

**BUSINESS LICENSE PROGRAM ORDINANCE
TOWN OF MOUNTAIN VILLAGE, COLORADO
ORDINANCE NO. 2010-01**

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 1996-27 PROVIDING FOR THE LEVY OF AN ANNUAL BUSINESS LICENSE FEE ON ALL PERSONS DOING BUSINESS WITHIN THE TOWN OF MOUNTAIN VILLAGE, COLORADO.

WHEREAS, The Town Council of the Town of Mountain Village, State of Colorado (the "Town"), has determined that the levy of an annual business license fee on all persons doing business in the Town will promote and protect the health, safety, and general welfare of the Mountain Village community;

WHEREAS, The Town desires to repeal Ordinance No. 1996-27 and replace it with the following Ordinance all to be effective thirty (30) days after passage by the Town Council;

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE the following:

SECTION 1: DEFINITIONS

(1) "Accommodation unit" means any separately owned property with one (1) or more sleeping units which is not defined as a lodging establishment pursuant to subsection four (4) of this section and which is rented for periods of less than one (1) month increments.

(2) "Business" includes all activities engaged in or caused to be engaged in with the object of gain, benefit, advantage or profit, direct or indirect.

(3) "Employee" means an individual or combination of two (2) individuals who work for compensation for a business licensee within the Town at any time during the current calendar year, subject to the following: an individual who works twenty (20) hours per week or less shall be designated a part-time or "half" employee; thus, two (2) part-time employees shall be considered one (1) employee. An individual who works more than twenty (20) hours per week shall be considered one (1) employee. An owner who works for and draws a salary from his or her business shall be designated as an employee or part-time employee, depending on the number of hours worked per week.

(4) "License" shall mean a license to conduct Business in the Town issued pursuant to this Ordinance.

(5) "Licensee" shall mean any individual, firm partnership, joint venture, corporation, estate or trust, or any group or combination acting as a unit, who has received a license under the provision of this Ordinance.

(6) "Lodging establishment" means any separately owned hotel, hotel efficiency unit, efficiency hotel unit, hotel unit, lodge unit, or lodge as defined by sections 2.9, 2.10 and 2.13 of the Telluride Mountain Village General Declaration and any other property managed by a licensed property management company.

(7) "Person" includes any individual, firm, partnership, joint venture, corporation, estate or trust, or any group or combination acting as a unit, in the plural as well as the singular number.

(8) "Place of Business" means a premises for which a License has been issued pursuant to this Ordinance.

(6) "Sleeping room" means any sleeping area with a bed surrounded by a minimum of one (1) wall.

SECTION 2: LEVY

(1) An annual business license fee is levied on all persons doing Business in the Town according to a fee schedule to be established from time to time by resolution of the Town Council.

SECTION THREE: USE OF PROCEEDS

(1) It is the intent of this Ordinance that the proceeds derived from the business license fee shall be used first for reasonable costs incurred in connection with the administration of this Ordinance, six percent (6%); of the remaining balance, eighty percent (80%) shall be devoted to and specifically earmarked for Marketing Telluride Inc., or its successor; and twenty percent (20%) shall be devoted to and specifically earmarked for marketing expenses incurred in connection with the Town.

SECTION FOUR: GENERAL PROVISIONS

(1) It is unlawful for any person to do business, or cause to be placed any advertisement, including but not limited to print advertisements, web-based advertisements, direct solicitations, or mass email solicitations and advertisements for any Accommodation Unit or Lodging Establishment, within the Town without first having obtained a business license from the office of the Town Finance Director. A separate license for each Place of Business is required. The annual business license fee must be paid either on or before January 1st, or in two (2) installments due on or before January 1st and July 1st. Any licensee electing to pay in semiannual installments shall be assessed a late charge of ten percent (10%) of the amount of the total license fee. A business which begins operating after September 30th of any year shall only pay one-half (1/2) of the annual license fee. It is the duty of each person conducting business in the Town to post his or her business license in a prominent place on the licensed premises at all times. The location of any licensed business may be changed, provided that ten (10) days' notice thereof is given to the Town Finance Director.

