

# Town of West Yellowstone

## Business License Application Packet





# Town of West Yellowstone Business License Application

Business Name: \_\_\_\_\_

Applicant: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Physical Address of Business: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_ Website: \_\_\_\_\_

**Signature of Property Owner of Record:** \_\_\_\_\_

Subdivision: \_\_\_\_\_

Block: \_\_\_\_\_ Lot: \_\_\_\_\_

Zoning District, please mark one:

- B-3 Central Business District (Old Town)
- B-4 Expanded Business District (Grizzly Park)
- E-2 Entertainment District (Grizzly Park)
- PUD Planned Unit Development (Grizzly Park)
- Residential Districts, Home Occupations Only (Mad Add)
- New Business
- Change of Location
- Transfer of Ownership
- Name Change

- Is this business licensed by the State of Montana?  Yes  No
- Appropriate Town/County/Health Dept approvals (if applicable)  Yes  No (please attach)
- If this business is located in Grizzly Park, has the business been approved by the Grizzly Park Architectural Committee (GPAC)?  Yes  No

**Type of Business** Please explain in detail the following: number of units, seating capacity, etc. Contractors should list trailers and equipment and where these items will be stored.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Business License Fee: \$ \_\_\_\_\_

Resort Tax Bond: \$ \_\_\_\_\_

Total Amount Due: \$ \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

**FOR OFFICE USE ONLY**

Date Approved: \_\_\_\_\_  Town Council  Administration \_\_\_\_\_

Date \_\_\_\_\_ Check # \_\_\_\_\_ Amount \$ \_\_\_\_\_ License # \_\_\_\_\_

SCN \_\_\_\_\_ BLP \_\_\_\_\_ STX \_\_\_\_\_ RDX \_\_\_\_\_

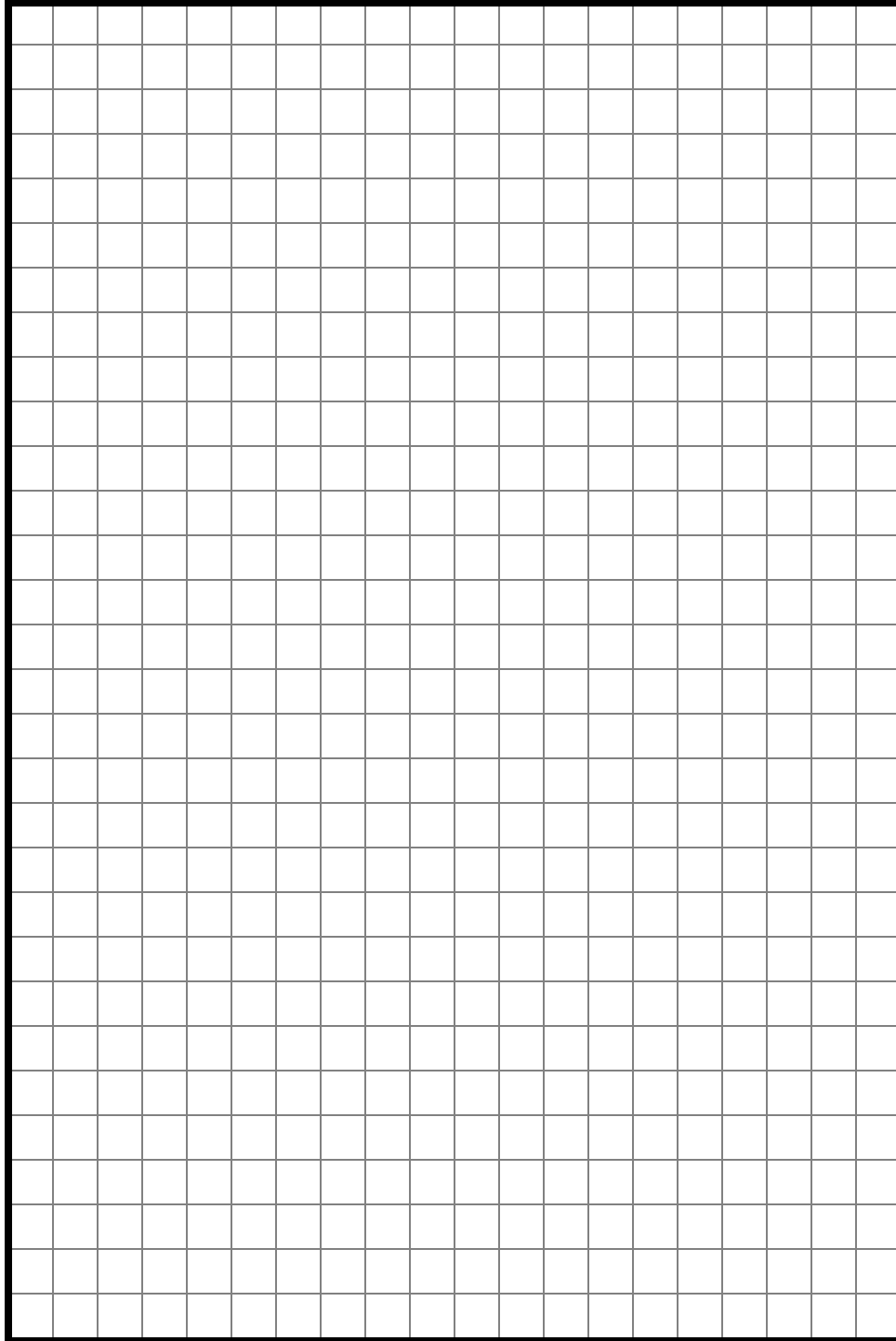
# Site Plan

Business Name: \_\_\_\_\_

Business Owner: \_\_\_\_\_

Business Street Address: \_\_\_\_\_

Block: \_\_\_\_\_ Lot: \_\_\_\_\_ Subdivision: \_\_\_\_\_



Scale: 1 inch = 20 feet

Note: This grid represents a standard Town lot, 100 feet by 150 feet.

## Chapter 5.04 BUSINESS LICENSES

Sections:

- [5.04.010 Definitions.](#)
- [5.04.020 Business license required.](#)
- [5.04.030 Application procedure.](#)
- [5.04.040 License issued on annual basis.](#)
- [5.04.050 Fee schedule.](#)
- [5.04.060 Resort tax bonds.](#)
- [5.04.065 Expositions and outdoor sales.](#)
- [5.04.070 Interstate commerce.](#)
- [5.04.080 Unlawful activities not licensed.](#)
- [5.04.090 Business license revocation.](#)
- [5.04.100 License revocation procedure.](#)
- [5.04.110 Violations--Penalties.](#)

### **5.04.010 Definitions.**

For purposes of this chapter, the following definitions apply:

- A. "Business" means every trade, occupation, profession, vocation, enterprise, nonprofit enterprise, establishment, or activity that is conducted for private profit or benefit and that is not specifically exempted by state law or this chapter. "Business" also includes the lease or rental of commercial facilities/buildings and includes the lease or rental of residential facilities, such as single-family homes, apartments, mobile homes, or condominiums, whether nightly or long-term. "Business" excludes temporary or short-term fundraising activities conducted by a church, school or by a nonprofit civic, fraternal organization, or individual under the age of eighteen.
- B. "Lodging facility" means a residential or commercial building that contains individual sleeping rooms or suites and that provides overnight lodging for compensation for periods less than thirty days. "Lodging facility" includes a hotel, motel, resort, dormitory, inn, condominium, dude ranch, guest ranch, hostel, public lodging house, time share, bed and breakfast facility, or nightly rental. "Lodging facility" also includes any campground, recreational vehicle or trailer park, or similar facility.
