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## ORDINANCE 2025-XX

### AN ORDINANCE ENACTING A BUSINESS LICENSE ORDINANCE FOR THE TOWN OF DUTCH JOHN, UTAH; PRESCRIBING THE REQUIREMENTS FOR OBTAINING A BUSINESS LICENSE; ESTABLISHING FEES; AND PROVIDING FOR THE ENFORCEMENT OF THE PROVISIONS CONTAINED HEREIN

WHEREAS, the Town of Dutch John, Utah, is authorized by the laws of the State of Utah to regulate and license businesses within its incorporated limits; and

WHEREAS, it is in the best interest of the health, safety, and general welfare of the residents of the Town of Dutch John to ensure that businesses operating within the town limits are properly licensed and comply with all applicable laws and ordinances; and

WHEREAS, this ordinance is intended to regulate and license businesses operating within the incorporated limits of the Town of Dutch John and to provide a mechanism for the town to determine if businesses are operating within applicable laws and ordinances, and to promote the safety, health and prosperity, improve the morals, peace, good order, comfort and convenience for the general public, through inspections, where necessary;

NOW, THEREFORE, BE IT ORDAINED by the Town of Dutch John, Utah, as follows:

I. License Department Created.

There is created the Town of Dutch John license department which shall function directly under and be responsible to the mayor and town council.

II. License Director Position Created.

There is created the position of license director in the license department of the Town of Dutch John. The town clerk will serve as license director in the Town of Dutch John.

III. License required.

It shall be unlawful for any person to engage in, or carry out on, or operate any business in the Town of Dutch John without first making application for obtaining a license from the town for such business, and by paying in advance the license fee required therefore as provided in the town "Consolidated Fee Schedule".

IV. Transferability.

No license granted or issued under any of the provisions of any ordinance of the town shall be in any manner assignable or transferable or authorize any person other than the person therein mentioned or named to do business, or authorize any other business than is therein mentioned or named to be done or transacted, provided, that any person to whom one or more licenses have been issued to transact or carry on some business at a definite location in the town may, except as hereinafter provided, make application for the transfer of any or all of his licenses for the sole purpose of transaction or carrying on the same business as is therein mentioned at some other definite location in the town by himself, by filing the application with the council. The council, after receiving reports furnished by the license director, the enforcement officer and the health authorities, may, in their discretion, deny or grant the transfer of any or all of the licenses strictly within the limitations set out in this section.

V. Rules and regulations.

Rules and regulations covering health, safety, morals, peace, good order, comfort and convenience of the general public with respect to any business covered under this ordinance may be adopted by the Town Council and copies of such rules and regulations shall be made available to and displayed by the licensees affected thereby in a conspicuous place upon the licensed premises.

VI. Applications for licenses.

All applications for licenses shall be made in writing and submitted to the license department upon a prepared form which may be obtained from the department or the town website.

VII. Contents of application.

Each application shall show the following:

- 1) The name and address of the person desiring a license. If the applicant is a co-partnership, the names and addresses of the partners, and if a corporation, the names and addresses of all officers and directors.
- 2) The kind of license desired, stating the business to be performed, practiced or carried on;
- 3) The class of license desired, if such licenses are divided into classes;

- 4) The place where such business is to be carried on, giving the street number, if such business is to be carried on in any building or enclosure or stated location;
- 5) The actual cash value of the business sought to be licensed;
- 6) Such other facts and information as may be required by ordinance, the statutes of the state and town council;
- 7) Sales tax identification number.

VIII. Filing of application – Fee.

Each application for a license under this ordinance shall be filed by the applicant with the license department and shall be accompanied by the license fee required to be paid for the issuance of the license desired (see consolidated fee schedule). The fee may be in the form of cash, check or paid online through the Town's payment system made payable to the Town of Dutch John. Applications received by the license department shall be numbered in the order of their receipt and shall be filed in numerical sequence in the license department.

IX. Reciprocal recognition of licenses.

No license shall be required by the Town of Dutch John for any business whose only business activity in the town is the mere delivery of a service of merchandise sold or provided by them and whose regular place of business is located, licensed and maintained within unincorporated areas of Daggett County or the Town of Manila, where:

- 1) Such business or person is at the time of such delivery or service licensed by any of the above listed entities in which such place of business is situated; and
- 2) The authority licensing such business grants to licensees of the Town of Dutch John making delivery within its jurisdiction the same privileges, upon substantially the same terms as are granted by this section; and
- 3) Neither the facilities or equipment by which the product was manufactured, produced or processed are subject to inspection by any authority of the Town of Dutch John for compliance with locally adopted health, safety, fire, and building codes; and
- 4) The person or business providing a service or merchandise within the Town of Dutch John shall provide a copy of said license to the licensing clerk of the Town of Dutch John, and upon receiving such evidence of licensing, the town shall issue a Town of Dutch John business license and waive all license fees; and
- 5) Notwithstanding any of the above, should a business operate a facility in the town of Dutch John, as defined herein, whereby business activities are carried on, said

business will be required to pay the Town of Dutch John license fees, in addition to any fees required by any other entity.

