



**TITLE #:** 4  
**Ordinance #:** 07-20-10-006

**Date:** 07-20-2010  
**Latest Revision Date:** 10-18-2011

## **AN ORDINANCE ESTABLISHING BUSINESS LICENSES within the TOWN of CHESWOLD**

**DESCRIPTION:** The Town Council of the Town of Cheswold recognizes the importance of attracting and maintain businesses within the Town limits, in order to generate growth and provide services to Town residents and visitors.

And although these businesses are an asset to the community, they also create costs to the Town, that should not be passed on to the non-business property owners or residents.

### **Section 1. PURPOSE.**

- 1.1** The purpose of this article is to provide for the establishment of fees and processes associated with the building, addition, alteration and/or demolition of any building structure, or goods and services provided within the Town limits of Cheswold.
- 1.2** And additionally to establish a fair and equitable method of licensing various business types operating within the Town in any given fiscal year.
- 1.3** This Ordinance is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other sections of the Town Charter, Codes or Ordinances of the Town of Cheswold, nor does it invalidate the current Business License Ordinance, until such time as the this Ordinance is approved by a majority vote of the Town Council.
- 1.4** Where this Ordinance imposes a greater restriction upon persons, premises or personal property than is imposed or required by the Charter of the Town of Cheswold, the restrictions imposed by this Ordinance shall control.

### **Section 2. APPLICABILITY.**

- 2.1** On and after the date of enactment of this Ordinance, no person shall conduct or engage in any trade, business or occupation, within the Town of Cheswold, for which a license is required, unless they meet the standards of Section 14 of this Ordinance.
- 2.2** This article shall apply to all businesses, contractors, persons and wholesalers operating within the Town limits of Cheswold.

**Section 3. DEFINITIONS.**

As used in this article, the following terms shall have the meanings indicated:

- 3.1 Business** – All kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefits, either directly or indirectly, on any premises in this Town, or anywhere within its jurisdiction.
- 3.2 Contractor** – shall include every person engaged in the business of furnishing labor or both labor and materials in connection with all or any part of the construction, alteration, repairing, dismantling or demolition of buildings and every other type of structure as an improvement, alteration or development of real property; a person is a contractor, regardless of whether he is a general contractor or a subcontractor, or whether he is a resident or a non-resident.
- 3.3 Person** – includes all individuals, partnerships, firms, businesses, cooperatives, organizations, corporations or any association of people acting individually or as a unit, and can be either male or female.
- 3.4 “Private” Community** – any group of housing within the corporate limits of Cheswold, whose home owners are additionally subject to the rules and regulations of a Home Owners Association or those of a land owner on whose land the home resides, and typically requires approval from the Association or Property Manager before effecting any changes to their external home or land, which requires a permit from the Town.
- 3.5 Wholesaler** – shall include suppliers of goods and services to persons engaged in business and contractors.

**Section 4. – LICENSE APPLICATION REQUIREMENTS**

- 4.1** All information shall be printed or typed and be legible to the Town employee accepting the form.
- 4.2** The disclosure of information necessary to qualify the applicant, and any other information which the Town employee deems reasonably necessary to the administration of this Ordinance is also be required.
- 4.3** The license history of the applicant, whether that person is presently or previously operating in Delaware or another State – whether the applicant has had a license suspended or revoked and the reason for such action.
- 4.4** The applicant must not be in default under this Ordinance, indebted or obligated in any manner to the Town, except for current taxes.
- 4.5** For applications associated with building construction or repair, applicants may be required to furnish a Certificate of Occupancy, issued by either Kent County or the Town of Cheswold, to the effect that the proposed use of a building is not in violation of the Town’s Land Use/Zoning Ordinance or any other rule or regulation of the Town.

