

**ORDINANCE NO. 23-29**

**An Ordinance of the City Council of the City of Whitefish, Montana, amending the City's Business Licensing Provisions to reflect the new Business Registration Program.**

WHEREAS, City Business Licensing Provisions, Title 3, Chapter 1, were adopted by Ordinance A-420 on November 1, 1982; and

WHEREAS, pursuant to Ordinance No. 10-18, adopted by the City Council on December 6, 2010, certain amendments were made to make business licensure site specific as part of its zoning compliance process; and

WHEREAS, pursuant to state law changes during the 2023 Montana Legislative Session, the City is revamping its Business Licensing Program into a Business Registration Program; and

WHEREAS, as a municipal corporation with its own governmental charter, the City is a self-governing unit that may exercise any power not prohibited by the Montana Constitution, state law or its own charter; and

WHEREAS, the City's power and authority are liberally construed, with every reasonable doubt as to the existence of a power or authority resolved in favor of the power or authority's existence; and

WHEREAS, the City possesses an inherent power to enact reasonable legislation for the health, safety, welfare, or morals of the public; and

WHEREAS, the City's proposed Business Registration Program is not intended to require additional licensing when the state is the original issuer of the license but rather is intended to promote public health, safety and welfare through the provision of emergency contact information for short-term rentals, regular fire inspections of businesses and other entities and confirmation of liability insurance for contractors, as well as to allow the City to track and collect resort tax; and

WHEREAS, City staff prepared amendments to the Whitefish City Code covering Business Licenses, as shown in Exhibit "A", including the changes based on new state law adopted during the 2023 Montana Legislative Session; and

WHEREAS, notice of a public hearing at which the proposed amendments would be considered by the City Council was published in conformity with § 7-1-4127, MCA; and

WHEREAS, at a public hearing held by the City Council on November 20, 2023, the Whitefish City Council received and considered oral and written reports by City staff, received public input, and considered the proposed amendments; and

WHEREAS, it will be in the best interests of the City of Whitefish, and its inhabitants, to adopt the proposed amendments to the City's Business Licensing Provisions to reflect the proposed Business Registration Program.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Whitefish, Montana, as follows:

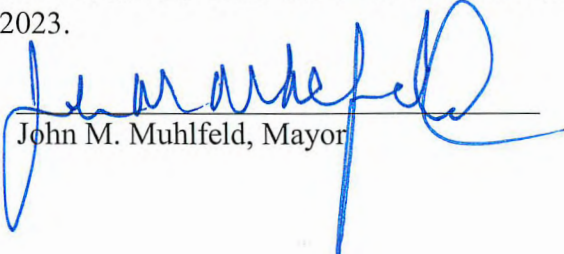
Section 1: All of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: The amendments to the City's Business Licensing Provisions as shown in Exhibit "A," attached hereto and incorporated herein by reference, are hereby adopted. Language that has been stricken is shown interlineated and language that has been added is shown underlined.

Section 3: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 4: This Ordinance shall take effect thirty (30) days, after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor or Deputy Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS 20TH DAY OF NOVEMBER 2023.

  
John M. Muhlfeld, Mayor

ATTEST:


  
Michelle Howke, City Clerk

EXHIBIT "A"

TITLE 3

BUSINESS ~~AND LICENSE~~ REGULATIONS

CHAPTER 1

BUSINESS ~~LICENSING REGISTRATION~~ PROVISIONS

SECTION:

3-1-1: Construction

3-1-2: Definitions

3-1-3: ~~License-Registration~~ Required

3-1-4: ~~License-Registration~~ Fees

3-1-5: ~~Business Registration~~ Application ~~For License~~

3-1-6: Conditions ~~Of License~~

3-1-7: Lodging Establishments; Registration Of Guests

3-1-8: ~~License-Registration~~ Revocation

3-1-9: Fine Or Penalty

3-1-1: CONSTRUCTION:

Business registration promotes public safety through the provision of emergency contact information, regularly scheduled fire inspections, and confirmation of liability insurance, if applicable. Business registration also assists the city to ensure compliance with other regulations and ordinances. No provision contained in this chapter ~~shall-will~~ be construed so as to license any trade, business, occupation, vocation, pursuit, profession or entertainment prohibited by the constitution or laws of the United States, or the constitution of the state of Montana.

