

Legals

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Sec. 11-43 Persons subject to license.

A license is required for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, and a person shall be subject to the requirement if by him or herself or through an agent, employee or partner he or she holds him or herself forth as being engaged in such business or occupation; or solicits patronage therefor, or performs or attempts to perform any part of such business or occupation in the town, including the delivery of goods or services within the town which are purchased or contracted for outside of the corporate limits of the town. Advertisement of an accommodation unit that is located within the town is considered engaging in a business activity within the town. It shall be unlawful for any person to conduct business within the town without having first obtained a business and occupational license under this article.

Sec. 11-44 Application for license.

(a) Applications for all licenses required by this article shall be made in writing to the town. An application shall be made, and a license shall be required, for each separate location within the town at which the applicant conducts a business; provided, however, that any person that operates a group or combination of businesses which support the applicant's primary business or are closely related thereto need only obtain one (1) license under this article, the application for which shall state the primary business and its location, and identify all supporting or related businesses and their locations. In such event, the applicant shall be given duplicate copies of his/her business license, a copy of which shall be prominently displayed at each location.

(b) Each application shall state the full name of the applicant, the type of license desired, the type of business for which the license is to be issued, the state sales tax license number for such applicant for such business or other state license numbers if applicable, the specific location to be used by the applicant for such business, the license period requested to be covered by the license and the fee to be paid. Further, each application shall contain such additional information as may be needed for the proper guidance of the town officials in the issuing of the license.

(c) If the applicant for a license under this article for the operation of a business involving the placement of vending machines, washing machines, video games or other such machines in and about the town leases space for each such machine or machines in various locations throughout the town, with the permission of the owner or lessee thereof, and performs no business at such locations other than servicing such machines, then applicant need obtain only one (1) business license under this article, which application shall specify the locations where such machines are located.

Sec. 11-45 Forms for licenses.

Forms for all licenses and applications therefor shall be prepared and kept on file by the town. All license applications shall be made upon such forms as are prescribed by the town.

Sec. 11-46 Signatures on licenses.

Each license issued shall bear the signatures of the mayor and the town in the absence of any provision to the contrary. The mayor may authorize in writing that his or her signature may be affixed by the town manager by facsimile, rubber stamp or other method.

Sec. 11-47 Investigations prior to issuance of license.

Upon receipt of an application for a license, the town may require an investigation or inspection before the issuance of such license and, if so required, the town shall refer such application to the proper officer or person for making such investigation within forty-eight (48) hours of the time of such receipt. The town shall require that an inspection be made by the state health officer in regard to such licenses in the connection of the care and handling of food, for the protection of health, the spread of disease and the preventing of nuisances; the town building official shall make or cause to be made any appropriate inspection relative to the construction

of buildings or other structures, and to determine whether the use of the requested premises for the requested business is a proper use for the zoning district in which the building or structure lies. If the operation of such business requires a license from the state or any other governmental entity, an investigation will be made with such entity to assure the town that the applicant has the appropriate licenses in order to carry on such business; and if the town feels that a history or background check should be performed upon the applicant or his or her business, such investigation shall be made by the chief of police, or by some other officer designated by the town manager.

Sec. 11-48 Buildings, premises to comply with town requirements prior to issuance of license.

No license shall be issued for the conduct of any business, and no permit shall be issued for any thing, or act, if the premises and building to be used for the purpose do not fully comply with the requirements of the town. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of the zoning provisions of the town.

Sec. 11-49 Duty of licensee to permit inspection of premises, books, records; provide samples for analysis.

(a) Whenever inspection of the premises or of the books and records used for or in connection with the operation of a licensed business or occupation are provided for or required by this article, or are reasonably necessary to secure compliance with any provision of this article or to detect violations of this article, it shall be the duty of the licensee, or the person in charge of the premises or of the books and records to be inspected, to admit or permit access thereto, for the purpose of making the inspection of such premises or to inspect such books and records, any officer or employee of the town who is authorized or directed to make such inspection at any reasonable time that admission or access is requested. Any inspection of books and records shall be limited to that necessary to determine compliance with a licensee's affidavit relating to his/her number of accommodation spaces or employees.

(b) Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any provision of this article or to detect violations of this article, it shall be the duty of the licensee of the municipality whose business is governed by such provision to give to any authorized officer or employee of the town requesting the same sufficient samples of such material or commodity for such analysis upon request.

Sec. 11-50 Fees—Levied; amount.

A business and occupational license fee is hereby levied upon every person doing business within the town according to the following schedule:

(1) Accommodation Unit. Each accommodation unit shall pay ten dollars (\$10.00) per annum for each accommodation unit. Each unit applicant shall advise the town, by affidavit, under oath, at the time of application under this article, of the number of accommodation units applicant had for the prior year and the number of such accommodation units applicant intends to have for the present year. The fees payable under this subsection shall be based upon the number of accommodations set forth for the current year in such affidavit.

