

ORDINANCE NO. 2026

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 11 OF THE LIVINGSTON MUNICIPAL CODE BY REPEALING ORDINANCE NO. 1990 AND BY ENACTING REQUIREMENTS FOR THE ISSUANCE OF SAFETY INSPECTION CERTIFICATES, SPECIAL BUSINESS LICENSES AND ALCOHOLIC BEVERAGE LICENSES AND BY PROVIDING THAT SAFETY INSPECTION CERTIFICATES, SPECIAL BUSINESS LICENSES AND ALCOHOLIC BEVERAGE LICENSES BE SET BY RESOLUTION.

Purpose - The purpose of this ordinance to protect the life safety health and general welfare of the public by inspecting buildings, office space or premises on a permanent foundation with an established street address and accessible to the public, employees, or members for compliance with the life safety codes adopted by the City, and requiring businesses and organizations which do not have a permanent foundation or established street address to register with the City of Livingston, and establishing additional requirements for retailers of alcohol and food.

WHEREAS, the City of Livingston is empowered to license all industries, pursuits, professions and occupations pursuant to 7-21-4101 *et seq.* Montana Code Annotated (MCA); and

WHEREAS, the City is also empowered to enforce ordinances that affect general welfare and public safety; and

WHEREAS, the City of Livingston currently issues licenses based upon the type of business or commercial endeavor which has resulted in a multitude of definitions and categories for licensing; and

WHEREAS, the City of Livingston enforces various life safety codes within its jurisdictional limits; and

WHEREAS, the City recognizes that certain businesses which are licensed by the State

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of Montana are exempt from city licensing; and

WHEREAS, certain business activities do not have either a street address or permanent foundation and that such businesses should be required to be registered with the City; and

WHEREAS, the City believes that it can best provide for the general health, safety and welfare of the residents and visitors to the City by annually providing life safety codes inspections of those businesses located in a building and for those businesses without a permanent foundation by requiring such businesses to register with the City.

NOW, THEREFORE, BE IT ORDAINED by the Livingston City Commission that that Chapter 11 – of the Livingston Municipal Code entitled “Occupational Licenses and Regulations” which was enacted by Ordinance No. 1990 be repealed and is hereby replaced by establishing “The City of Livingston Safety Inspection Certificate, Special Business License and Alcohol Beverage License Act.”

SECTION 1

The City of Livingston Safety Inspection Certificate, Special Business License and Alcohol Beverage License Act.

A. Safety Inspection Certificate.

All buildings, office spaces or premises with fixed street address in which are located businesses or organizations which are or may be accessible to the public, employees, or members are hereby required to obtain a safety inspection certificate from the City of Livingston.

B. Special Business License.

All business or organization which engage in providing services or selling food or merchandise away from a fixed street address within the City, such as sidewalk vendors, non-resident vendors, non-resident merchants, and resident and non-resident service providers are

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hereby required to register with the City by obtaining a special business license from the City of Livingston.

C. Alcohol Beverage License.

All persons or business to whom a retail alcohol license has been issued by the State of Montana also must obtain a city alcoholic beverage license in addition to the safety inspection certificate or any other permit or license required hereunder.

D. Definitions.

The following words and phrases when used in this title shall have the following meaning:

1. "Amusement device" means a machine which requires some form of payment for its operation and which provides some form of entertainment, i.e. a game, music or video.

Gambling games, such as video poker and keno, are specifically excluded from this definition.

2. "Buildings, office or retail space or premises" shall mean all buildings, structures, rooms, offices, or portions thereof which are situated on a permanent structural foundation and permanently connected to City water and sewer service wherein a business or organization is located and which is or may be accessible to the public, employees, or members or located in such close proximity to other buildings, structures, rooms, offices, or portions thereof so as to constitute a public threat in the event of a uniform safety code violation.