3-1-2: DEFINITIONS:

For the purposes of this chapter, the words set out in this section ~~shall~~ have the following meanings:

CONTRACTOR: A person or business that builds, repairs, or installs materials or devices on new or existing commercial and residential property in the city.

GENERAL BUSINESS: All businesses and professions requiring ~~a licenseregistration~~ other than those ~~licensed-registered~~ as ~~special-category or a contractor,~~ -home occupation or short-term rental.

HOME OCCUPATION: All businesses or offices operated out of home and defined in section 11-9-2 of this code.~~the zoning title 1.~~

SHORT-TERM RENTAL: All businesses renting an entire furnished privately owned house, townhouse unit, condominium unit, apartment or other residence, or any space within a dwelling unit rented independently, for stays of less than thirty (30) days to transient guests or tourists.

~~SPECIAL CATEGORY: All businesses in a special category as provided herein.~~

~~TRANSFERS: A fee for all license holders to transfer ownership or sites.~~

#### Notes

1. ~~See section 11-9-2 of this code.~~

#### 3-1-3: LICENSE REGISTRATION REQUIRED:

No ~~person, partnership, company, corporation, or any other entity~~ contractor, general business, home occupation, or short-term rental shall ~~will~~ conduct, operate, transact, or engage in business of any kind within the city before first ~~submitting an application and obtaining registering with approval for a business license from~~ the city. Failure to ~~obtain register~~ a business license prior to operating a business in the corporate limits of the city constitutes a violation of this chapter.

#### 3-1-4: REGISTRATION EXEMPTION:

Licensed professionals by the State of Montana, including but not limited to physicians, chiropractors, nail technicians, attorneys, real estate agents, certified public accountants, and insurance professionals are exempt from business registration.

#### 3-1-~~45~~: LICENSE REGISTRATION FEES:

A. Fee Schedule: The city council, by resolution, shall ~~will~~ adopt a business license registration fee schedule which shall ~~be applied~~ will apply to all businesses, persons or entities which the city ~~licenses~~ registers.

B. Collection: The city manager shall ~~will~~ be charged with the collection of the fees ~~for the licenses~~ required by this chapter through the appropriate city official designated by the city manager.

C. Classification: When there is any doubt about the classification of the fee to be paid ~~for a license~~ under this chapter, the matter shall ~~will~~ be referred to the city manager.

D. Payment Of Fees: Except as otherwise provided herein, all license-registration fees shall will be payable annually in advance and on or before January 1. Any license-registration issued after July 1 of each year shall-will be issued at one-half (1/2) the yearly fee. All licenses registrations shall-will expire on December 31 of each year.

E. Late Fee: On late renewal, a late fee, as established by resolution of the city council, plus two percent (2%) of the license-registration fee per month or any portion thereof, shall-will be assessed. This penalty shall-must be paid prior to the issuance of a renewal licenseregistration.

### 3-1-~~56~~: BUSINESS REGISTRATION APPLICATION FOR LICENSE:

Applications for licenses-business registration shall-must be obtained from and filed with the city. All applications, when filed, shall-must be accompanied with the necessary fees and ~~shall be~~ signed by the applicant. The form of the application shall-will be determined by the city manager.

### 3-1-~~67~~: CONDITIONS OF LICENSE:

A. Display Of LicenseRegistration: The proof of city licenseregistration, issued pursuant to the provisions of this chapter, shall-must be conspicuously displayed in such a manner that a city official may observe the same upon entering the licensee's place of business.

B. Licensee-Subject To Regulations: Every person licensed-registered under the provisions of this chapter shall-be-is subject to regulation, inspection, control and supervision under the general police power of the city and of all of the provisions of this code and ordinances of the city now in force, or which may hereafter be adopted, in aid of such police power and regulation. ~~Nothing in this chapter contained creates any vested right in any person to the assignment, renewal, reissuance or continuance of any license.~~

C. Separate License-Registration For Each Business And Location: Except as otherwise provided, a separate license-registration must be procured and fee paid when registration a license is required by the provisions of this chapter, for each business and business location.

~~-D. Contractors must provide proof of general liability insurance with per occurrence limits of at least \$300,000 at time of application and renewal for business registrations. Contractors with paid employees, excluding state licensed electricians and plumbers, must also submit a copy of the State of Montana Department of Labor and Industry Certificate of Contractor Registration.~~

E. All businesses with a physical location in the city are subject to fire safety inspections by the city's Fire Marshall. Frequency of fire inspections depend on the type of business in accordance with city ordinance, State Law, and the program established by the Whitefish Fire Department.

### ~~3-1-7: LODGING ESTABLISHMENTS; REGISTRATION OF GUESTS:~~

#### ~~—A. Register Required:~~

~~—1. The owner, lessee or manager of every hotel, lodging or rooming house, or place where rooms are rented or let within the limits of the city, except private houses, shall provide a register for such hotel, lodging or rooming house.~~

~~—2. The register shall be kept in public view upon the premises of such hotel, lodging or rooming house, and shall be subject at all times to inspection. (Ord. 95, 12-17-1912)~~

~~—B. Entries Into Register Required: It is made the duty of every owner, lessee, manager or person in charge of such hotel, lodging or rooming house to require each person applying for a room or rooms therein, to write his name in the register before allowing such person to occupy the room or rooms. This provision shall be applicable whether the room or rooms are occupied temporarily or permanently. (Ord. 95, 12-17-1912; amd. 2003 Code)~~

### ~~3-1-8: LICENSE REVOCATION:~~

~~—A. Grounds For Revocation: The city manager may revoke and cancel any license issued by the city for fraud or misrepresentation in its procurement, or for a violation of any of the provisions of this code or any other ordinances of the city, or any state or federal statute.~~

~~—B. Notice Of Denial Or Revocation: Denials of applications or revocations of city licenses shall be made in writing, and the applicant shall be notified by certified mail, return receipt requested. The notice shall be mailed within three (3) working days of denial or revocation.~~

#### ~~—C. Appeals:~~

~~—1. An applicant, who has been denied a license or whose license has been revoked, may appeal said denial or revocation to the city council by notice in writing filed with the city clerk within ten (10) days of the date of denial or revocation. The notice shall state any reasons supporting the grant of a license, the applicant's correct mailing address, and shall be signed by the applicant. The city clerk shall cause the matter to be placed on the next regular city council agenda, not less than ten (10) days after receipt of notice of appeal. The applicant shall be notified in writing by certified mail, return receipt requested, of the date and time the matter will be considered on the agenda. The applicant may appear at the time and place and be heard.~~

~~—2. If an appeal is taken, no license shall be issued while the same is pending.~~

~~—D. Fee Disposition On Denial Or Revocation: Upon denial of a business license, the business license fee or an appropriate sum as established by resolution of the city council, whichever is less, shall be retained by the city as an administrative fee for processing the application and the balance, if any, shall be refunded to the applicant after the period for appeal has elapsed. The same fee shall be retained if the application is withdrawn prior to final city action. On revocation, the city shall retain the license fee.~~

3-1-98: FINE OR PENALTY:

Every person who willfully violates or who procures, aids or abets in the willful violation of this chapter or any regulation adopted pursuant thereto, ~~shall~~will be deemed guilty of a misdemeanor and, upon conviction, ~~shall~~will be punished as provided in the general penalty in section 1-4-1 of this code. Every person who willfully violates or who procures, aids or abets in the willful violation of this chapter or any regulation adopted pursuant thereto, ~~shall~~will be deemed to have committed a municipal infraction, and ~~shall~~will be assessed the civil penalty described in section 1-4-4 of this code. Each day that a violation remains ~~shall~~will constitute a separate violation. For each separate incident, the city ~~shall~~will elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.