to determine business viability/competition
- B. Be utilized by the Planning Commission in producing the Area Wide Plan and in classifying Municipal Land Entitlements
- C. Be used to identify trends in Borough commerce
- D. Be shared with the Assembly, other businesses, and organizations to promote economic development in the Denali Borough
- E. Aid in Emergency Response pre-planning.

3.45.005 Definitions.

In this chapter, unless the context otherwise requires:

A. A business license shall be required if said business is established in the Denali Borough or established elsewhere with a branch or office within the bounds of the Borough.

B. “Business” includes all acts or activities engaged in for financial or pecuniary gain by persons receiving in excess of two thousand dollars (\$2000.00) per year, which act or activity requires obtaining a State of Alaska business license, as defined by the Alaska Department of Commerce and Economic Development, and shall be identified and coded as per the North American Industry Classification System (NAICS).

C. A person earning less than \$2000 per year shall not be required to obtain a Borough business license, but shall be required to provide written notice to the Denali Borough documenting that earnings are below the threshold required for a business license.

D. The name of a business is defined as that which appears on the State of Alaska business license.

E. “Person” includes an individual, firm, partnership, joint venture, association, corporation, estate trust, business trust, receiver, or any group or combination acting as a unit.

F. Business activity includes both nonprofit and for profit operations.

3.45.010 License required.

[A. Only those individuals, companies or partnerships which engage in business activity in the Denali Borough and have an Alaska State Business License are required to have a Denali Borough business license.]

A. When establishing a business in the Denali Borough, a person shall first complete and submit a Borough business license application [apply for a borough license] and pay the license fee. [for a borough business license.] A license issued to a [firm] person for a particular line of business as defined by the NAICS covers all its operations in the Denali Borough in that line of business regardless of the number of its establishments.

B. A separate business license is required for each line of business. The first two digits of the NAICS Code indicate the line of business. One license will cover the branch offices of the same business as long as all of the branches engage in the same activity or line of business and are under the same name. A business which engages in several different activities in a single or multiple locations will require more than one business license.

C. A person earning less than \$2000 per year shall not be required to obtain a Borough business license, but shall be required to provide written notice to the Denali Borough documenting that earnings are below the threshold required for a business license.

D. A [The] current Borough business license must be prominently displayed at the place of business. [When a business has more than one location, each location shall be listed on the license. The original license shall be displayed at the main location and a copy of the license displayed in each branch location.] If there is more than one location of operation,

a copy of the license will be displayed at each of these locations. If there is not a regular place of business, an operator will produce the license upon request. [When there is a change of location a new business license is required showing the new address.] [Ord. 05-12 § 2; Code 1989 § 22-1.]

E. A business license issued by the Borough is [not transferable] nontransferable and non-assignable. Written notice must be provided to the Borough upon the cessation of business activity. [Also, a new business license must be purchased if a business changes its form of ownership (i.e., partnership to corporation) or its line of business.]

F. A new business license must be purchased if one or more of the following conditions exists: a business is sold to a new owner, there is a change of location, the name of the business is changed, there is a change in form of ownership (i.e., partnership to corporation), or there is a change in the line of business.

3.45.020 Business License Application [and renewal]

A. A business license application will solicit the following information: the name of the business, a contact person with their title, the business' physical and mailing addresses, email address, phone number, fax number if available, the ownership type, the State business license number, and the line of business to be conducted as determined by the assigned NAICS. Additional information may be required.

[B. Application for renewal of a license and payment of all license fees must be received by the borough before the expiration of the current license. A business license cannot be renewed more than four months before its expiration date. The renewal period is for two years and will expire on December 31st.]

B. The application for a business license must be accompanied by payment of all license fees. A[An initial] business license is valid for two years, which consist of the remainder of the year in which the license is granted plus all of the next calendar year. Business licenses expire on December 31st.

C. Application for a new business license received by the Borough after September 1st will be issued for the next biennial period.

D. All information on a business license application is available to the public, [except for social security numbers and birth dates.] [Ord. 05-12 § 2; Code 1989 § 22-2.]

3.45.025 Fee.

The fee for a business license [is \$20.00] shall be prescribed by Denali Borough Assembly Resolution for the biennial licensing period. [Ord. 05-12 § 2; Code 1989 § 22-4.]