6) Definition. "Facility" means stationary buildings or trailers, storage yards, etc.

X. Applications referred to the license department.

After receipt of an application for a license, such application shall be submitted to the Town Council at its next regular meeting unless, in the opinion of the license director, or as required hereby, the application is or should be referred to the enforcement officer, health authorities, fire department or other official body for investigation.

XI. Investigation.

Within 10 business days after receipt by the license department of such application for a license, the license director in their discretion may refer the application to the fire department, health authorities, enforcement officer, or other official or body for the purpose of investigation and inspection concerning the general reputation or character of the person making the application or directly interested therein; the general reputation of those who patronize the business; the nature or kind of applicant's business; whether such place is or has been conducted in a lawful, quiet, orderly and helpful manner; the conditions of health and safety of such premises, together with the other fact or facts which the mayor or town council should know in acting upon the application.

XII. Report of investigation.

Upon being requested to do so by the license director, the law enforcement, health authorities, fire department or other official or body shall conduct the investigation and inspection provided for in this ordinance and within five days after receiving such request submit to the mayor or town council or license director a report on such investigation and inspection, together with recommendations as to whether the license should be granted or denied.

XIII. Action of the council.

After receipt of the report and recommendation of the enforcement officer, health authorities, fire department or other body, the town council shall act upon the application as it shall deem just and proper in regard to granting or denying the same, or may order further information or investigations concerning the same.

XIV. Approval of application.

In the event the town council shall approve any application for a license, such approval shall be endorsed on the application and signed by the mayor and forwarded to the license director who shall forthwith issue a license certificate therefore.

XV. Denial of application.

In the event the town council shall deny any application for a license, the reason therefore shall be endorsed on the application by the mayor, and the town recorder shall return the fee deposited with the application to the applicant forthwith, together with the notice that the applicant may appear before the Town Council for the purpose of presenting reasons for setting aside such denial. If the applicant makes such an appearance and presents adequate justification, the council may, in its discretion, set aside the denial and approve the application.

XVI. Payment of fees – License period.

All licenses provided for in this ordinance shall, except as hereinafter provided, be payable annually in advance commencing January 1<sup>st</sup> of each year and, unless revoked as provided in this ordinance, shall be effective through the following December 31<sup>st</sup>, unless otherwise provided herein. A license for any business to be established may be issued at any time during the year.

XVII. Inspections.

Nonconsensual, nonemergency searches of the nonpublic portions of licensed businesses shall be pursuant to an appropriate search warrant. Searches of premises covered by specific provisions of the Utah Code Annotated or regulations adopted thereunder shall be made as provided for in such code or regulation.

XVIII. License certificates – Contents.

Every certificate of license shall bear upon its face the following:

- 1) The name of the person to which such certificate has been issued;
- 2) The amount paid for such license;
- 3) The kind of license and the class of such license;
- 4) The term of the license with the commencing date and the date of its expiration;
- 5) The place or places where such business is to be carried on;

6) The signature of the mayor attested by the town recorder.

XIX. Posting of certificates.

- 1) Every certificate of license issued shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the store or place in which such licensed business is carried on, so that the same may be easily seen.
- 2) When such certificates of license have expired, the licensee shall remove the same from the place in which it has been posted.

XX. Certificate to be shown to officials.

It shall be the duty of each and every person to whom a certificate or license has been issued to show the same at a proper time when requested to do so by the license director, enforcement officer or their deputies or any law enforcement officer.

XXI. Misuse of certificates.

It shall be unlawful to counterfeit a license or to deface or mutilate the same while it is required to be posted in the licensed premises or upon any amusement device, contrivance, game or machine or vehicle required by this ordinance to be licensed, or to remove it or attempt to remove it therefrom without destroying it, or use or permit the same to be used at any place other than that designated therein, or for any licensee to place or permit it to be placed or be in any other place of business or be upon one amusement device, contrivance, game, machine or vehicle after it has been placed in or upon another, or to place it or permit it to be placed in or upon any place of business, amusement device, game, machine or vehicle prohibited or declared to be unlawful by this ordinance or any other ordinance or law.

XXII. Business license classifications and fees.

Fees charged for business licenses and the classification of various classes of businesses shall be pursuant to resolution adopted by the town council. Any changes in classification or fee as applicable to a currently licensed business shall not be enforced until the current license expires.