**Section 4. – LICENSE APPLICATION REQUIREMENTS**

- 4.6** For applications associated with land development, applicants may be required to furnish a certified document indicating the proposed use or change of use for the land, issued by either Kent County or the Town of Cheswold, to the effect that the proposed land use is not in violation of the Town’s Land Use/Zoning Ordinance or any other rule or regulation of the Town.
- 4.7** The applicant must provide the following:
- 4.7.1** Completed copy of a Town of Cheswold Business License application (*See Business License Application – PW 09-13-2010-001*)
  - 4.7.2** True and current copy of State of Delaware Business License
  - 4.7.3** True and current copy of Certificate of Liability Insurance
    - 4.7.3.1** If the liability insurance is set to expire prior to the issuance of the Town of Cheswold Business License, the applicant must provide the Town with an updated insurance certificate, that expires past the expiration date of the Town of Cheswold Business License.
    - 4.7.3.2** The penalty for failure to produce an updated copy of the Certificate of Liability Insurance is set forth in Item 7.
    - 4.7.3.3** And if issued the applicant may also face suspension of their Town of Cheswold business license, after official notification of such to the applicant.
    - 4.7.3.4** There is the possibility of a violation, summons and criminal prosecution for the failure to produce current liability insurance. (*See Section 5.6 & 5.7 – Determination of Fees*)
  - 4.7.4** Plot plan, if work to be done involves land use
  - 4.7.5** Projected project cost
  - 4.7.6** Materials list
  - 4.7.7** Anticipated Start Date
  - 4.7.8** Anticipated Completion Date
  - 4.7.9** Contractor Name, Address and Phone Number
- 4.8** Any person desiring to conduct the business of dealing in goods or providing services, shall not be permitted to conduct or carry on such business within the Town of Cheswold, until such person has first secured a Business License and paid for such to the Town. (*See Business License Fee Schedule – PW 09-13-2010-002*)

**Section 4. – LICENSE APPLICATION REQUIREMENTS**

- 4.9** A license shall be obtained for each branch, establishment or location in which business is conducted, as if each branch or establishment or location were a separate business; provided that warehouses and distribution plants used in connection with and incidental to a licensed business, under the provisions of this Ordinance, shall not be deemed to be separate branches, establishments or locations of business.

**Section 5. – DETERMINATION of FEES**

- 5.1** License fees shall be in the amount stated in this Ordinance per person or organization and shall be payable annually at the beginning of the fiscal year, (July 1 of each year).
- 5.2** No license shall be prorated during the year.
- 5.3** The fees listed herein may be revised from time to time at the sole discretion of a majority vote of the Town Council of the Town of Cheswold. (*See Business License Fee Schedule – PW 09-13-2010-002*)
- 5.4** In the event that the license fee is not paid within thirty, (30), days of the date when the license is required, then the licensee shall incur a civil penalty in the amount of ten percent, (10%), of the amount of the license fee, per month, until the same is paid.
- 5.5** Each day the license fee is delinquent and not paid shall constitute a separate violation and a summons may be issued to initiate a criminal prosecution for each day the license fee goes unpaid.
- 5.6** In the event that a true and current copy of the certificate of insurance is not provided within thirty, (30), days of the date when the license is required, then the licensee shall incur a civil penalty in the amount of ten percent, (10%), of the amount of the license fee, per month, until the same is paid.
- 5.7** Each day the certificate of insurance is delinquent and not paid shall constitute a separate violation and a summons may be issued to initiate a criminal prosecution for each day the license fee goes unpaid.
- 5.8** Failure to adhere to the requirements of the waste disposal procedure, (*See Section 7.1.5 - General Standards of Conduct*), will result in the issuance of a summons to the licensee in a civil penalty, in the amount of \$100.00.
- 5.9** Each day in which the materials are not properly disposed will constitute a separate violation a summons will be issued to initiate a criminal prosecution for day, until the materials are properly disposed.
- 5.10** Any person convicted of a violation of this Ordinance shall be fined not less than fifty dollars, (\$50.00), nor more than two hundred dollars, (\$200.00), or upon failure to pay such fine as shall be imposed, shall be imprisoned for not more than thirty, (30), days.
- 5.10.1** Jurisdiction over such violation is hereby vested in Justice of the Peace Court No. 7.