- C. "Location" means an address on a specific lot which is a parcel or plot of land shown as an individual unit of ownership on the most recent plat or other record of subdivision.
- D. "Wholesale merchant" means any person or entity engaged in the business of selling inventory to retailers or otherwise selling for the purpose of resale by another person or entity. (Ord. 266 §1 (Exh. A)(part), 2018: Ord. 220 §1, 2006)

#### **5.04.020 Business license required.**

No person, corporation or other entity shall conduct, transact or engage in business of any kind within the town before first submitting an application, appropriate fee, parking plan, required fire and health inspection documentation and obtaining approval for a business license. Failure to obtain a business license prior to operating a business within the corporate limits of the town constitutes a violation of this chapter.

Multiple residential rental units located on different parcels around town and owned by a single entity may be listed on one business license. Parking plans for each location must be submitted with the business license application that have been approved by the planning board. Nightly rentals and residential rentals, even if they are on the same parcel and under the same ownership, must be on separate business licenses. (Ord. 266 §1 (Exh. A)(part), 2018: Ord. 220 §2, 2006)

#### **5.04.030 Application procedure.**

A. Every person, corporation, or other entity applying for a business license under this chapter is subject to regulation, inspection, control, and supervision under the general police power of the town.

B. Upon receipt of a completed application which includes the business license fee, parking plan and applicable fire code and health department approvals for a new business license, the town clerk shall refer the application to appropriate employees of the town for the purpose of any investigation and inspection of the proposed business. Business license applications must contain all information prescribed or required by the town and must include a site plan delineating parking for the business or certification of parking in-lieu payment. Business license applications must be signed by both the business owner and, if different, the owner of the real property on which the business will operate. The town clerk shall refer investigations to appropriate staff for review and inclusion in the town council packet. Completed business license applications shall be approved or denied by the town council at the next regularly scheduled town council meeting unless the planning board needs additional time to review the parking plan.

C. If one party seeks to transfer a business license to another party and the exact nature and location of the business remain the same, then the town clerk, upon payment of the required fee and an internal review of a current parking plan, shall transfer the business license. However, if the party seeking to transfer a business license to another party is delinquent on the obligation to report or pay resort tax under Chapter [3.12](#) for any business owned by the transferring party, the town clerk shall not transfer the business license until all delinquent resort tax, interest, and applicable penalties are paid in full or payment arrangements have been made with the town.

D. In lieu of a standard business license, an applicant may seek a short-term business license that is reviewed and approved by the finance department. A short-term business license is valid for ten calendar days only. All applicable permits and licenses required by other agencies, such as a food purveyor's license from the Gallatin County health department or approval from the Grizzly Park architectural committee, must be in effect at time of application. The applicant must also provide a parking site plan for

review by the town. Fees for the short-term business license and resort tax bond shall be set by resolution.

