Business License Revisions suggested:

**§ 3.2.1  POLICY.**

   It is hereby declared to be the policy of the City to require a license for the operation of a business within the City limits. This policy and title is an exercise of the general police powers of the City as authorized by Title 7 of the Montana Code Annotated.

(1985 Code, § 5.04.010)

**§ 3.2.2  COMPLIANCE REQUIRED.**

   It shall be ~~unlawful for any person, either directly or indirectly, to conduct any business or to use in connection therewith any vehicle, premises, machine, device, employee, or agent in whole or in part, for which a license, or permit, is required by any law or ordinance of this City, without a license, or permit being first procured and kept in effect at all such times as required by this chapter or other law or ordinance of this City; nor shall the issuance of a license entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter or law~~ the responsibility of every person, firm, corporation or entity transacting business within the city limits of White Sulphur Springs to comply with this chapter and obtain and maintain a current business license, and display that license upon the premises of their business or upon demand of any city official, as required by this chapter or the law of the state of Montana, unless a valid exemption applies.

(1985 Code, § 5.04.020)

**§ 3.2.3  DEFINITIONS**

   (A)   For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BUSINESS.** Includes ~~all kinds of~~ any employment, trade, vocation~~s~~, occupation~~s~~, profession~~s~~, enterprise~~s~~, not-for-profit organization, commercial venture, establishment, or activity engaged in for profit, ~~establishments and all other kinds of activities and matters~~ together with all devices, machines, vehicles and ~~appurtenances~~ accessories used therein, any of which are conducted for private profit, or public or private benefit, either directly or indirectly, on any premises in this City, not exempted by state law or this chapter. A “business” includes the lease or rental of commercial facilities or buildings and the lease or rental of residential facilities, such as but not limited to single-family homes, apartments, mobile homes, or condominiums, whether nightly or long-term. The term “business” excludes temporary or short-term fundraising activities conducted by a church, school or a not-for-profit civic or fraternal organization, or an individual under the age of eighteen.

**BUSINESS ESTABLISHMENT.** Any structure used for sale or production of goods or services for profit.

**CONTRACTOR.** As used in this chapter, a self-employed person, or independent business entity which undertakes to perform specific work for another person or entity, using their own means and methods, and/or renders service(s) in the course of an independent occupation representing the will of the employer only as to the result of the work and not the means by which it is accomplished. This definition includes certain professions, painters, artists, and all building trades such as, but not limited to carpenters, electrical, plumbing, roofing, mechanical, sheet metal, excavating and general contractors.

**ELECTRONIC AMUSEMENT GAMES.** Any electronic game or mechanical device operated for the sole purpose of amusement of the patrons.

**GAMBLING DEVICE, BINGO OR KENO, POKER OR CARD TABLE, VIDEO DRAW POKER MACHINE.** All have the meanings found in Title 23, Ch. 5 Montana Code Annotated.

**GOING OUT OF BUSINESS SALE.** A sale held in such a manner as to reasonably cause the public to believe that upon the disposal of the stock on hand, the business will cease and be discontinued. **GOING OUT OF BUSINESS SALES** shall be strictly limited to stock on hand at the commencement of the sale.

**HOME-BASED BUSINESS.** Any business occupation or activity undertaken for gain within a residential structure that is incidental and secondary to the use of that structure as a dwelling.

**LICENSE.** The authority, necessary from the City, granted the person to whom it is issued to engage in a specific business or occupation.

**MARIJUANA.** and **USABLE MARIJUANA.** Have the meanings as authorized and defined in the Montana Marijuana Regulation and Taxation Act (M.C.A. §§ 16-12-101 et seq.).

**MOBILE VENDORS.** Any person that sells or offers for sale goods from a mobile vending unit within the City. A transient merchant or itinerant vendor is not a **MOBILE VENDOR**.

**NONPROFIT ORGANIZATION.** Any group which does not distribute pecuniary gains, profits or dividends to its members, and pecuniary gains are not the objective of the organization. **NONPROFIT ORGANIZATIONS** or groups must be recognized as such by the United States Internal Revenue Service and the state department of revenue.

**PERSON.**  Means and includes individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations; or any officers, agents, employees, factors, or any kind of personal representatives of any thereof, in any capacity, acting either for themselves, or for any other person, under either personal appointment or pursuant to law.

**SHORT-TERM RENTAL**. A dwelling unit, or portion thereof, which is offered or provided to a guest by a short-term rental owner or operator for a fee for fewer than 30 consecutive nights. Commonly referred to as vacation rentals, they are a form of tourist or transient accommodations. Short-term rental units may be whole house rentals, apartments or condominiums but do not include hotels, motels, hospitals or nursing homes. For the purpose of administration and enforcement of this title, the terms "overnight rental," "nightly rental," and "vacation rental" are interchangeable with short-term rentals.