3. "Business or organization" shall mean any occupation, trade, profession, commercial activity, social activity, fraternal activity, or religious activity located in or meeting regularly in buildings, offices or premises whether sole proprietorships, partnerships, corporations, nonprofit corporations, religious organizations, or social and fraternal organizations.

4. "Home Occupation" means a lawful business carried on by a resident of a dwelling as

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an accessory use within the same dwelling or an accessory building which will not infringe upon the rights of neighboring residents to enjoy the peaceful occupancy of their home. See City of Livingston Zoning Code, Section 30.55 Home Occupation for further requirements.

5. "Non-Resident Vendor" is any person engaged or employed in the business of selling to consumers by going from consumer to consumer, either on the streets or to their places of residence or employment and soliciting, selling or taking orders for future delivery of any goods, wares or merchandise.

6. "Sidewalk Vendor" is any person vending food or other merchandise from the sidewalk with no street address or from push carts, vehicles, trailers, or other readily mobile sources to customers within the city limits. No vendor shall park a vehicle or any other moveable or temporary entity on any public street, alley or private lot for more than four (4) hours in any eight (8) hour period at one location. The parking of a vehicle or other movable entity within 300 feet of the original location is considered one location.

7. "Safety Inspection Certificate" or "certificate" as used herein is issued to a business at a specific building, office or premise which has passed an inspection pursuant to the codes or other ordinances and regulations enacted for the purpose of protecting health, safety, and welfare of the public. The certificate is not intended, and shall not be used in any manner to regulate the manner in which any commercial, professional, fraternal, or religious enterprise is conducted.

8. "Square footage" is the total number of square feet contained within the exterior walls of a building, suite or office used in the business operation and open to the public, employees or members.

9. "Temporary premises" means any structure, vehicles, or other mobile device without a foundation and not permanently connected to City water and sewer service which is temporarily

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occupied for business. A temporary premise can exist for no more than ninety (90) calendar days in any twelve (12) month period. Temporary premise does not include sales booths, concession stands etc., which are operated in conjunction with a community sponsored event authorized by the City Commission.

10. A "Non-Resident Merchant" means any person who brings into temporary premises, a stock of goods, wares or articles of merchandise or notions or other articles of trade, and who solicits, sells or offers to sell, or exhibits for sale, such stock of goods, wares or articles of merchandise or notions or other articles of trade. A non-resident merchant can operate out of temporary premises for a period of ninety (90) calendar days in any twelve (12) month period.

11. "Non-Resident Service Contractor" is any person or business not residing within the city limits of Livingston engaged or employed in providing services for hire and includes persons or businesses engaged in contract construction, painting and drywall, landscape installation and maintenance, janitorial, and service contractors of all kinds including computer technicians and copier maintenance.

12. "Resident Service Contractor" is any person or business residing within the city limits of Livingston and engaged or employed in providing services for hire which does operate out of a building, office space or premise in the City and includes persons and businesses engaged in contract construction, painting and drywall, landscape installation and maintenance, janitorial, and service contractors of all kinds including computer technicians and copier maintenance.

13. "Uniform Safety Codes" as used herein shall mean the most recent version of the following codes adopted by the City of Livingston:

1. Uniform Fire Code
2. International Building Code

3. International Residential Code
4. International Existing Building Code
5. International Mechanical Code
6. International Fuel Gas Code
7. Uniform Plumbing Code

14. "Special Business License" or license, means a license issued to a business or organization which engages in providing services or selling food or merchandise away from a fixed street address within the City, such as sidewalk vendors, non-resident vendors, non-resident merchants, resident and non-resident service providers. The mere fact that a space is used adjacent to or near a fixed street address on a regular basis does not qualify as a street address. The license is not intended, and shall not be used in any manner to regulate the manner in which any commercial, professional, fraternal, or religious enterprise is conducted.

E - Application of Regulations.