E. A business for contracted services that does not maintain an office or permanent residence in West Yellowstone, and whose business is not required to provide parking spaces, and is not required to collect resort tax, may obtain a business license that is reviewed and approved by the finance department without town council approval. Except as modified in this subsection, this business license is subject to all other provisions in this chapter concerning a standard business license.

F. Contracted service businesses located in town that do not have a parking requirement can be approved by the finance department without town council approval. (Ord. 266 §1 (Exh. A)(part), 2018: Ord. 233 §1, 2007: Ord. 232 §1, 2007: Ord. 220 §3, 2006)

#### **5.04.040 License issued on annual basis.**

The town issues business licenses on an annual basis with the exception of short-term licenses. The license period is effective from June 1st to May 31st of the following year. Businesses may renew or purchase a business license from the town after March 1st for the following license year. If an existing business license is renewed after June 30th, a late fee will be applied. A new license may be purchased at any time, but all licenses expire May 31st. The town does not prorate business license fees. (Ord. 266 §1 (Exh. A)(part), 2018: Ord. 220 §4, 2006)

#### **5.04.050 Fee schedule.**

The town council shall by resolution set the fee schedule for business licenses, transfers of business licenses, and related fees. (Ord. 266 §1 (Exh. A)(part), 2018: Ord. 220 §5, 2006)

#### **5.04.060 Resort tax bonds.**

A. If an applicant for a business license intends to sell any goods or provide services that are subject to the town's resort tax pursuant to Chapter [3.12](#), then a resort tax bond in an amount set by resolution must accompany the business license application. The resort tax bond shall be executed by a surety company licensed to do business in Montana. In lieu of a surety bond, the applicant may submit a cash bond of equal value.

B. The bond must be approved by the town clerk and must be conditioned upon the applicant's collection and remittance of resort tax in accordance with all requirements of Chapter [3.12](#). The resort tax bond must remain in full force and effect until four months after the end of the first full business license year.

C. When an existing business that is subject to resort tax collection pursuant to Chapter [3.12](#) changes ownership, the new owner must provide a resort tax bond to the town clerk in the same manner set forth above.

D. If a business fails to collect, report, and remit the resort tax or otherwise violates the provisions of Chapter [3.12](#), the town shall have a right of action on the bond for recovery of any unpaid resort tax, as well as interest, civil penalties and attorney's fees allowed by ordinance or state law. The town may require a business to post a new or additional resort tax bond if the business fails to timely remit resort tax payments for more than two consecutive months or for any three months in a twelve-month period. The town may not renew a business license that has unpaid resort tax outstanding at the time a business license must be renewed.

E. After a business has collected and remitted the resort tax in accordance with all provisions of Chapter [3.12](#) for the first licensing period of business operation, the town clerk shall then return the resort tax bond to the business four months after the expiration of the original business license. Failure to remit any resort tax during the term of the initial issuance of a town business license shall constitute grounds for the town to retain the bond. (Ord. 266 §1 (Exh. A)(part), 2018: Ord. 220 §6, 2006)

#### **5.04.065 Expositions and outdoor sales.**

A. Notwithstanding the other provisions of this chapter, any person engaged in the business of conducting an exposition, exhibit or sale of any merchandise or product, including artifacts and art objects, at an outdoor exposition or sale, or at an indoor exposition or bazaar, where two or more persons are gathered together for such purpose shall pay a business license fee as set by resolution.

B. The applicant shall:

1. Submit an application thirty calendar days prior to the event. Application forms shall be obtained from the finance department. Exposition licenses shall be issued by the finance department after consultation with the police department, the fire department, the public services department, and the town manager. It is recommended that the entity or person organizing or sponsoring the exposition start the licensing process at least thirty calendar days in advance. If the submittal is received by town at least thirty calendar days in advance of the event, the application may be circulated through intradepartmental mail. However, if it is received less than thirty calendar days prior to the event, a penalty fee of fifty dollars will be added to the license fee, and the applicant shall be responsible for going individually to the police, fire, and public services departments to obtain any necessary approval. Completing those approvals, the applicant must return the application to the finance department for review at least five business days before the beginning of the event. The request is then forwarded to the town manager for final consideration. It is unlawful to conduct an exposition regulated by this chapter without a license.

2. Post a resort tax bond in the amount set by resolution. The resort tax bond shall be executed by a surety company licensed to do business in Montana. In lieu of a surety bond, the applicant may submit a cash bond of equal value. If an applicant fails to collect, report, and remit the resort tax in accordance with the provisions of Chapter [3.12](#), the town shall have a

right of action on the bond for recovery of any unpaid resort tax, as well as interest, civil penalties and attorney's fees allowed by ordinance or state law. After provisions of Chapter [3.12](#) have been met, the town clerk will return the resort tax bond to the applicant within ninety calendar days.

3. Notify each participant in writing, prior to accepting any application or approving participation in the exposition, bazaar, exhibit or sale, that the participant is responsible for submitting the following on or before the twentieth day of the month following the event to receive the resort tax administrative fee and no later than the last day of the month to avoid a penalty:

a. A completed town of West Yellowstone resort tax form; and

b. A check payable to the town of West Yellowstone for the three percent resort tax required under the guidelines as specified by Chapter [3.12](#).