   (B)   All other terms herein shall have the same connotation as they do in everyday common usage.

(1985 Code, § 5.04.030)  (Ord. 347, passed 8-3-1987; Ord. 2022-379, passed - -2022)

**§ 3.2.4  BUSINESS LICENSE REQUIRED POSTING.**

  (A)  In accordance with the authorization and provisions of Title 7, Chapter 21, Parts 41 and 42 of the Montana Code Annotated, it ~~It~~ shall be unlawful for any person, firm, or corporation, either directly or indirectly, to conduct, operate, transact, engage in, or carry on any business, industry, trade, pursuit, profession, or vocation, or to use in connection therewith any vehicle, premises, machine, device, employee, or agent, in whole or in part, ~~for which a license, or permit, is required by any law or ordinance of this City,~~ without a license~~,~~ or permit being first procured from the City and kept in a prominent place upon the premises of the business and in effect at all such times as required by this chapter or other law or ordinance of this City. ~~; nor shall~~

(B) The ~~the~~ issuance of a license shall not entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter or state law.

(C) A business license, once issued, shall be posted in a conspicuous place on the premises where the business is located. This includes each license for each business being conducted. A license for a business with no fixed location shall be carried and displayed upon demand by the owner or licensee when conducting business.

(1985 Code, § 5.04.040)

**§ 3.2.5  QUALIFICATION FOR BUSINESS LICENSE; EXEMPTIONS.**

   (A)   A person or business qualifies for the issuance of a business license upon filing the required application, and any documentation as required by this part, together with the payment of the established fee unless one of the following apply ~~No business license shall be issued or held by~~:

      (1)   The ~~A~~ person ~~who~~ has been convicted of a violation of M.C.A. § 45-5-601;

      (2)   The ~~A~~ person ~~who~~ has been convicted of a violation of M.C.A. § 45-5-602 or § 45-5-603 or other crime under the laws of the federal government or any state of the United States;

      (3)   The ~~A~~ person whose license issued under this chapter or issued by the State of Montana has been revoked for cause;

      (4)   The ~~A~~ person ~~who~~ at the time of the application for renewal of any license issued hereunder would not be eligible for such license upon a first application; or

      (5)   The ~~A~~ person ~~who~~ is not a citizen of the United States and ~~who~~ has not been a resident of the State of Montana for at least one year immediately preceding the filing of the application for license.

   (B)   A business license shall be subject to review if the business involves a gambling device. The City Council or the Planning Board may review the location for compliance with any land use (zoning) regulations and/or compliance with the Growth Policy. Such business shall have and submit a copy of a valid state gambling license with the application before a City business license is issued.

   (C)   Exemptions.

      (1)   No license shall be required for the following:

         (a)   Any person or entity for any mere delivery in the City of any property purchased or acquired in good faith from such person or entity as the person or entity’s regular place of business outside the City where no intent by such person is shown to exist to evade the provisions this chapter;

         (b)   Any nonprofit organization as defined by this chapter;

         (c)   Any person under 18 years of age;

         (d)   Any property manager managing or renting less than three dwelling units;

         (e)   The following professions already licensed by the state or another licensing entity:

            1.   Attorneys;

            2.   Medical professionals, including, but not limited to: physicians, surgeons, podiatrists, physician assistants;

            3.   Dentists/Orthodontists;

            4.   Nursing Homes, Senior Care facilities, and similar residential care facilities;

            5.   Hospitals;

            6.   Mental health counselors or therapists;

            7.   Accountants; and

            8.   Any other profession or occupation specifically exempt by Montana law.

      (2)   The exemptions listed in divisions (C)(1)(a), (C)(1)(b), (C)(1)(c), (C)(1)(d) and (C)(1)(e) above do not apply to a transaction, use or business involving marijuana.

(D) Any exempt business or profession which is exempt from a City license under (C)(1)(b), (C)(1)(d), and (C)(1)(e) above shall, without fee, register their business with the City for purposes of gathering information relevant to health, safety, and welfare issues involved with emergency response services. Such information shall be maintained and communicated to the relevant emergency response services to aid and assist them in responding to emergencies.

(1985 Code, § 5.04.050)  (Ord. 347, passed 8-3-1987)

**§ 3.2.6  LICENSE APPLICATION AND RENEWAL.**

   (A)   A person applying for a business license shall submit a written application on a form to be provided by the City ~~Council~~ Clerk along with the required fee.

   (B)   The application form shall specify:

      (1)   The applicant’s name and the names of any other persons financially interested in the operation of the business or the premises upon which it shall be located;

      (2)   The proposed location of the business for which the license application is submitted, including street address;

      (3)   Satisfactory evidence, when applicable, that the person submitting the application is currently licensed for the sale of liquor, beer, food, cigarettes or any other consumable product, or who has applied for such license; and

      (4)   A description of the nature of the business to be conducted, including the business name, together with any applicable certifications required by state law.