1. A safety inspection certificate or special business license shall be obtained in the manner prescribed herein for each business and branch establishment, including off-site warehouses and distributing plants or location of the business as if each such branch establishment or location were a separate business. However, on-site warehouses and distributing plants used in connection with, and incidental to an approved business shall not be deemed to be separate places of business or branch establishment.

2. No safety inspection certificate or special business license shall be required of any person for mere delivery into the City of any property purchased or acquired in good faith from such person at the regular place of business outside the City where no intent by such person is shown to evade the provisions of this chapter.

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F - Authority.

The City Manager, or designee, shall have the authority to establish the necessary procedures to carry out and enforce the intent of this title.

G - Procedure for issuance of certificate or special license.

1. Prior to commencing a business or organization in the City of Livingston, the applicant shall apply for either a safety inspection certificate or a special business license. To receive a certificate or license, the applicant shall:

(a). Be in compliance with all zoning, building and fire codes.

(b). Submit a completed application accompanied by the full amount of the applicable fee which shall include the nature of the business or organization, a site plan and in the case of a home occupation a site plan indicating the portion of the dwelling which will be used for the business. In addition the applicant will provide information concerning the location of any hazardous chemicals or flammable products which may be located upon the premises.

2. The applicant may change location provided:

a. The applicant complies with all zoning, building and fire codes.

b. The applicant obtains a new safety inspection certificate or special business license for the change of location.

3. The applicant may transfer the safety inspection certificate or special business license to another person in accordance with established procedures.

H - Safety inspection certificate or special business license fees.

1. All safety inspection certificate or special business license fees shall be established by resolution adopted by the City Commission and paid to the City Finance Office. Such fees shall

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be reasonably related to the cost of issuing the certificate or special license and the cost of inspections and registration.

2. No refund of any safety inspection certificate or special business license fee, or part thereof, shall be made.

I - Safety Inspection Certificate or special business license duration, renewal.

1. All safety inspection certificates or special business licenses shall expire on December thirty-first (31st) of the year in which such safety inspection certificate or special business license was issued, unless otherwise specified.

2. All safety inspection certificates or special business licenses shall be renewed on or before February 1 of each calendar year.

J - Late charges.

Failure to renew the safety inspection certificate by or special business license by February 1, of every year shall result in a delinquent charge as determined by resolution.

K - Duties of licensee or certificate holder.

1. Every licensee or certificate holder under this title shall permit all reasonable inspections of the business premises by city authorities to carry out the intent of this title, with such inspections being conducted annually. All certificate or licenses issued are conditional until a on premise safety inspection has been conducted by the City.

2. Every licensee or certificate holder under this title shall post the certificate or special license on the premise in a conspicuous location or shall be carried on the person where an individual license is required.

L - Certificate or special license - revocation or suspension.

1. The certificate or special license may be revoked or suspended when the licensee or

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certificate holder violates this title.

2. The following procedure will be followed in revoking or suspending a certificate or license:

- a. A written notice shall be provided to the licensee or certificate holder at least fifteen (15) days prior to revocation or suspension. The notice shall state the reason(s) for the action.
- b. The licensee or certificate holder may request a review of the proposed action within fifteen (15) days of the receipt of notice.
- c. When a review is requested, a meeting shall be set between City staff and the requesting party.

3. If conditions are determined to cause an immediate threat to health or safety, the City shall immediately suspend the certificate or special business license until such condition is remedied.

M - Appeal.

Any licensee or certificate holder shall have the right to file a written appeal to the City Commission.

N - Safety Inspection Certificate.

1. Every business in a building, office or premise located in the jurisdictional limits of the City of Livingston shall be required to obtain a Safety Inspection Certificate to ensure that the building, office or retail space or premise complies with uniform safety codes and other ordinances and regulations enacted for the purpose of protecting the health, safety, and welfare of the public.