4. Acquire and keep on file the names, addresses and phone numbers of all participants and, further, collect and remit, from each vendor, the completed resort tax form and payment due.

C. The provisions of this section do not require additional licenses for merchants or vendors participating in such events when all of the participants are regularly licensed under other provisions of this chapter. Events sponsored by nonprofit organizations where the merchandise is non-business-related personal property sold by individuals not regularly engaged on a full-time or part-time basis in the business of selling, manufacturing or distributing such merchandise are not required to obtain a business license.

D. Applicants may file an appeal with the town council for a reduction or waiver of license fees and bond requirements. (Ord. 266 §1 (Exh. A)(part), 2018: Ord. 239 §1, 2008)

#### **5.04.070 Interstate commerce.**

Nothing contained in this chapter is intended to operate so as to interfere with the power of the Congress of the United States to regulate commerce between states. (Ord. 266 §1 (Exh. A)(part), 2018: Ord. 220 §7, 2006)

#### **5.04.080 Unlawful activities not licensed.**

This chapter may not be construed to allow licensing of any business or activity that is prohibited by any law of the United States, the state of Montana or the town. It is unlawful for any person or entity to sell merchandise, goods, or services of any kind, or solicit orders for merchandise, goods, or services, on any street, alley, sidewalk or other public place in the town, except as permitted in Section [5.20.030](#). (Ord. 266 §1 (Exh. A)(part), 2018: Ord. 220 §8, 2006)

#### **5.04.090 Business license revocation.**

The town may revoke a business license under the following circumstances:



- A. Failure to report or remit resort tax by payment deadlines in Section [3.12.060](#);
- B. The violation of any provision of Chapter [3.12](#) concerning resort tax;
- C. The violation of any provision of this chapter concerning business licenses;
- D. Misrepresentation of ownership, nature of business, or any material fact on a business license application;
- E. The violation by the business of any other provision of the West Yellowstone Municipal Code. (Ord. 266 §1 (Exh. A)(part), 2018: Ord. 233 §2, 2007: Ord. 220 §9, 2006)

**5.04.100 License revocation procedure.**

- A. A business license may be revoked for any violation of this chapter, including those specified in Section [5.04.090](#). A business license may be revoked either by order of the town judge or by an administrative order by the town manager.
- B. If the town manager determines that the town has valid grounds to revoke a business license, the town manager must notify the business in writing of these grounds at least ten business days before issuing an administrative order revoking a business license. The notice must also inform the business that it has ten business days from the date of the notice to provide the town with any documents or information contesting the stated grounds for revocation. After reviewing all pertinent documents and information, including any submittal by the business contesting the stated grounds, the town manager may issue an administrative order revoking a business license if the business has committed any violation of this chapter, including those specified in Section [5.04.090](#).
- C. A business may appeal an administrative order by the town manager revoking its business license by filing a written notice of appeal with the town clerk within ten business days after the date of the administrative order. The administrative order of revocation is stayed during any appeal to the town business license review board. The business license review board shall consist of the finance director (or designee), the mayor (or designee) and a member of the town council other than the mayor. The business license review board will conduct an investigation of the circumstances resulting in the administrative order to revoke the business license within fifteen business days. As part of the investigation, the business may present any relevant evidence contesting the administrative order of revocation by the town manager. After hearing and reviewing all relevant evidence, the business license review board may uphold, overturn, or modify the administrative order of revocation by the town manager.
- D. A business may make a final appeal on the decision of the business license review board by filing a written notice of appeal with the town clerk within ten calendar days after the date of the decision. The appeal will be placed on the agenda of the next regularly scheduled council meeting. After hearing and reviewing all relevant evidence, the town council may uphold, overturn, or modify the decision by the

business license review board. All revoked business licenses will be subjected to a reinstatement fee. (Ord. 266 §1 (Exh. A)(part), 2018: Ord. 223 §1, 2007; Ord. 220 §10, 2006)

#### **5.04.110 Violations--Penalties.**

Violation of this chapter is a municipal infraction subject to the provisions of Sections [7-1-4150](#) through [7-1-4152](#), MCA. In addition to any civil penalty ordered by virtue of a municipal infraction, the town judge may enter a civil judgment against the defendant for the amount of the license found due and unpaid and may issue an order revoking a defendant's business license. (Ord. 266 §1 (Exh. A)(part), 2018: Ord. 220 §11, 2006)

The West Yellowstone Municipal Code is current through Ordinance 266, passed June 5, 2018.

## Chapter 3.12 RESORT TAX

### Sections:

- 3.12.010 Created--General provisions--Imposed.**
- 3.12.020 Definitions.**
- 3.12.030 Imposed.**
- 3.12.040 Luxuries tax.**
- 3.12.050 Rate--Duration.**
- 3.12.060 Resort tax payment.**
- 3.12.070 Collection duties and responsibilities.**
- 3.12.080 Resort tax collection fee.**
- 3.12.090 Records and forms.**
- 3.12.100 Preservation of records.**
- 3.12.110 Random audit.**
- 3.12.120 Appeals.**
- 3.12.130 Exemptions.**
- 3.12.140 Use of tax moneys.**
- 3.12.150 Reduction of property tax levy.**
- 3.12.160 Property tax relief fund.**
- 3.12.170 Resort tax administration.**
- 3.12.180 Violation--Civil penalties.**
- 3.12.190 Violation--Criminal penalties.**

### **3.12.010 Created--General provisions--Imposed.**

The financial impact of tourism far outweighs the ability of the town residents to meet the demand for services expected by tourists solely on the revenue generated by property tax. Therefore, the residents of the town of West Yellowstone voted to institute a resort tax in 1986. Once passing the Montana Legislature, the town undertook substantial infrastructural improvements and expansion of services that would benefit both visitors and residents. Since a bulk of services provided by the town are consumed by the tourists, it is the intent of the town to collect resort taxes on "luxury" items (see Section [3.12.040](#) for definition) purchased and tourist-related entertainments provided by businesses which operate within the town.

A. A resort tax is imposed on the retail value of all goods and services sold or provided by businesses, groups or organizations located within the town, regardless of the method or manner of the transaction, by the following:

1. Hotels, motels, condominiums, vacation rentals, cabins and any other nightly or weekly lodging or camping facilities;
2. Restaurants, fast food stores, convenience stores, and other food service establishments;

3. Taverns, bars, nightclubs, lounges and other public establishments that serve beer, wine, liquor or other alcoholic beverages by the drink;
4. Groups, organizations, or temporary vendors, with or without tax exempt status;
5. Any business that sells luxuries as defined in Section [3.12.040](#).

Businesses or organizations that sell luxuries must collect a tax on such luxuries. (Ord. 264 §1 (Exh. A) (part), 2017; Ord. 258 §1 (Exh. A) (part), 2015; Ord. 211 §1, 2003; Ord. 112 §1, 1985)

### **3.12.020 Definitions.**

- A. The terms "luxuries," "medical supplies," and "medicine" shall be defined as set forth in MCA Section [7-6-1501](#), and as set forth in more detail below.
- B. All references to the "resort tax" and "tax" in this chapter shall refer to the resort tax passed by the electorate of West Yellowstone and as enacted by the ordinance codified in this chapter. (Ord. 264 §1 (Exh. A) (part), 2017; Ord. 258 §1 (Exh. A) (part), 2015; Ord. 211 §2, 2003; Ord. 113 §1, 1985; Ord. 112 §2, 1985)

### **3.12.030 Imposed.**

There is imposed a duty on each operator of any of the establishments mentioned in this chapter to collect, upon sale, the tax imposed as set forth in this chapter on all customers, regardless of state or federal tax status, with the only exceptions being those set out in Section [3.12.130](#). (Ord. 264 §1 (Exh. A) (part), 2017; Ord. 258 §1 (Exh. A) (part), 2015; Ord. 113 §2, 1985)

### **3.12.040 Luxuries tax.**

Each business, group or organization subject to the tax shall collect the same on the retail value of all goods and services sold within the town by the establishments set forth in Section [3.12.010](#). All luxuries shall be taxed.

"Luxuries" shall include but not be limited to:

- A. Any gift item, luxury item or service, or other item, or other item normally sold to the public or to transient visitors or tourists; but the term does not include unprepared food, medicine, medical supplies and services, or any necessities of life.
- B. Sporting goods or the rental thereof.
- C. Rentals on or for the following recreational equipment: including but not limited to snowmobiles, automobiles, all-terrain vehicles, motorcycles, bicycles, skis, ice skates, snowshoes, boats, campers, and boat motors.
- D. Recreational lessons and recreational services, including but not limited to float trips, guided trips, skiing, fishing trips, hunting trips, backcountry dining trips, other outfitter trips; horseback riding; golfing, snowshoeing, rock climbing, cycling, rafting, canoeing, kayaking, dog sledding and ballooning, tours and other attractions.

E. All souvenir and localized items such as imprinted hats and T-shirts and curios; all nonfood items such as housewares (other than household appliances), automotive supplies and parts; ice; retail liquor, beer and wine, except that sold at state stores.

F. All attractions such as arcades, bowling centers, concerts, movie/theater tickets and all concessions; event and entertainment tickets (regardless of the method or location of purchase), cover charges, rodeo tickets, voluntary recreational activities such as golfing, swimming, skiing, tanning beds, and other voluntary recreational daily tickets and season passes.

G. Any other goods or services not exempt by Section [3.12.130](#). (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 211 §3, 2003; Ord. 113 §12, 1985)

### **3.12.050 Rate--Duration.**

A. The exact rate of the resort tax is four percent.

B. The duration of the original resort tax as approved by the voters on November 5, 1985, was twenty years from its effective date. The effective date of the resort tax was January 1, 1986.

