

Chapter 20

BUSINESS REGISTRATION AND LICENSING

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[HISTORY: Adopted by the Board of Trustees of the Village of Jemez Springs at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 130.

ARTICLE I
Business Registration

§ 20-1. Short title.

This article, §§ 20-2 through 20-9, shall be cited as the "Business Registration Ordinance."

§ 20-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BUSINESS — Any commercial activity or enterprise for finance gain, benefit, advance or livelihood.

ENGAGING IN BUSINESS — Persons operating, conducting, doing, carrying on, causing to be carried on, or pursuing any business, profession, occupation, trade, pursuit or activity for the purpose of profit and who are required to obtain a New Mexico taxpayer identification number.

PERSON — Any individual, estate, trust, receiver, cooperative, association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity engaging in a business, profession, occupation, trade, pursuit, or commercial activity.

PLACE OF BUSINESS — The premises within the Village of Jemez Springs, whether it be a personal residence, main business location or an outlet, branch or other location thereof, temporary or otherwise, where a person is engaging in business. In the event there is no such location, but the business is transacted or the service provided in the location of the buyer, then the general sales area within the Village shall be considered a place of business. Unless a construction contractor has at least one permanent location within the Village of Jemez Springs, "place of business" includes a construction site located therein.

§ 20-3. Imposition of business registration fee.

There is imposed on each place of business conducted in this municipality a business registration fee for each calendar year and is due on or before March 15 of each year. The fee is imposed pursuant to NMSA 1978, § 3-38-3, as it now exists or is amended. The business registration fee shall be effective for a one-year period based on a calendar year.

§ 20-4. Exemptions.

- A. Exemptions from business registration fee. No business registration fees shall be imposed on any business which is licensed under any other provision of this chapter or which is specifically exempt from paying a business registration fee pursuant to NMSA 1978, § 3-38-1.
- B. Minors engaged in fund-raising activities. Minors under the age of 18 years shall not be required to obtain a registration when the purpose of the business is fund raising for a specific nonprofit organization.

§ 20-5. Application for issuance of business registration.

- A. Any person proposing to engage in business within the municipal limits of the Village shall apply for registration and pay a business registration fee for each place of business within the municipal limits of the Village prior to engaging in business, unless such person is exempt under § 1-4 of this article.
- B. The application for registration shall be made prior to the commencement of the business or prior to the opening of any outlet, branch or additional location within the municipal limits of the Village.
- C. Any person filing an application for issuance of a business registration shall include in the application the current taxpayer identification number issued by the New Mexico Taxation and Revenue Department or evidence of application for such number, and any other information required by the Village of Jemez Springs.
- D. The business registration fee shall be paid to the Municipal Clerk/Treasurer during regular business hours.
- E. The Municipal Clerk/Treasurer shall not issue a business registration authorizing the conduct of commercial activity to any person whose records reflect any unresolved noncompliance with the business registration provisions or any other municipal ordinance or regulation.
- F. No business shall be issued a registration until all requirements in this article are met.

§ 20-6. Renewal of business registration.

- A. Each year any person engaging in a business within the municipality shall apply for the renewal of any applicable business registration and shall pay for the fee for each place of business. Any person filing for application of renewal shall include the state taxpayer identification number or evidence of application for such number. The term for each registration is valid for one year.
- B. The Municipal Clerk/Treasurer shall not issue a business registration authorizing renewal for the conduct of commercial activity to any person whose records reflect any unresolved noncompliance with the provisions of this article or any other municipal ordinances or regulations.
- C. No business shall be issued a renewal or registration until all requirements in this article are met.

§ 20-7. Transfer of business registration.

No registration issued pursuant to this article shall be transferable from one business to another, or from one person conducting a business to a succeeding person conducting the same business.

§ 20-8. Late fee; enforcement; collection.

- A. There shall be imposed upon each delinquent registration fee a late fee of \$10 pursuant to NMSA 1978, § 3-38-5.
- B. If any business is conducted in violation of this article, the Village may institute appropriate legal action to enjoin, restrain, correct, or abate the violation of this article or conduct the business. Any person who fails to pay the business registration fee for issuance or renewal by the deadline date shall receive a notice of violation by certified mail, ordering the person's appearance within 30 days from date notice is mailed, to show cause why the Village should not initiate proceedings under this article.

§ 20-9. Fee schedule.

Fees shall be imposed as follows:

- A. Issuance of registration: \$35.
- B. Renewal of registration: \$35.
- C. Late fee: \$10.

ARTICLE II
Business License

§ 20-10. General policy.

The governing body declares and determines that the licensing and regulation of certain businesses, not otherwise exempt by law, is conducive to the promotion of the health and general welfare of the Village of Jemez Springs and imposes a license fee and separate license upon businesses which are hereby determined to affect the health and general welfare of the municipality. The fees imposed in this article bear a reasonable relation to the actual cost of the Village in regulating each place of business named herein.

§ 20-11. License required.

It shall be unlawful for any person to engage in the following businesses, professions, or trades within the municipal limits of the Village of Jemez Springs without first obtaining a license.

§ 20-12. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AUCTION — Includes any offer to sell personal property or real property to the highest bidder.

CARNIVAL — Any mechanical device, aquatic device or combination of devices that carries or conveys passengers on, along, around, through or over a fixed or restricted route or course

or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement, including bungee jumping facilities and state fair rides, but does not include playground equipment, a single-passenger, coin-operated device secured by a stationary foundation or a small promotional event or operation consisting of fewer than six kiddy rides designed for children 12 years of age or younger, including merry-go-rounds.

HOME OCCUPATION — A business located within a home which produced an income exceeding \$1,000 annually. These businesses must be compatible with the neighborhood in which they are located and shall comply with the planning and zoning rules and regulations.

JUNK DEALER — A person who deals in a business of purchasing or selling secondhand or cast-off material of any kind which is commonly called "junk."

KIDDY RIDE — An operation designed for children 12 years of age or younger.

PAWNBROKER — A person engaged in the business of lending money on the deposit or pledge of personal property or who purchases personal property with an expressed or implied agreement or understanding to sell it back at a stipulated price.

§ 20-13. Types of business and fees.

- A. Before conducting, operating, or engaging in any business, trade, or occupation within the municipal limits of the Village of Jemez Springs, persons engaged in any business listed in the schedule below shall secure a license from the office of the Municipal Clerk/Treasurer and shall pay a license fee according to the fee schedule.
- (1) