

Ordinance 907

TITLE 3 – BUSINESS REGISTRATION CERTIFICATE

CHAPTER 1 – GENERAL BUSINESS REGISTRATION

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3-1--1 INTRODUCTION AND PURPOSE. The City of Red Lodge requires all businesses located and/or operating inside the city limits to pay a business registration fee and undergo the applicable inspection requirements to promote the health, safety and welfare of its citizens. Failure to obtain a Business Registration Certificate prior to operating a business in the corporate limits of the City constitutes a violation of this Chapter. This Certificate is enacted for the purposes of providing an inventory of commercial activities conducted within the city; determining businesses subject to collection and remittance of the resort tax; providing a method of determining compliance with safety regulations imposed on commercial activities within the City; and providing a mechanism whereby owners of commercial activities can be identified and be notified by City officials.

3-1--2 DEFINITIONS. For purposes of this Chapter, the following definitions apply:

Business: Includes but is not limited to any occupation, trade, profession, commercial activity, all professions and occupations established under Title 37 of the Montana Code Annotated, sole proprietorships, partnerships, corporations, and nonprofits.

City: The City of Red Lodge, Carbon County, Montana

Office: A room or building in which a person transacts or carries on his/her stated occupation.

Person: A corporation, partnership, company, association, or society as well as a natural person and the agents and representatives thereof.

Premise: Any office, including a home office, retail space or other structure occupied for business use, the facilities and appurtenances in this structure, and the grounds, areas and facilities held out for the use of business.

Home Occupation: Any use conducted entirely within a building or accessory building which is conducted by the inhabitants of a dwelling on the parcel and which use is clearly incidental and secondary to the residential use of the parcel/dwelling and does not change the residential character thereof.

Temporary Vendor: Includes but is not limited to any occupation, trade, profession, commercial activity, all professions and occupations established under Title 37 of the Montana Code Annotated, sole proprietorships, partnerships, corporations, and nonprofits not having an operating place of business within the City who engages in temporary or transient business that does not operate more than ninety (90) consecutive days within a calendar year.

Transfers: A fee for all registered businesses to transfer ownership or sites.

3-1--3: APPLICABILITY.

A. No provision of this Title shall be construed as an attempt to regulate any occupation, industry, trade, pursuit, profession, vocation or business which is exempted from regulation or control of local government by the laws of the state of Montana or the United States.

B. No provision of this Title shall be construed as an attempt to exercise any power that applies to or affects the standards of professional or occupational competence established pursuant to MCA Title 37 as prerequisites to the practicing of a profession or occupation.

C. No Business Registration shall be required of any person for mere delivery in 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 exist to evade the provisions of this Chapter.

3-1--4: MULTIPLE BUSINESSES AND BRANCH ESTABLISHMENTS OWNED BY THE SAME INDIVIDUAL/ENTITY.

A. Multiple Businesses Owned by the Same Individual. An individual or entity operating multiple businesses or carrying on multiple professions or occupations within the City's jurisdiction shall register and undergo the requisite inspections for each distinct premise where business is conducted and for each distinct business in operation at that premise.

B. Branch Establishments. Business registration shall not be required for branch establishments, including off-site warehouses and distributing plants or other locations of the business. Likewise, on-site warehouses and distributing plants used in connection with and incidental to an authorized business shall not be deemed to be separate places of business or branch establishment.

3-1--5: APPLICATION PROCEDURE FOR OPENING A NEW BUSINESS.

- A. A person operating a business or carrying on an occupation or profession from a premise located within the jurisdictional limits of the City shall be required annually to obtain a Business Registration Certificate.
- B. The City Clerk may not issue a new Certificate to a person that owns or operates a separate or unrelated business within the City where the separate business is delinquent on its obligations to report or pay Resort Tax or is in violation of any code or ordinance.
- C. In order for the Certificate of Business Registration to be valid, the applicant shall:
1. Be in compliance with all current and future city ordinances, including but not limited to, resort tax, zoning, building, health and fire codes; and
 2. Have contracted for solid waste removal; and
 3. Have submitted a completed application accompanied by the full amount of the applicable fee.
- D. The form of the application shall be determined by the Mayor or designee, but shall contain the following:

“The applicant agrees that a Business Registration Certificate is issued subject to all the terms and conditions of Montana Law, the Red Lodge municipal code, and the ordinances of the City, and the applicant hereby agrees to be bound by said terms and conditions.”

3-1--6: PROCEDURE FOR RENEWAL OF BUSINESS REGISTRATION. The applicant shall submit the full amount of the applicable fee on or before the beginning of each fiscal year. Any changes of contact or business information shall be provided at that time.

3-1-7: TRANSFER OF BUSINESS REGISTRATION CERTIFICATE. If a party seeks to transfer a business to another party and the exact nature and location of the business remains the same, then the City Clerk, upon payment of the required transfer fee, shall transfer the Business Registration Certificate without further investigation or review. However, if the party seeking to transfer a business is delinquent on the obligation to report or pay Resort Tax for any business owned by the transferring party, the City Clerk may not transfer the Certificate until all delinquent Resort Tax, interest, and applicable penalties are paid in full. Additionally, if the party seeking to transfer a business is in violation of any municipal code or ordinance, the City Clerk may not transfer the Certificate until the transferring is in compliance. The new owner may submit a new application to register the business in his name in lieu of a transfer of Certificate.