(2) Peddlers. Each peddler shall be charged a fee of five dollars (\$5.00) per day, with a maximum number of ten (10) licensed days per calendar year.

(3) Other business. All other businesses and persons subject to this article shall pay a fee of one hundred dollars (\$100.00) per calendar year.

Sec. 11-51 Same—Payment; exemption.

In the absence of provisions to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the town. Persons subject to this article of the age of seventeen (17) years or less are excluded from the payment of fees.

Sec. 11-52 Delinquent charges.

Pursuant to C.R.S. section 31-20-101, et seq., the town may cause any delinquent charges or fees made or levied under this article to be certified

to the county treasurer, to be collected and paid over by the treasurer in the same manner as real or personal property taxes, including the provisions for the creation of a lien upon the subject property.

Sec. 11-53 Recovery of costs of enforcement.

(a) If it is necessary for the town to take action for the enforcement of this article, there shall be added to any fees due under this article all reasonable costs and fees incurred by the town, including reasonable attorneys' fees.

(b) If any action is brought in a court of law by or against the town relating to the enforcement, interpretation or construction of this article, or of any document provided for in this article, or of any proceeding under this article, the prevailing party in such action shall be entitled to reasonable attorneys' fees as well as all costs incurred in the prosecution or defense of such action.

Sec. 11-54 Use of proceeds.

It is hereby declared that the proceeds from the levy imposed pursuant to this article shall be used for the payment of reasonable costs incurred in connection with the administration of this article, and for marketing and promotion of the town's principal industry, being tourism, and for payment of expenses related to such marketing and promotion and to promote and market activities and events beneficial to the business community.

Sec. 11-55 Display of licenses.

(a) It shall be the duty of any person conducting a licensed business in the town to keep his/her license posted in a prominent place on the premises used for such business at all times.

(b) It shall be the duty of any licensee under this article who does not have an operating location within the town to keep his/her license, or a copy thereof, on his/her person or in his/her vehicle at times while conducting business within the town, and shall produce such license or copy for inspection upon demand by the town manager.

Sec. 11-56 Expiration of license; notice.

(a) All licenses shall terminate on December 31 at 12:00 midnight of the license year of the town where no provision to the contrary is made.

(b) The town shall mail to all licensees of the town a statement of the time of expiration of the license held by the licensee no later than three (3) weeks prior to the date of such expiration. Provided, that a failure to send out such notice or the failure of the licensee to receive it shall not excuse the licensee from a failure to obtain a new license, or a renewal thereof, nor shall it be a defense in an action for operation without a license.

Sec. 11-57 Revocation of license—Notice; hearing.

Any license or permit may be revoked by the town at any time during the life of such license or permit for any violation by the licensee or permittee of the article provisions relating to the license or permit, or to the premises occupied, upon not less than five (5) days' notice to the licensee or permittee, and a hearing thereon before the council no less than ten (10) days after the date of such notice. The notice shall set forth the reasons for such revocation, and, at such hearing, the licensee or permittee shall be asked to show cause why such license or permit should not be revoked. Upon conclusion of such hearing, the council shall forthwith render its decision, which decision shall be final, and shall be further transmitted in writing to the licensee or permittee within seven (7) days following such hearing. Any revocation may be in addition to any fine imposed for violation of this article.

Sec. 11-58 Same—Method of notification.

A notice of revocation is required before such revocation shall take effect. Notice may be accomplished by service upon the licensee, his/her agents or employees; or by posting such notice in a conspicuous place upon the licensed premises; or by mailing such notice to the address of the licensee as it appears on the license application.

Sec. 11-59 Same—Summons and complaint.

The town manager shall cause to be issued against the appropriate licensee or permittee a summons and complaint

for violation of this article; and may cause such summons and complaint to be issued against such licensee or permittee following a revocation hearing at which hearing the subject license or permit was revoked.

Sec. 11-60 Frontage consents.

(a) Whenever the consent of adjoining or neighboring owners is required as a prerequisite to the conduct of any business or occupation, or the location of any establishment, such consents must be obtained by securing the necessary signatures to a written consent petition. Such petition shall be filed with the town when signed.

(b) Consents once given and filed shall not be withdrawn; and such petitions need not be renewed for the continuous conduct of the same business, whether by the same proprietor or not.

(c) It is unlawful to forge any name to such a petition or to falsely represent that the names thereon have been properly placed thereon is such is not the fact.

(d) Each consent when filed shall be accompanied by the affidavit of the person securing the signatures that each signature appearing therein was properly secured and written on; and that the petition contains the necessary number of signatures required by ordinance.

(e) The frontage consent requirements contained in this section shall not be construed to amend or change any zoning provision of the town; and no such provision shall be construed as permitting the erection of a structure or building, or the conduct of a business or the commission of any act in any location where such structure, building, business or act is or are prohibited by any zoning provision of the town.

Sec. 11-61 Location change; notice.