2. In any building with multiple businesses, suites/offices:

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a. Each portion or subdivision under separate control shall be required to undergo its own inspections and shall have its own Safety Inspection Certificate.

b. The building owner/agent shall obtain a certificate for indoor common areas if the aggregate total of the common area is greater than 1000 square feet.

3. Multi-family dwelling units of four (4) or more units shall require a certificate.

4. Home Occupation. The establishment of a Home Occupation shall require a certificate issued by the City of Livingston.

O - Special Business Licenses.

1. Non-Resident Vendor Special Business License required

a. Each individual engaging in Non-Resident Vendor type business within the City must first obtain a Non-Resident Vendor license. The Non-Resident Vendor license must be obtained prior to soliciting any customer or offering any goods or products for sale. No vendor shall park a vehicle or place any other movable temporary structure such as a tent on any public property, public street or public alley unless otherwise part of a City approved event. No vendor shall park a vehicle or place and temporary structure on private property for more than two consecutive days at one location. The parking of a vehicle or other moveable entity within 300 feet of the original location is considered one location. If the product being sold is food or drink, the applicant must first obtain a certificate from the County Sanitarian that the applicant complies with all health and sanitation codes of the State of Montana.

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- b. The license can be obtained from the City Manager or designee Finance Department during regular working hours.
- c. The short-term license shall be good for one week from the date of issuance. The long term license is good from the issue date through December 31 of the same year and may be renewed upon its expiration
- d. The City reserves the right to deny a license upon receiving citizen complaints regarding the vendor, merchandise or practices.

2. Non-Resident Merchant Special Business License Required.

- a. Any individual engaged in any business within the City that is defined or administratively determined to be classified Non-Resident Merchant must first obtain a Non-Resident Merchant special business license from the City. This special business license must be obtained prior to soliciting any customer, offering any merchandise or products for sale, or bringing any stock of goods, wares, or other articles of trade to a temporary premise.
- b. This special business license can only be obtained from the City Manager or designee Finance Department during normal business hours.
- c. The license is only valid for a period of ninety (90) calendar days in any twelve (12) month period.
- d. The City reserves the right to deny or revoke a license for just cause with regard to the conduct of the merchant, suitability of any merchandise, or business and/or marketing practices.

3. Non-Resident Service Contractor Special Business License Required.

- a. Any individual engaged in any business within the City that is defined or

administratively determined to be classified Non-Resident Service Contractor must first obtain a Non-Resident Service Contractor special license from the City. This special business license must be obtained prior to providing services.

b. This special business license can only be obtained from the City Manager or designee ~~Finance Department~~ during normal business hours.

c. This special business license is valid from the date of issuance to December 31 and may be renewed upon its expiration.

d. The City reserves the right to deny or revoke a license for just cause with regard to the conduct of the service contractor, quality of services rendered, or business and/or marketing practices

4. Resident Service Contractor.

a. Any individual engaged in any business within the City that is defined or administratively determined to be classified Resident Service Contractor must first obtain a Resident Service Contractor special license from the City. This special business license must be obtained prior to providing services.

b. This special business license can only be obtained from the City Manager or designee ~~Finance Department~~ during normal business hours.

c. This special business license is valid from the date of issuance to December 31 and may be renewed upon its expiration.

d. The City reserves the right to deny or revoke a license for just cause with regard to the conduct of the service contractor, quality of services rendered, or business and/or marketing practices.

5. Sidewalk Vendor Special Business License Required.

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- a. Any individual engaged in any business within the City that is defined or administratively determined to be classified as a sidewalk vendor must first obtain a Sidewalk Vendor special license from the City. This special business license must be obtained prior to soliciting any customer, offering or advertising any service, or performing any such service and then only upon first providing proof of insurance in an amount to be determined by resolution. If the product being sold is food or drink, the applicant must first obtain a certificate from the County Sanitarian that the applicant complies with all health and sanitation codes of the State of Montana.
- b. This special business license can only be obtained from the City Manager or designee ~~Finance Department~~ during normal business hours.
- c. This special business license is valid from the date of issuance to December 31 and may be renewed upon its expiration.
- d. The City reserves the right to deny or revoke a license for just cause with regard to the conduct of the service contractor, quality of services rendered, or business and/or marketing practices.