**Section 6. – RESTRICTIONS**

- 6.1** Business Licenses cannot be transferred to another person, for any reason, or at any time.
- 6.2** A license granted which specifies the place of business thereby licensed, shall not authorize the licensee to carry on any trade, business, pursuit or occupation specified in such license, in any other place than the place of business set forth in such license.
- 6.3** If a licensee changes the location of the place of business specified in the Business License, during the period for which the license has been issued, the license may be transferred to such new location.

**Section 7. – GENERAL STANDARDS of CONDUCT**

- 7.1** Every licensee under this Ordinance shall:
  - 7.1.1** Comply with all governing laws, Ordinances and Code of the State of Delaware and the Town of Cheswold.
  - 7.1.2** Avoid all forbidden, improper or other practices or conditions which may or do affect the public health, morals or welfare.
  - 7.1.3** Not operate any business after the expiration of a license of that business or during the period of suspension or revocation of a license to operate a business.
  - 7.1.4** Not permit any construction to occur between the hours of 8:00 p.m., and 7:00 a.m., prevailing time, which requires outside lighting or which produces noise which would reasonably be expected to disturb any person in the neighborhood.
  - 7.1.5** Remove all discarded materials and debris from the work site by 8:00 p.m., unless there is a dumpster on site for removal purposes.
  - 7.1.6** All hazardous materials and waste must be discarded as prescribed and described by the State of Delaware Hazardous Waste Management Program and Title 7 – Chapter 77 of the Delaware Code. (See Section 5.8 & 5.9 – Determination of Fees)
- 7.2** No building permits will be issued to unlicensed contractors.

**Section 8. – DISPLAY of BUSINESS LICENSE**

- 8.1** Every Business License under this Ordinance shall post and maintain in a readable condition, the license upon the licensed premises, in a place where it may be seen at all times.
- 8.2** Every licensee under this Ordinance selling goods or providing services, without the standard definition of a premise, must be able to produce their Business License upon request to any authorized agent of the Town of Cheswold.

**Section 9. – “PRIVATE” COMMUNITIES**

- 9.1 All person, contractors, wholesalers desiring to conduct business within “private” communities, located within the corporate limits of the Town of Cheswold must comply with the Business License regulations set forth in this Ordinance and shall provide the information requested for Business License applications, *(See License Application Requirements - Section 4.4.2 to 4.7.9)*, to their associated community Property Manager.
  
- 9.2 Upon receipt of approval from the associated community Property Manager, the Town of Cheswold will issue a Business License if the applicants meets all other requirements of this Ordinance.

**Section 10. – CODE ENFORCEMENT OFFICERS**

- 10.1 All Code Enforcement officials, duly employed by the Town of Cheswold shall serve as licensed agents and shall assist with enforcement of this Ordinance.
  
- 10.2 All Police Officers, duly employed by the Town of Cheswold shall also serve as licensed agents and shall assist in the enforcement of this Ordinance.

**Section 11. – COMPLAINTS**

- 11.1 **License Approval Complaints** – Any person aggrieved by any decision of any agent of the Town of Cheswold, in relation to the licensing process of this Ordinance, shall have the right to a hearing before the Mayor and Town Council, by filing a written request within ten, (10), days following the effective date of the action taken or rendering of a decision.
  - 11.1.1 The application shall include a statement of facts relied upon by the applicant to avoid the action taken or the rendered decision.
  
- 11.2 **Licensee Workmanship Complaints** – The Town Council of the Town of Cheswold will review and consider evidence of workmanship malfeasance substantiated by a State of Delaware court ruling in favor of the citizen and/or resident against a licensee.
  - 11.2.1 Such consideration may be adjudicated by the revocation or suspension of the Town of Cheswold Business License and/or the restriction against the licensee to operate within the corporate limits of the Town of Cheswold, if the licensee is deemed by the appropriate authority, to be a threat to the health, safety and/or welfare of the Town of Cheswold community.