(5) Any other information requested of the applicant by the City Clerk under the direction of the Mayor or City Council necessary to protect the public welfare, health and safety of the citizens of the City.

(6) The application shall be signed by the individual submitting the application, and such application shall be deemed an acknowledgement of the terms and conditions of this code which apply upon issuance of the license.

(C) A renewal of the license shall be made upon submission of the same application form as the original, together with the required fee.

(D) A license shall apply to no more than one trade, pursuit, business, occupation, vocation, or enterprise, regardless of location, and is nontransferable without submission of a new application for a new owner, or a transfer request to a new location.

(E) The relocation of a business to another address within the city shall require the submission of a request to transfer together with any required fee.

(F) A denial notice for any application denied based on this chapter or the laws of the state shall be mailed to the applicant by certified mail, return receipt requested. A denial of the application may be appealed as provided in this chapter.

(G) A renewal of the business license each year is required. The application form shall be updated with any changes to the business, individuals involved in the business, or other pertinent information necessary to the City. A license not renewed by July 1 of each year shall be deemed lapsed and no longer valid after September 1.

(1985 Code, § 5.04.060)

**§ 3.2.7  LICENSING FEE, ALLOCATION.**

   (A) Each applicant or licensee shall pay an annual license fee pursuant to a fee as set by the Council by resolution.

(B) The annual fee shall be due and payable on or before July 1 of each year and prior to the start of business operations. Such fee is not eligible for proration or refund.

(C) A late fee of ten dollars ($10) shall be charged after September 1 of each year for a renewal, and twenty dollars ($20) after December 1, but in no event shall the late fee be more than half the total fee for the license.

(D) Home-based businesses with no employees other than the owner/operator, or sole proprietorships, shall be licensed based on the minimum general or annual fee prescribed by resolution.

(E) The fees collected under this Title shall be deposited in the general fund and shall be used to support the operation of the departments, divisions and activities of the City charged with providing those services required and for the administration of this Title.

(1985 Code, § 5.04.070)  (Ord. 347, passed 8-3-1987)

**§ 3.2.8  REVOCATION OF LICENSE.**

   (A)   Any license issued by the City is a revocable privilege and no person holding such a license is deemed to have acquired any vested rights therein.

   (B)   Any license issued pursuant to this chapter may be revoked for any business engaging in any unlawful trade, business or activity prohibited by any law of the United States, of the state of Montana, or any violation of this chapter, or any violation of the qualifications set forth in § 3.2.5 of this chapter.

   (C)   Any application which is found to have been submitted with false or misleading information may be revoked for cause.

(D) Any person may file a complaint with the City Clerk alleging a violation of this Title by written complaint. The complaint must include the name and address of the individual making the complaint and state the grounds and facts in support of the complaint. Upon filing, the City Clerk shall forward the complaint to the Mayor for investigation.

(D) Upon receipt of a complaint, or any information which establishes grounds to believe the business, or any person involved in the business, has violated any law or any part of this chapter, the Mayor is empowered to investigate the allegation, or cause the allegation to be investigated through law enforcement or an applicable state agency. If the complaint or information is substantiated, the Mayor shall cause the City Clerk to issue a Notice of Revocation of the License to the business, which may be served by certified mail, return receipt requested, or through service of the Meagher County Sheriff’s Office.

(E) Upon receipt of the information establishing probable cause to believe a violation of this chapter involving an establishment permitting gambling has occurred requiring revocation of the license, the City Council shall set a time and place for public hearing to determine if a violation of this chapter requiring revocation or suspension is required. The licensee shall receive written notice at least five days prior to the hearing and shall have an opportunity to appear and be heard on the alleged violation. The hearing shall be conducted in compliance with the model procedure set forth in the Montana Administrative Procedure Act.

(1985 Code, § 5.04.080)  (Ord. 330, passed 3-15-1983; Ord. 332, passed 4-2-1984)

***§3.2.9 APPEAL:***

*( A)   Notice of Appeal: 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 the notice of revocation or denial.*

*(B)   Contents of Notice: The notice of appeal shall state any reasons the applicant believes support the grant of a license, the applicant's correct mailing address and shall be signed by the applicant.*

*(C)   Placement on Agenda: The City Clerk shall cause the matter to be placed on the Council Agenda within thirty (30) to sixty (60) days after the receipt of the notice of appeal.*

*(D)   Notice of Hearing: 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.*

*(E)   Hearing: The applicant may appear at the time and place set and be heard. The applicant may be represented by counsel at this hearing. Any suspension or revocation of a license issued by the City is not deemed final until the licensee has been given the opportunity for a hearing to contest the suspension or revocation under the procedures prescribed.*

*(F) There is no appeal from the determination of the City Council.*