3.45.030 Regulatory provisions.

A person engaging in a business subject to licensing provisions of a regulatory nature must, in addition to filing a regular application required by this chapter, comply with any other or additional regulatory provisions. [before being entitled to a license.] [Ord. 05-12 § 2; Code 1989 § 22-3.]

3.45.050 Authority to [Borough mayor regulation promulgation authority] Promulgate Regulations.

The Denali B[b]orough [mayor] Assembly may [take any action necessary or appropriate to the implementation of this chapter by promulgation of regulations, which may include the adoption of forms] promulgate regulations necessary to determine and collect fees imposed and to otherwise enforce the provisions of this chapter. Such regulations or any proceedings adopted by the [mayor] Assembly are effective at the time indicated. [Ord. 05-12 § 2; Code 1989 § 22-5.]

3.45.060 Unlawful acts.

A. It is unlawful for a person to:

1. Willfully evade the licensing provisions of this chapter;
2. Fail to make an application for license or fail to keep or produce any records required hereunder or by regulation;
3. Defraud the Borough or evade payment of the fee; or
4. Aid or abet another in an attempt to evade payment of the fee.

B. False Statements. It is unlawful for an individual, executive officer or agent of a corporation or other legal entity or agent of a person to make or permit to be made for his principal a false reply or false statement in answer to an inquiry from the mayor or his designee with intent to evade the payment of the fee or to comply with the provisions of this chapter. [Ord. 05-12 § 2; Code 1989 § 22-6.]

3.45.070 Penalties.

A. If a person, who establishes a business in the Denali Borough and actively pursues that business venture within the bounds of the Borough, fails to file a business license application and pay the fee prescribed by this chapter a penalty of one hundred percent (100%) of the license fee shall be accrued for each seven (7) day period, or fraction thereof, for which the failure to comply with the provisions of this chapter continue. [who violates any provision of this chapter, or any regulation adopted pursuant thereto, is subject to a fine in an amount to be established by the mayor but not to exceed \$500.00.] [Ord. 05-12 § 2; Code 1989 § 22-7.]

B. Interest on an unpaid business license fee will be assessed at the statutory rate of interest set forth in AS 45.45.010.

C. The penalty will be paid at the same time as the business license fee; the fee, penalties, and accrued interest will be treated as distinct entries for accounting purposes.

3.45.080 Violations.

A. Any person violating any requirement of this chapter or any regulation adopted thereto shall be subject to Denali Borough Code 2.30.020, Duties of the Borough Attorney.
B. “Upon request of the Assembly, take the necessary steps to arrange for prosecution of violations of Borough ordinances.”

B. In a prosecution under this chapter, the Borough attorney may, with consent of the Assembly, compromise the case by accepting from the defendant a sum not less than the business license fee, penalties, interest provided in Section 3.45.070, and associated legal fees.

3.45.0[8]90 Alaska Statutes – Procedures.

In this chapter, unless stated otherwise, the definitions set forth in AS 43.70.110 shall be used, together with the procedures, powers, rules and regulations set out in or adopted by virtue of AS 43.05.040, 43.05.090 and 43.70.020. The [mayor] Assembly shall be empowered to use such procedures, powers, rules and regulations which are hereby incorporated by reference and have the effect as though fully set out herein, unless or until the [mayor, with] A[a]ssembly [approval,] adopts specific regulations in place of [them] those conformable with this chapter. [Ord. 05-12 § 2; Code 1989 § 22-8.]

Section 3. Effective Date. This ordinance becomes effective upon adoption by the Denali Borough Assembly and signature of the Mayor.

DATE INTRODUCED: JUNE 9, 2010

FIRST READING: JUNE 9, 2010

PUBLIC HEARING: JULY 14, 2010

PASSED AND APPROVED by the Denali Borough Assembly this
day of _____, 2010.

DAVID M. TALERICO, MAYOR

ATTEST: _____
GAIL PIEKNIK, BOROUGH CLERK

Ayes: EVANS and HOLMES
Noes: BULARD, LAUSEN, KOHLSDORF, WALKER, COOPER,
ASBURY and WINKLMANN