C. The duration of the resort tax renewal as approved by the voters on November 5, 2002, is twenty years from its effective date. The effective date of the resort tax renewal is January 1, 2006. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 211 §4, 2003; Ord. 112 §§3, 4, 5, 1985)

### **3.12.060 Resort tax payment.**

The resort taxes collected by a business in any month are to be paid to the town on or before the twentieth day of the following month, or if such day falls on a Saturday, Sunday or holiday, then on the next business day. Resort tax payments sent by mail or private courier must be received by the town on or before the twentieth day of each month, or if such day falls on a Saturday, Sunday or holiday, then on the next business day. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 224 §1, 2007: Ord. 219 §1, 2006: Ord. 113 §3, 1985)

### **3.12.070 Collection duties and responsibilities.**

A. The office responsible for receiving and accounting for the resort tax receipts is the finance department.

B. The town manager and his/her agents shall be responsible for enforcing the collection of resort taxes and shall be responsible for overseeing the methods and procedures to be used in enforcing the collection of the resort taxes. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 172 §1, 1995: Ord. 113 §§4, 5, 1985)

### **3.12.080 Resort tax collection fee.**

Each collecting merchant shall be entitled to withhold two and one-half percent of the resort taxes collected to defray costs for collecting the resort tax, providing that resort tax payments are made timely in accordance with Section [3.12.060](#). The resort tax collection fee may be withheld by the business at the time of paying the tax to the town. Failure to withhold the fee shall constitute waiver and forfeiture of the same. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 222 §1, 2007: Ord. 219 §2, 2006: Ord. 113 §7, 1985)

### **3.12.090 Records and forms.**

The town shall provide each business that is required to collect resort tax with the proper forms for reporting and making payments. Resort tax payments to the town shall be tabulated and accounted for on forms prescribed and furnished to the business by the town. The records and forms held by the town shall be confidential, and shall not be open to inspection by the public unless so ordered by a court of competent jurisdiction. Each business that is required to collect resort tax must maintain adequate accounting records and pay the resort tax to the town on the forms provided by the twentieth day of the following month. The accounting records maintained must be accurate, verifiable, and provide a reasonable audit trail. Failure to maintain adequate accounting records constitutes a violation of this chapter. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 219 §3, 2006: Ord. 201 §1, 1999: Ord. 119 §1, 1986; Ord. 113 §8, 1985)

### **3.12.100 Preservation of records.**

Every business required to collect and pay resort tax shall keep and preserve for a period of not less than three years all records necessary to determine the accuracy of the taxes paid, and shall make these records available for audit or inspection on its business premises at all reasonable times. Any audit or inspection shall be conducted in West Yellowstone on the premises of the business or establishment collecting the resort tax or at such other location as the town may determine. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 219 §4, 2006: Ord. 201 §2, 1999: Ord. 113 §10, 1985)

### **3.12.110 Random audit.**

Periodic random audits shall be conducted under the direction of the mayor, town manager or a designated representative and all business operators shall cooperate in all respects in the conduct of the audits. Any random audit shall be for the previous calendar year, and shall be conducted in West Yellowstone on the premises of the business or establishment collecting the resort tax or at such other location as the town may determine. If the audit determines a deficiency, it will be at the discretion of the town to audit the previous two years and require a follow up audit on the next reporting year. Payments and/or arrangements for payment of the amount determined as outstanding resort tax owed shall be paid or arranged within thirty days of the date of the notification of the audit results. Failure to cooperate in any audit or inspection of records, including the failure to make the appropriate records available within fourteen calendar days of the auditor's scheduled audits in West Yellowstone, may result in an automatic nonrenewal of the business license for the subsequent business license year and shall constitute a violation of the provisions of this chapter. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 201 §3, 1999: Ord. 113 §9, 1985)

### **3.12.120 Appeals.**

Any organization may appeal to the town council any assessment of penalty or interest; provided, that notice of appeal in writing is filed with the town clerk within thirty days of the serving or mailing of the determination of the amount of penalty and interest due. The town council shall on the next immediate regular town council meeting fix the time and place for hearing the appeal and the town clerk shall cause notice in writing to be personally served by a peace officer upon the operator. The findings and decision of the town council shall be final and conclusive and shall be served upon the appellant in the manner prescribed for service of notice of hearing or by certified mail directed to the business operator's last known address. Any amount found to be due shall be immediately payable upon service of the findings and decision. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 113 §11, 1985)

### **3.12.130 Exemptions.**

Notwithstanding Section [3.12.040](#), however, the following goods and services shall be exempt from the tax:

- A. Utilities and utility services;
- B. Medical supply services and medicine;
- C. Wholesale merchandise for resale at retail or used in the purchaser's business as supplies;
- D. Gasoline and other motor vehicle fuel;
- E. Liquor sold at state liquor stores;
- F. Propane and similar home fuels;
- G. Sales of automobiles, trucks, snowmobiles, motorcycles, all-terrain vehicles, bicycles, skis, boats, outboard motors and chain saws;
- H. Labor on automobiles, trucks, snowmobiles, motorcycles, all-terrain vehicles, bicycles, boats, outboard motors and chain saws;
- I. All nonrecreational labor, services and nonrecreational state licensed professions and trades;
- J. All payroll and business and labor costs;
- K. Lumber, building supplies and tools, and other tools;
- L. Household appliances;
- M. Any hotel, motel, campground or other lodging facility occupancy, with respect to any person or persons who occupy a room or a space for a period longer than thirty consecutive calendar days; provided, that such person certifies prior to occupancy that the occupancy will exceed thirty consecutive calendar days and does in fact exceed thirty consecutive calendar days;
- N. All sales of goods from businesses via the Internet, catalog or telephone that are shipped out of town and the purchaser never enters the boundaries of the town shall be exempt. Any goods, services or luxuries that are sold by any means and that will either be obtained, consumed, or enjoyed within the town are not exempt. Further, the services described in Section [3.12.040](#) and sold by a business located within the town but consumed or enjoyed outside the boundaries of the town are not exempt, regardless of the method of payment;
- O. Events may be provided, by administrative order of the town manager or his/her designee, relief from the collection of resort tax if three of the following criteria are met:
  - 1. The activity is for a local school or church fundraiser.