3-1-8: TEMPORARY VENDOR REGISTRATION. Any firm, person or corporation which intends to operate a temporary business within the corporate limits of the City of Red Lodge that does not operate more than ninety (90) consecutive days within a calendar year shall be required to purchase a temporary vendor registration for each structure, stand, tent, vehicle, booth, location or place which is used by such merchant for the sale or distribution of goods. The person so engaged shall not be relieved from the provisions of this Section by reason of association with any local operating business, dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant, auctioneer or business.

3-1-9: BUSINESS REGISTRATION FEES.

- A. Fees. The City Council shall by resolution set the fee schedule for business registration, transfer of business registration, appropriate inspections and related matters to be applied to all businesses that the City registers. All fees are non-refundable.

The City Council shall by resolution classify businesses into separate categories and fee levels.

When there is any question regarding the registration fee to be paid, or whether one or more registration fees should be paid, the matter shall be referred by the City Clerk/Treasurer to the Mayor, who shall decide the question, subject to appeal to the City Council.

- B. Collection: A Business Registration Certificate is issued for the fiscal year beginning July 1 and expiring on June 30 at the end of the fiscal year.

C. Deposit of Fees: Fees collected under the terms of this Title shall be deposited in a City account for the use of any City department that regulates, controls, inspects and supervises certificate holders for the health, safety and welfare of the residents of the City.

3-1-10: DUTIES OF CITY CLERK/TREASURER.

- A. Collection of Fees: The City Clerk/Treasurer shall collect the registration fees required by this Title before a Business Registration Certificate shall be issued.

B. Forms: the City Clerk/Treasurer shall provide all forms necessary for the implementation and execution of this Title.

3-1-11: INSPECTION. All certificate holders shall be subject to such reasonable regulation, inspection, control and supervision as is necessary to ensure the welfare, safety and health of the residents of the City.

3-1-12: DUTIES OF THE CERTIFICATE HOLDER.

A. Every holder of a Business Registration Certificate shall permit all reasonable inspections of the business premises by public authorities to carry out the intent of this Title.

B. Every holder of a Business Registration Certificate shall display the Certificate in public view on the business premises.

3-1-13: LIEN. All property held or used by any person required to obtain a Business Registration Certificate by the provisions of this Title is chargeable and subject to a lien for the amount of the fee due for such certificate. Such lien shall have priority over any other lien, claim or demand except those of the United States or the State of Montana. Any person or entity failing to procure a Certificate required by this Title shall have sufficient property seized by the City Clerk/Treasurer who shall sell the same in the manner provided by law to discharge the above-described lien. Such remedy shall be cumulative and in addition to any other remedy or penalty provided by law or this Title.

Before imposing a lien under 3-1-13, the City Clerk shall provide the person or entity failing to obtain a Business Registration Certificate, and subject to a lien under 3-1-13, 30 days written notice of its determination under 3-1-13 of its intent to impose a lien, and of an opportunity to be heard. Such

notice shall be sent by certified mail, and shall include a statement that the person or entity has ten days to appeal the notice by providing a written statement to the City Clerk/Treasurer. The written appeal may include a request by the person or entity disputing imposition of the lien to meet with the City Clerk/Treasurer and Mayor. Within thirty days of receipt of the written appeal, or within thirty days of a meeting, if one is requested, the City Clerk/Treasurer and Mayor shall issue, by certified mail, a final decision to the person or entity subject to the lien.

3-1-14: PROSECUTION. Prosecution for violation of this Title shall be filed by the City Attorney in the Red Lodge City Court upon written complaint of the Mayor, City Clerk/Treasurer, or Chief of Police, or of any citizen of the City. In addition to the fine hereinafter provided for violation of this Title, a civil judgment for the amount of the registration found due and unpaid may be entered against the defendant. If found guilty the same may be enforced by the City, or further court action in the manner provided by the laws of the State of Montana. The City may, in its discretion, seek one or multiple remedies, as provided in Sections 3-1-13 through 3-1-15.

3-1-15: PENALTY. Unless otherwise provided, each violation of this Title shall be a misdemeanor and shall be punishable by a fine not exceeding five hundred dollars (\$500.00).

3-1-16: SEVERABILITY. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the City of Red Lodge Municipal Code as a whole.

3-1-17: EFFECTIVE DATE. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect 30-days from and after the date of its final passage and adoption.

3-1-18: CODIFICATION. This chapter shall be codified as Chapters 3-1--1 through 3-1-19 City of Red Lodge Municipal Code.

3-1-19: REPEALER. All other resolutions, ordinances and sections of the Red Lodge Municipal Code and parts thereof in conflict herewith are hereby amended or repealed to conform to this Ordinance 907.

First Reading: May 27, 2014

Second Reading: June 10, 2014

Ed Williams

Mayor

ATTEST:

Debbie Tomicich

City Clerk