XXIII. Home occupations.

The town council hereby finds that the transaction of business from a home in a residential zoning district tends to create an undue impact of a commercial nature on such residential zoning district which is not intended nor allowed by the town's zoning ordinance. The town council intends to encourage the majority of business activities to be conducted in appropriate commercial zones. Certain business activities may be conducted within a residence on a limited basis, if such activities comply with standards of this ordinance. All home occupations shall be secondary and incidental to the residential use. The use should be conducted so that neighbors, under normal conditions, would not be aware of its existence. Home occupations are a temporary privilege which can be revoked if disruption of the residential neighborhood occurs. Anyone found in violation of any of the following shall be in violation of both the zoning ordinance and the business license ordinance.

Defined: A "home occupation", as used herein, shall mean the conducting of any business, transaction or activity for which consideration of any nature is received, in any zone classified as residential under the zoning ordinance. Garage type sales do not constitute a home occupation.

Business license required: To assure compliance with provisions of this title and to protect the character of residential neighborhoods in the Town, a business license shall be obtained from the Town for a home-occupation before a dwelling unit in a residential zone may be used for business purposes.

Categories of permitted and non-permitted uses:

- 1) Non permitted: In order to minimize traffic and off street parking, and to avoid health and sanitation risks from the disposal of medical wastes, medical, chiropractic, dental and other health profession offices and tattoo parlors are specifically excluded as home occupations. Further, in order to minimize traffic and off street parking, to avoid toxic wastes, excessive noise, fumes, odors, health and sanitation risks, and uses not in harmony with residential neighborhoods, commercial welding, automobile repair and maintenance, automotive spray painting, auto body services, commercial kennels, commercial stables and repair of major appliances are specifically excluded as home occupations.
- 2) Permitted: Permitted home occupations, so long as they meet the conditions of this chapter, include, but are not necessarily limited to the following:
  - a. Artists, authors, architectural services, advertising
  - b. Barber and beauty shops
  - c. Consulting services, craft sales

- d. Contractors, provided there is no outside storage of equipment, and no more than one company vehicle stored on site.
- e. Dance class, aerobics class, music lessons, indoor swimming lessons, (not to exceed 5 students on premises at any 1 time).
- f. Data processing, computer programming and secretarial services
- g. Direct sales distribution, desktop publishing
- h. Family daycare (not more than 5 children)
- i. Garden produce
- j. Gun repair; provided, that the licensee holds all required federal and state licenses or permits, there are no more than twenty (20) guns or firearms for repair on site at any one time, submit to a criminal background check by the police department and an on-site premises inspection by the fire department.
- k. Home crafts
- l. Insurance sales or broker, interior design
- m. Janitorial services
- n. Mail order and internet sales
- o. Real estate sales, broker or appraiser,
- p. Sales representative

Garage type sales: Garage, basement, yard or other similar sales shall not be allowed more than a total of five (5) days in any calendar year. Such sales do not constitute a home occupation.

Issuance of License:

- 1) Procedure: The business license director may, upon application, issue a business license which shall state the home occupation permitted, the conditions attached thereto, and any time limitations imposed thereon. The business license shall not be issued unless the business license director, after review and approval by the planning and zoning department designee, and after review and approval of the legal department designee, is satisfied that the applicant will meet all of the conditions listed below and that the application has agreed in writing to comply with all said conditions.
- 2) Conditions: Each and every one of the following conditions must be observed at all times by the holder of a home occupation business license:
  - a. The holder of a home occupation business license must be a bona fide resident of the residence. Persons who are not bona fide residents of the residence shall not be employed at said residence. No employees, other than bona fide

residents of the residence, shall come to or be on the premises at which the home occupation is conducted, or any business purpose.

- b. The home occupation shall be conducted wholly within the residence and shall not exceed twenty-five percent (25%) of the total floor area of said residence. The home occupation shall not occupy any area within the garage, unless the garage still functions for parking, and as long as two (2) parking spaces for residential use are still available.
- c. Promotional meetings for the purpose of selling merchandise, taking orders or training shall not be held more than once (1) in any calendar month.
- d. No business or commercial sign or advertising shall be displayed on the premises.
- e. There shall be no storage of materials, samples, displays or supplies outdoors, nor shall any indoor storage be visible from the exterior of the residence. The display of goods and facilities for the display of goods are prohibited at the home occupation residence. In no case shall any materials, samples, supplies, machinery or equipment be left, placed, stored or parked on any public street or sidewalk, or any private street or sidewalk.
- f. In providing products or services at the home occupation residence, there shall be no use or storage of material or mechanical equipment not recognized as being a normal part of a household.
- g. Only one vehicle may be used in association with the home occupation.
- h. No home occupation shall be permitted that requires receipt or delivery of merchandise or goods for sale to the home occupation premises. No person may come to the home occupation premises to inspect or purchase any goods or materials. Sale of goods or materials shall be delivered to the customer by parcel or letter carrier mail service using vehicles typically employed in residential deliveries. No sales of goods or materials requiring delivery to a customer by semi-tractor trailer truck are permitted.
- i. The home occupation and the residence in which it is conducted shall comply with this code, fire, building, plumbing, electrical and health codes, and to all applicable federal, state, county and town laws and ordinances.
- j. The home occupation shall not cause a demand for municipal or utility services or community facilities in excess of those usually and customarily provided for residential uses.
- k. The home occupation shall not alter the residential character of the residence or unreasonably disturb the peace and quiet, including radio and television reception, of the neighborhood by reason of color, design, materials, construction, lighting, odor dust fumes, glare, sounds, noises or vibrations.
- l. The home occupation shall not cause, directly or indirectly, any excessive negative impacts on the residential neighborhood including, but not limited to,