The location of any licensed business or occupation, or of any permitted act, may be changed, provided ten (10) days' notice thereof is given to the town, in the absence of any provision to the contrary; provided, that the building, zoning and frontage consent requirements are complied with.

Sec. 11-62 Nuisances.

No business, licensed or not, shall be so conducted or operated as to amount to a nuisance; or so as to permit the premises to become unsanitary or a fire menace by allowing any offensive or unsafe matter to grow, accumulate or otherwise occupy and remain upon such premises; by permitting pools of water to accumulate and remain upon the premises and become stagnant and foul; by allowing junk, disabled cars and trucks, trash, waste and old lumber to accumulate and remain upon the premises; by the keeping upon such premises of a deleterious or septic material unless such material is retained in containers or vessels which deny access to humans, flies, insects, rodents and animals; or by permitting refuse from drifting or blowing onto adjoining premises or public rights-of-way.

ARTICLE IV. SOLICITORS, PEDDLERS, ITINERANT VENDORS

Sec. 11-63 Generally.

All public property, including rights-of-way, within the town's corporate limits, are the property of the town. Public rights-of-way are administered for and utilized primarily for the benefit of the traveling public and franchised municipal utilities. The purpose of this article is to regulate the location, time, manner, and amount of vending activities on public property in such manner as to protect the rights of the public, public property, and the rights of private property owners to peace and tranquility in their residences.

Sec. 11-64 Soliciting or peddling prohibited in certain areas.

It shall be unlawful for any person to engage in the business of solicitor or peddler of any merchandise, article or thing of value, or for any solicitor, peddler or transient vendor, whether licensed or not, to conduct his/her business or solicit patron-age therefor upon or within the rights-of-way of the following roads within the town between the hours of 8:00 am and 6:00 pm, local time, during the ski season, defined as those continuous days that the Crested Butte Mountain Resort, Inc.'s Mt. Crested Butte ski area is open for public skiing under its United States Forest Service permits:

(1) The Gothic County Road, from

the southern town boundary to the Whetstone Road;

(2) Treasury Road, from the Gothic County Road to Emmons Road;

(3) Emmons Road;

(4) Emmons Loop;

(5) Snowmass Road;

(6) Hunter Hill Road from Gothic Road to Snowmass Road.

Sec. 11-65 Exceptions.

This article expressly excludes any vehicle used for transportation and properly licensed in which a commercial solicitation is made to any passengers therein.

Sec. 11-66 Vending on public property—Rules.

(a) Permit required. It shall be unlawful for any person to engage in vending activity on public property without a permit or without compliance with the provisions of this chapter, or the rules and regulations promulgated in connection herewith.

(b) Application required. An application for a vending permit, including a drawing or photograph of the proposed vending cart and proposed signage, shall be submitted to the town manager or his/her designee for approval or disapproval prior to commencing vending activity. The application shall be in a form prescribed by the town manager. The town manager or his/her designee may approve the application only after determining that:

(1) The application, including fees and evidence of insurance, is complete;

(2) The proposed vending activity is consistent with the purposes and requirements of this chapter;

(3) Issuance will not exceed the maximum allowable number of permits;

(4) The applicant has the ability to comply with the requirements of this chapter and any necessary permit conditions;

(5) Applicable rules and regulations for permit administration have been complied with.

(c) Rules and regulations. Rules and regulations consistent with this section shall be promulgated by the Mt. Crested Butte town manager which shall specifically deal with the hours of operation for vendors, the type of vending activities to be allowed in any permit year, and other matters which the town manager deems appropriate. In promulgating said rules and regulations, the town manager shall solicit the input of all interested persons and specifically a representative of both the business community in the town and a representative vendor then holding a valid vending permit from the town. These rules and regulations shall be reviewed no less than annually by the town manager between the date of April 15 and May 15 of each year, making such changes and revisions as the town manager deems appropriate consistent with this section.

(d) Indemnification. As a permit condition, persons engaging in vending activity shall agree to indemnify and hold harmless the town, its officers, employees, and agents arising against any and all claims for damage to persons or property arising out of or resulting from the permittee's actions or omissions in the permitted use. Vendors shall deliver to the town a certificate of public liability and property damage insurance naming the town as an additional insured under the vendor's insurance policy. Such insurance shall be in the amounts of at least that required by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., or any successor legislation, as the same may be amended from time to time. The policy shall further provide for thirty (30) days' notice to the town of cancellation or material change. Evidence of such insurance is required prior to permit issuance.

(e) Other licenses required. All applicants shall obtain all required permits or licenses from all applicable governmental entities before a permit is issued, including but not limited to, a town business and occupational license, a town sales tax license, and if the vending activity includes any food product, written approval from the Gunnison County Health Department. Copies of current permits shall be supplied to the town, and the vendor shall make such permits available for inspection upon reasonable request.

(f) Nontransferability. The vending permit is not transferable or assignable.

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