

**ESCALANTE CITY
ORDINANCE 2022-01**

AN ORDINANCE AMENDING ESCALANTE CITY CODE NO 3.04.40 (A), (C 10) AND 3.40.070 (B) AND PROVIDING REPEALER WITHIN THE CITY OF ESCALANTE, STATE OF UTAH.

WHEREAS, , the City Council, as the governing body of the City of Escalante, State of Utah, specifically finds that it is in the best interest of the safety and welfare of the citizens of the City of Escalante to amend the following Ordinance; and

WHEREAS, The City Council and Mayor wish to amend such an Ordinance.

NOW THEREFORE, be it ordained by the Council of Escalante City, in the State of Utah, as follows:

SECTION 1: **AMENDMENT** “3.04.040 Fee For License” of the Escalante Municipal Code is hereby *amended* as follows:

AMENDMENT

3.04.040 Fee For License

A. Imposed: There is hereby imposed and levied an annual business license fee on the types of businesses and in the amounts described in the business license fee schedule, as follows:

Category	Base	Police	Fire	Total
General business	\$25.00	\$10.00	\$10.00	\$45.00
Home occupation A (inspections required if opened to the public)	20.00	5.00	5.00	30.00
Home occupation B (no inspections required)	2 \$20.00			2 \$20.00
Temporary/ <u>Special Events</u> (fruit stand, fireworks, craft fair, etc.)	2 \$0.00			2 \$0.00

B. Refund Of Fee; Conditions: Unless otherwise provided herein, no business license fee is refundable for any reason whatsoever once the license has been issued. If a license be denied, the applicant shall be entitled to a refund of the amount paid in excess of twenty five dollars (\$25.00), which shall be retained to onset application processing costs.

C. Exceptions To Fee: No business license fee shall be imposed under this section upon

the following persons or businesses:

1. Any person engaged in business for solely religious, charitable, eleemosynary, or other types of strictly nonprofit purposes, who is tax exempt in such activities under the laws of the United States and the state of Utah, nor shall any business license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state of Utah; nor shall any business license fee be imposed on any nonprofit corporation duly incorporated according to the provisions of the Utah nonprofit corporation and cooperative association act.
2. Any insurance company or agent, for so long as state law exempts them.
3. Any contractor holding a valid license issued by the local jurisdiction in which the licensee has its principal place of business,,and by the state under the Utah Code 58-55, Part 3.
4. Any alarm company holding a valid business license issued by the local jurisdiction in which the licensee has its principal place of business.
5. An owner of a building containing two (2) or fewer rental dwellings.
6. Any tow truck motor carrier holding a valid business license to perform tow truck service issued by the local jurisdiction in which the licensee has its principal place of business unless the tow truck business is also physically located in the city.
7. Any sales or merchandise damaged by smoke or fire or of bankrupt concerns, where such stocks have been acquired from merchants of the city theretofore, regularly licensed and engaged in business; provided, however, no such stocks or merchandise shall be augmented by other goods.
8. Any person who sells his/her own property which was not acquired for resale, barter or exchange and who does conduct such sales or act as a participant by furnishing goods in such a sale more than twice during any calendar year.
9. Any person selling surplus household goods or furnishings at a private residence in the garage or yard, if such a garage sale is held no more frequently than three (3) days in any one calendar quarter at the same residence.
10. Any resident of the municipality to operate a home-based business, unless the combined offsite impact of the home-based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone.

D. Due And Payable: The annual business license fee shall be due and payable to the city on or before January 1 of each year for license renewals. If the license renewal fee is not paid on or before January 15 of the year in which the renewal license is due, there shall be a business license enforcement fee imposed of twenty five percent (25%) of the license fee imposed by this section or twenty five dollars (\$25.00), whichever is greater. If the license renewal fee is not paid in full on or before February 15 of the year in which the renewal fee is due, the business license enforcement fee shall be increased to fifty percent (50%) of the license fee imposed by this chapter or twenty five dollars (\$25.00), whichever is greater. If the renewal license fee is not paid on or before March 1 of the year in which the renewal license fee is due, the business license enforcement fee shall be increased to one hundred percent (100%) of the license fee

imposed by this chapter. Previously unlicensed businesses shall be issued a license for the unexpired portion of the calendar year in which issued unless prorated to include the following year.

- E. Fee Declared Debt; Collection: Any license or tax due and unpaid under this title and all penalties thereon shall constitute a debt to the city and may be collected by court proceedings in the same manner as any other debt, or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies.

SECTION 2: **AMENDMENT** “3.04.070 Inspections” of the Escalante Municipal Code is hereby *amended* as follows:

AMENDMENT

3.04.070 Inspections

- A. Authority Of City: The city may at any time inspect the business premises during normal business hours or request business documents to verify information offered in a new application or by an existing licensee.
- B. Code Compliance: Prior to the issuance of a license to engage in a business not previously licensed at that location, or a business with a change of location, the applicant shall permit inspection of the prospective place of business to ensure compliance with building, fire and health codes. Businesses licensed within the city may be inspected periodically for compliance with building, fire, ~~and~~ health codes and any conditions that were applied to the business license during approval. Failure to comply with city codes may result in revocation of the business license.

SECTION 3: **AMENDMENT** “3.12.010 Definitions - Retail Tobacco Specialty Business” of the Escalante Municipal Code is hereby *amended* as follows:

AMENDMENT

3.12.010 Definitions - Retail Tobacco Specialty Business

RETAIL TOBACCO SPECIALTY BUSINESS: has the same meaning as defined in Utah Code § 17-50-333 (1)(b), as amended: a commercial establishment in which:

- A. The sale of tobacco products amounts for more than 35% of the total annual gross receipts for the establishment;
- B. Food and beverage products, excluding gasoline sales, is less than 45% of the total annual gross receipts for the establishment; and
- C. The establishment is not a licensed pharmacy under Utah Code.

TOBACCO PRODUCT: is defined in Utah Code § 17-50-333c, as amended, to mean any cigar, cigarette, or electronic cigarette, as well as any product made of or containing tobacco, including chewing tobacco or any substitute for a tobacco product, including flavor or additives to tobacco. “Tobacco product” also includes tobacco paraphernalia.

TOBACCO PARAPHERNALIA: is defined in Utah Code § 76-10-104.1 as amended, means any equipment, product, or material of any kind which is used, intended for use, or designed for use to package, repack, store, contain, conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the human body, excluding matches or lighters but including:

- A. metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screen, hashish heads, or punctured metal bowls;
- B. water pipes;
- C. carburetion tubes and devices;
- D. smoking and carburetion masks;
- E. roach clips; meaning objects used to hold burning material, such as a cigarette that has become too small or too short to be held in the hand;
- F. chamber pipes;
- G. carburetor pipes
- H. electric pipes;
- I. air-driven pipes;
- J. chillums;
- K. bongs; and
- L. ice pipes or chillers.

PASSED AND ADOPTED BY THE ESCALANTE CITY COUNCIL FEBRUARY 15, 2022.

	AYE	NAY	ABSENT	ABSTAIN
Councilmember Chad Lyman	_____	_____	_____X_____	_____
Councilmember Dan'l Lindsay	_____X_____	_____	_____	_____
Councilmember Marlene Stowe	_____X_____	_____	_____	_____
Councilmember Guy Graham	_____X_____	_____	_____	_____
Councilmember Lenza Wilson	_____X_____	_____	_____	_____

Presiding Officer

Attest



Melani Torgersen, Mayor, Escalante City



Stephanie Steed, CMC, City Recorder Escalante City