6. City Alcoholic Beverage License. Any person or business to whom an alcoholic beverage license has been issued by the State of Montana also must obtain a city alcoholic beverage license in addition to the safety inspection certificate or any other permit or license required hereunder. Such city alcohol license shall authorize the conduct of business under one of the following categories: beer, beer and wine, all-beverages, distillery and winery.

7. Tobacco License. Each business, in addition to any safety inspection certificate, permit or special business license required herein, which sells tobacco products, including, but

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not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, shall register with the City of Livingston and obtain a special business license or a tobacco vending machine license.

8. Amusement Devices. Every amusement device shall obtain a special business license for each machine which will be in addition to any other special business license or safety inspection certificate which may be required for the owner or distributor of such machine.

9. Agricultural Exemption. Farmers, dairymen, ranchers or produce growers who market their own products directly to the public, are exempt from obtaining a safety inspection certificate or special business license.

9. License Period. Licenses shall be issued for the calendar year basis and shall expire at twelve (12) o'clock midnight on December 31 of each year. Existing business licenses shall not be prorated. However, licenses for a new businesses which has not previously existed within the City of Livingston, shall be prorated,

P - Enforcement.

A. Civil Penalty. Any person violating any provision of this ordinance shall be subject to a civil fine not to exceed \$300.00 for each violation. Each day that the violation continues shall be deemed a separate and punishable violation.

SECTION 2

Statutory Interpretation and Repealer:

Repealing Ordinance No. 1990 and any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 3

Severability:

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If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court having competent jurisdiction, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 4

Savings provision:

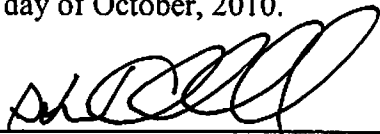
This ordinance does not affect the rights or duties that mature, penalties and assessments that were incurred or proceedings that begun before the effective date of this ordinance.

SECTION 5

Effective date:


This ordinance will become effective 30 days after the second reading and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the 5th day of October, 2010.



STEVE CALDWELL - Chairman

ATTEST:



ROBYN KEYES
Recording Secretary

PASSED, ADOPTED AND APPROVED by the City Commission of the City of Livingston, Montana, on second reading at a regular session thereof held on the 19th day of October, 2010.



STEVE CALDWELL – Chairman

ATTEST:



ROBYN KEYES
Recording Secretary

APPROVED AS TO FORM:



BRUCE E. BECKER
Livingston City Attorney

NOTICE

The public is invited to attend and comment at a public hearing to be held on October 19, 2010, at 6:30 p.m. in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on the second reading of **ORDINANCE NO. 2026** entitled **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 11 OF THE LIVINGSTON MUNICIPAL CODE BY REPEALING ORDINANCE NO. 1990 AND BY ENACTING REQUIREMENTS FOR THE ISSUANCE OF SAFETY INSPECTION CERTIFICATES, SPECIAL BUSINESS LICENSES AND ALCOHOLIC BEVERAGE LICENSES AND BY PROVIDING THAT SAFETY INSPECTION CERTIFICATES, SPECIAL BUSINESS LICENSES AND ALCOHOLIC BEVERAGE LICENSES BE SET BY RESOLUTION.** A copy of the ordinance is available for inspection at the City Office, 414 East Callender Street, Livingston, MT 59047. For further information call the City Attorney at (406)823-6007.

(Notice must be published twice at least 6 days apart. (7-1-4127(6) and posted on the City Bulletin Board, and copies available for the public (7-5-103 MCA).

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Please publish October 7, 2010 and October 13, 2010.

Pam Payovich
City of Livingston

Date: October 6, 2010