2. The appealing entity can establish that all net profits are donated to the local community or school, in kind or monetarily.
3. Monies collected are a donation.
4. Fees are stipulated by a sanctioning body.
5. The entity hosting the event is not required to have a business or expo license.
6. If the event's resort tax collections are anticipated to be less than fifty dollars.
7. The entity conducting the event must have a physical address within the 59758 zip code;

P. The town provides an appeal process, through town council, where an entity may appeal the decision of the town manager. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 117 §§2, 3, 1986; Ord. 113 §13, 1985)

#### **3.12.140 Use of tax moneys.**

A. The tax moneys derived from the resort tax may be appropriated by the town council for any activity, undertaking, or administrative service that the municipality is authorized by law to perform, including costs resulting from the imposition of the tax.

B. There is established a marketing and promotion (MAP) fund for the town. Two and one-half percent of the three percent resort tax collected by the collecting merchant shall be dedicated exclusively to the MAP fund, which fund shall be used solely for the marketing and promotion of West Yellowstone and the surrounding area, as well as the associated costs of administering the fund. The town council may appropriate additional resort tax receipts to the MAP fund.

C. The town council shall by resolution establish a board of not less than three or more than seven qualified persons to oversee the MAP fund. At least one member of this board shall be a sitting member of the town council or the council's designee. The board shall establish policies and procedures for its operation and the general management of the fund in accordance with the council's resolution establishing the board. The board shall also select individual marketing and promotion projects and approve expenditure of funds for such projects, subject to approval by the town council. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 222 §2, 2007: Ord. 112 §6, 1985)

#### **3.12.150 Reduction of property tax levy.**

Annually anticipated receipts from the resort tax must be applied to reduce the municipal property tax levy for the fiscal year in an amount equal to five percent of the resort tax revenues derived during the preceding fiscal year. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 112 §7, 1985)

#### **3.12.160 Property tax relief fund.**

In the event the town receives more resort tax revenues than had been included in the annual municipal budget, it shall establish a municipal property tax relief fund, and all resort tax revenues received in excess of the budget amount must be



placed in the fund. The entire fund must be used to replace municipal property taxes in the ensuing fiscal year. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 112 §8, 1985)

### **3.12.170 Resort tax administration.**

The town shall administer resort tax collections according to the following rules:

- A. Resort tax payments shall be made to the town finance office by the established deadline.
- B. Failure to report or make resort tax payments by the payment deadline shall result in forfeiture of the resort tax collection fee for the month in which the payment is due.
- C. Failure to pay resort tax before the end of the month in which the payment is due shall result in an administrative fee of either: (1) twenty-five dollars for businesses with gross sales of one thousand five hundred dollars or less for the reported month; or (2) fifty dollars for businesses with gross sales in excess of one thousand five hundred dollars for the reported month, which shall be in addition to any civil penalties awarded to the town in a suit for collection of resort tax.
- D. At the end of each subsequent month after the original payment is due, the town will assess interest at the rate of three percent of any delinquent resort tax, which shall be assessed on the first business day of the subsequent month and on the first day of each month thereafter until the total amount due, including the administrative fee, is paid in full. This and all administrative fees shall be assessed in addition to any civil penalties awarded to the town in a suit for collection of resort tax.
- E. The town may revoke the business license of any person or business that violates any provision of this chapter. The town may revoke a violator's business license either through the administrative procedure described in Chapter [5.04](#) or through a court order or judgment in accordance with Section [3.12.180](#). (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 250 §1, 2010: Ord. 219 §5, 2006: Ord. 211 §5, 2003; Ord. 112 §9, 1985)

### **3.12.180 Violation--Civil penalties.**

For failure to report taxes when due, failure to pay taxes when due, and other violations of this chapter, the town may seek the following penalties or remedies:

- A. A court judgement in the amount of all unpaid resort taxes, including any unpaid administrative fees assessed under Section [3.12.170](#) and any resort tax collection fees forfeited in accordance with Section [3.12.080](#);
- B. Interest at the rate of ten percent per annum on unpaid resort taxes or administrative fees from the due date or assessment date until paid;
- C. A civil penalty in the amount of fifty percent of the unpaid resort taxes, which includes forfeited resort tax collection fees, plus all costs and attorney's fees incurred by the town in any court action;
- D. An order requiring the delinquent business to undergo a financial audit by the town or its representatives to determine the proper amount of resort taxes due, including payment by the business of all audit costs and expenses incurred by the town or its representatives;