noise, traffic (vehicular or pedestrian), or parking impacts, which cause three (3) or more persons residing within a five hundred foot (500') radius of the home occupation to file legitimate complaints, as determined by the business license director, with the town concerning the home occupation.

- m. Entrance from the outside to the area of the residence used for the home occupation shall be the same entrance normally used by the residing occupants, except when otherwise required by the state department of health or other government agency.
- n. Any special condition established by the business license director, after consultation and approval by the zoning and planning department designee, made of record in the home occupation business license, as deemed necessary to carry out the intent of this chapter, shall be met.
- o. Disabled persons can obtain a waiver of one or more of these conditions through the designee of the town licensing department to allow such persons to become self-sufficient.

**Federal, state, county, and local requirements:** A home occupation business license shall not be issued unless and until all other federal, state, county, local and other public agency license requirements to conduct said home occupation are met. Documentation to support compliance shall be submitted with the business license application.

**Inspection authority:** The zoning enforcement officer, business license director, or their designee, may at all reasonable times enter the residence for which a home occupation business license has been issued to ascertain compliance with this ordinance. They may also inspect such residence prior to the issuance of a home occupation business license. Refusal by the owner or occupant of the residence to allow such inspection, when requested, shall be grounds for denial or revocation of a home occupation business license.

**Noncompliance:** Any home occupation permit may be revoked by the town council after review and recommendation of the planning and zoning commission, upon failure to comply with the conditions imposed with the original approval of the permit.

**Nonconforming permits not renewable:** Notwithstanding any other provisions of this ordinance or any other ordinance of the town, any home occupation which becomes nonconforming upon adoption of this ordinance shall not be renewed when discontinued for any period greater than sixty (60) days by the present permittee. Home occupation permits shall not be transferred from one person to another, nor from one location to another.

**Revocation:** Any home occupation business license shall be revoked by the business license director upon violation of any requirements of this ordinance, or upon failure to comply with any of the conditions or limitations of the license, unless such violation is corrected within three (3) business days of receipt of written notice thereof. A home occupation business license may be revoked by the business license director for repeated violations of the requirements of this chapter, notwithstanding compliance with the violation notice.

**Appeal:** In the event of denial of any home occupation business license or of the revocation thereof or of objection to the limitations placed thereon, based on noncompliance with town zoning ordinances, appeal may be made to Town Council.

**XXIV. Mobile or food vendor.**

No person shall vend or sell food items as a mobile food vendor in the town without first obtaining a business license from the town or in the alternative the mobile food vendor shall present to the town a business license issued by another political subdivision, a current health department food truck permit and a current fire safety inspection.

**XXV. Exemptions to license.**

- 1) **Tax Exempt Businesses:** No license fee shall be imposed on any person engaged in business for the following purposes:
  - a. Solely religious, charitable, or other types of strictly nonprofit purpose which is tax exempt in such activities under the laws of the United States and the State of Utah.
  - b. Home occupation businesses as defined in this ordinance.
  - c. Any business that is operated occasionally by an individual under the age of 18.
  - d. Any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state;
  - e. Any person not maintaining a place of business within the town who has paid a like or similar license tax or fee to some other taxing unit within the state and which taxing unit exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in the town and doing business in such other taxing unit.
- 2) **Reciprocal Agreements with Other Agencies:** The license director may, with approval of the Town Council, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper in effecting the exemption provided for in subsection 1 of this section.

XXVI. Certain business licenses excluded.

It is further provided that this ordinance does not extend to the license of taverns or beer parlors, sexually orientated businesses, solicitation, and retail tobacco which are covered by other ordinances (see town website for other ordinances).

XXVII. Violation – Penalty.

All persons violating the provisions of this ordinance shall be guilty of an infraction and, upon conviction, be fined in a sum not to exceed \$500.00.

This Ordinance shall become effective immediately upon publication or posting as set forth by state law. A notice of enactment of the Ordinance shall be published and shall be posted on the public notice website, three public places, and the town website.

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

TOWN OF DUTCH JOHN

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Lester “Butch” Johns, Mayor

ATTEST:

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Amy McDonald, Recorder