(2) Accommodation Units and Lodging Establishments shall include the business license number for the subject property in any and all advertisements for use and/or rental of the property, including but not limited to print advertisements, web-based advertisements, direct solicitations, television, radio or mass email solicitations or advertisements.

(3) Persons exempt from the provisions of this Ordinance are the employees of a licensee, minors, churches or established religious organizations, nonprofit organizations, charitable organizations, hospitals, governments and any persons exempt under federal or state law.

(4) The power to administer this Ordinance shall be vested in the Town Finance Director, who is authorized to do the following:

- (a) collect license fees and issue receipts therefor;
- (b) adopt all forms for applications, exemptions and licenses, and prescribe the information to be provided on such forms;
- (c) investigate and determine the eligibility of each applicant for an annual business license;
- (d) promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this Ordinance; and
- (e) Send a written request for information to any property owner within the Town regarding use of their property. All property owners shall comply with the request for information within thirty (30) days of the date of the Town Finance Director's request, including signing an affidavit to be supplied by the Town Finance Director certifying under penalty of perjury that all information provided to the Town is complete and accurate. Failure of any property owner to comply with this section shall constitute a violation of this Ordinance and subject the property owner to the penalties set forth herein. If after a review of the information obtained under this subsection, the Town Finance Director determines that the property owner is required to obtain a business license pursuant to this Ordinance, such homeowner shall apply for a business license and pay the penalty assessment from the date a business license should have been obtained through the date of application as set forth in Section Four (7) (a) of this Ordinance.

(5) Each licensee shall be required to:

- (a) ascertain and at all times comply with all laws and regulations applicable to such licensed business;
- (b) avoid all illegal or unlawful practices or conditions which do or may affect the public health, safety, morals or welfare;
- (c) refrain from operating the licensed business or premises after expiration of his or her license and during the period his or her license is revoked or suspended.

(6) The Town Council, after reasonable notice and a fair hearing, may revoke any license, based upon a violation of this Ordinance.

(7) Violation of this Ordinance shall result in the following penalties:

(a) the penalty assessment for failure to comply with any provision of this Ordinance shall be a fine of two percent (2%) per day of the business license fee of the non-complying business, as determined by this Ordinance, for each day of noncompliance from the date the fee is determined to have been due through the date of payment;

(b) the Town may issue a summons and complaint sixty (60) days after the business license fee is due charging a person with failure to comply with this Ordinance. In addition to the penalty assessment, a violation of any part of this Ordinance is punishable for each day of violation by a minimum fine of five hundred dollars (\$500.00) up to a maximum fine of one thousand dollars (\$1000.00), ninety (90) days in jail, or both. The penalty assessment against the non-complying business shall not be suspended by the court. Each day of violation is a separate offense;

(c) the Town may also seek an injunction to restrain any person from engaging in business within the Town who does not obtain an annual business license, or has his or her license revoked or suspended;

(d) the foregoing remedies shall be in addition to all other remedies and penalties provided for by local ordinance or available by law.

SECTION FIVE: SPECIAL CONDITIONS OF LICENSEE; ACCOMMODATION UNIT

(1) In addition to the other requirements of this Ordinance, the Owner of an Accommodation Unit licensed pursuant to this Ordinance shall, as a condition of such license be subject to the following requirements:

(a) Shall list in the business license application all means and locations, including but not limited to print advertisement publications and website advertisements, of advertisements for the Accommodation Unit and shall update their application within thirty (30) days of utilizing a new advertisement mean or location.