E. Revocation of the violator's town business license, either through judicial order or the administrative procedure described in Chapter [5.04](#);

F. Any other penalty, remedy or judicial relief to which the town is entitled. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 219 §6, 2006: Ord. 207 §3, 2000: Ord. 113 §6, 1985)

**3.12.190 Violation--Criminal penalties.**

A person or business violating any provision of this chapter is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars for each violation, or imprisonment not to exceed six months for each violation, or both. (Ord. 264 §1 (Exh. A) (part), 2017: Ord. 258 §1 (Exh. A) (part), 2015: Ord. 219 §7, 2006)

# RESOLUTION 709

## A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF WEST YELLOWSTONE SETTING BUSINESS LICENSE FEES

WHEREAS the Town of West Yellowstone requires that all businesses operating within the corporate limits of the Town must obtain a business license, and

WHEREAS the business license provides the Town of West Yellowstone with an effective and efficient means of tracking business activities and determining the names and locations of businesses collecting resort tax, and

WHEREAS the business license application allows Town of West Yellowstone to review the parking impact of various businesses within the Town, and

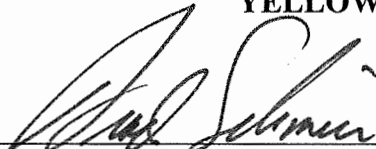
WHEREAS the Town Council of the Town of West Yellowstone seeks to capture the administrative costs associated with the issuance and monitoring of business licenses, and


NOW THEREFORE, BE IT RESOLVED that the Town Council of the Town of West Yellowstone, County of Gallatin, in the State of Montana establishes the following business license fees:

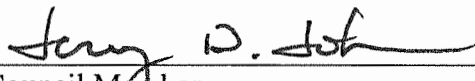
- A. The basic business license fee for all business, unless otherwise stated herein, or provided by law, shall be the sum of fifty (50) dollars;
- B. Any business license may be transferred for a twenty-five (25) dollar fee unless the transfer takes place at the beginning of a new business license year;
- C. Hotels and motels: the basic fee plus three (3) dollars for each unit
- D. Nightly or Long-term rentals of condominiums, house rentals, rooming houses, apartments, time share units, residential motels, vacation rentals, and mobile home parks: the basic fee plus three (3) dollars for each unit;
- E. Campgrounds and recreational vehicle parks: the basic fee plus three (3) dollars for each unit;
- F. Bars, taverns and lounges serving/selling alcoholic beverages: the basic fee plus all-purpose beverage license of two hundred fifty (250) dollars;
- G. Beer and wine license: fifty (50) dollars;
- H. Supermarkets: one hundred (100) dollars;
- I. Restaurants: under fifty seats, fifty (50) dollars; over fifty seats, one hundred (100) dollars;
- J. Rental equipment establishments: the basic fee plus one (1) dollar for each unit: snowmobiles, motor bikes, recreational vehicles, mini bikes, and cars. Bicycle rentals are basic fee only;
- K. Wholesalers and freight delivery companies not based in West Yellowstone: basic fee;
- L. Contractors: basic fee;


- M. Multiple business license: Multiple businesses under single ownership at a single address: basic fee plus twenty-five (25) dollars for each additional business;
- N. Banks: one hundred (100) dollars;
- O. Communications companies including but not limited to telephone companies, cable television providers, satellite television providers and internet service providers: one hundred (100) dollars;
- P. Daycare centers: basic fee;
- Q. Commercial space rentals such as business space or storage rentals: basic fee;
- R. Business License Reinstatement fee: fifty (50) dollars plus cost of business license;
- S. Short Term business license: basic fee
- T. Events:
  - a. Event Fee: Twenty-five (25) dollars plus twenty-five (25) dollars per vendor;
  - b. Late Application Fee: fifty (50) dollars.
- U. Occupations licensed by the State of Montana such as but not limited to hairdressers, barbers, chiropractors, veterinarians, certified public accountants, master plumbers, master electricians, licensed massage therapists, fishing or hunting guides, and other occupations listed on the Secretary of State's website: a no-fee license. License applications must still be submitted for parking plan approval if applicable.
- V. Bonds required:
  - a. Resort Tax: \$500.00;
  - b. Short-term Business License Bond: \$500.00;
  - c. Special Event/Exposition Bond: \$1,500.00.

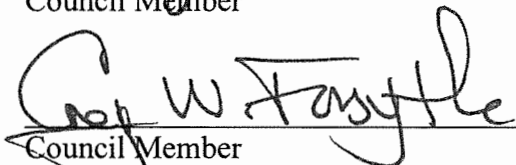
**PASSED AND ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF WEST YELLOWSTONE THIS 14th DAY OF MAY 2018.**

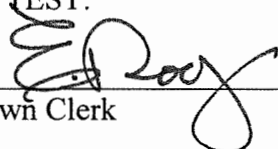
  
 \_\_\_\_\_  
 Mayor

  
 \_\_\_\_\_  
 Council Member

  
 \_\_\_\_\_  
 Council Member

  
 \_\_\_\_\_  
 Council Member

  
 \_\_\_\_\_  
 Council Member

ATTEST:  
  
 \_\_\_\_\_  
 Town Clerk