**Section 12. – STOP WORK ORDERS**

**12.1** The Town Council of the Town of Cheswold will maintain and employ the authority to issue Stop Work Orders, in situations that have been inspected by duly authorized Code Enforcement Officers of the Town, and have been deemed to be in violation of the rules, regulations, Codes, Ordinances or the Town Charter.

**12.1.1** Said violator may be subject to a fine as described Violations Fee Schedule. *(See Violations Fee Schedule – PW 09-13-2010-009)*

**12.2** No person may resume work at a location posted with a Stop Work Order, until a release has been obtained from a Code Enforcement Officer.

**12.2.1** Resuming work without proper authorization to do so, will result in an additional fee and may result in the issuance of a summons to initiate a criminal prosecution for each day the work continues without authorization. *(See Violations Fee Schedule – PW 09-13-2010-009)*

**Section 13. – OTHER ACTIONS ASSOCIATED to VIOLATIONS**

**13.1** Any person failing to comply with any provision of this Ordinance shall be deemed to be in violation of their agreement to operate in the Town of Cheswold.

**13.2** No civil judgment by the Town of Cheswold shall bar or prevent a criminal prosecution for each violation of this Ordinance.

**13.3** The amount of any unpaid fee, shall constitute a debt to the Town of Cheswold.

**13.4** Violations will be assessed, if not corrected, within 48 hours of receipt of the violation notice.

**13.5** Each day of non-compliance shall constitute a separate, severable and distinct violation of this Ordinance and fees shall be assessed as specified in Section 5.10 of this Ordinance.

**Section 14. – EXCEPTIONS**

**14.1** The Town shall issue special permits, without the payment of any license fees, to any person for the conduct or operation of a non-profit enterprise, either regularly or temporarily, when it is found that the applicant operates without private profit for a public, charitable, educational, literary, fraternal or religious purpose.

**14.2** No license shall be required of any person for any mere delivery in the Town of any property purchased or acquired in good faith from another person at his regular place of business outside of the Town where no intent by that person is shown to exist to evade the provisions of this Ordinance.

**14.3** Non-resident wholesalers shall not require a business license.

**Section 15. – EFFECTIVE DATE**

15.1 This Ordinance and the rules, regulations, provisions, requirements, orders, administration and management and matters established and adopted hereby shall take effect and be in full force effective November 8, 2011, from and after the date of its final passage and adoption.

Although replacing the previous Business License Ordinance, this Ordinance does not negate the authorities and procedures in effect, prior to the approval of this Ordinance

**Ordinance No. 07-20-2010-006 entitled, Establishing Business Licenses within the Town of Cheswold, was totally revised and duly adopted by a majority vote of the Cheswold Town Council at the Council meeting held on November 7, 2011, at which a quorum was present.**

**I, Jeannette Williams, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of the Act passed by affirmative vote of all elected Members of the Cheswold Town Council on Monday, November 7, 2011.**

**Certified:** \_\_\_\_\_  
**Mayor**

**Date: November 7, 2011**

**ATTEST:** \_\_\_\_\_  
**Secretary/Treasurer**

**Date: November 7, 2011**

**Agreed:** \_\_\_\_\_  
**Vice-Mayor**

**Date: November 7, 2011**

**Agreed:** \_\_\_\_\_  
**Councilperson**

**Date: November 7, 2011**

**Agreed:** \_\_\_\_\_  
**Councilperson**

**Date: November 7, 2011**

**Agreed:** \_\_\_\_\_  
**Councilperson**

**Date: November 7, 2011**

**Sponsored by: Theon E. Callender – Councilperson**

**Date: October 14, 2011**