(b) Shall include in the business license application the name, address, telephone number of the property owner and the name, address, telephone number and email address of a local contact person who is authorized by the licensee to receive communications from the Town concerning the Accommodation Unit. The local contact person may be anyone engaged or employed by the licensee to manage rent or supervise the Accommodation Unit. The local contact person shall maintain a residence or place of business within thirty (30) miles of the Town. The designated local contact person may be changed by the licensee from time to time throughout the term of the license. To effect such change, the licensee shall notify the Town Finance Director of the change in writing and at the same time, shall provide the Town Finance Director with the name, address, telephone number and email address of the replacement contact person, who shall meet the requirements of this subsection.

(c) Shall post a copy of the business license for the Accommodation Unit in a conspicuous place in the Accommodation Unit.

(d) Shall file an annual report with the Town Finance Director by January 31st of the year following the licensed year end, on a form to be provided by the Town Finance Director, detailing all non family uses of the home including compensation received for the use of the home. All statements made as required by this subsection shall be done under penalty of perjury.

(e) Shall provide to the Town Finance Director with the initial business license application and the form or forms of rental agreements used for the Accommodation Unit.

(2) The licensee and owner of the Accommodation Unit shall be liable for compliance with the requirements set forth in Section Five of this Ordinance and shall be subject to a minimum fine of five hundred dollars (\$500.00) up to a maximum fine of one thousand dollars (\$1000.00) for each day of a violation of this subsection, after failing to correct such violation within fifteen (15) days of written notification of a violation of this subsection.

(3) Any property owner who does not otherwise meet any of the requirements of this Ordinance requiring the property owner to obtain a business license, but does allow the use and occupancy of his or her property by persons related to him or her, through blood or marital relationships, subject to minimal cost reimbursements of less than \$100 per night of occupancy and does not advertise his or her property for use and occupancy, shall be exempt from obtaining a Business License under this Ordinance or from paying lodging tax imposed by Ordinance Nos. 1998-08 and 2003-04. Any person who utilizes this section to intentionally avoid obtaining a business license as required by this Ordinance or to avoid paying the lodging tax imposed by Ordinance Nos. 1998-08 and 2003-04 of the Town of Mountain Village shall be subject to the penalties as set forth in Section Five (2) of this Ordinance in addition to any

and all fines and penalties associated with obtaining a business license as set forth herein and failure to pay the lodging tax imposed by Ordinance Nos. 1998-08 and 2003-04 of the Town of Mountain Village.

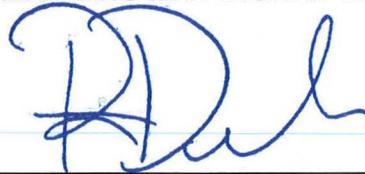
SECTION SIX: GENERAL CONTRACTORS

(1) All general contractors shall be responsible for ensuring that all subcontractors working on building or construction sites have valid business licenses pursuant to this Ordinance. General contractors shall obtain a copy of all subcontractors' business licenses and post such licenses along with the general contractors' business license with the building permit on all building or construction sites. Failure to comply with this subsection shall subject general contractors to the penalties as set forth in Section Four (7) (b) of this Ordinance.

SECTION SEVEN: CERTIFICATION

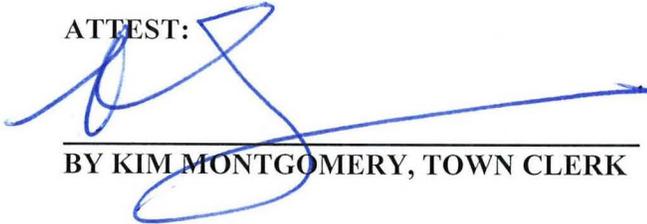
THE TOWN FINANCE DIRECTOR SHALL PUBLISH NOTICE OF THIS ORDINANCE IN COMPLIANCE WITH THE HOME RULE CHARTER FOR THE TOWN OF MOUNTAIN VILLAGE.

PASSED BY THE TOWN COUNCIL AFTER PUBLIC HEARING AND SIGNED THIS 20th DAY OF April, 2010.



ROBERT DELVES, MAYOR

ATTEST:



BY KIM MONTGOMERY, TOWN CLERK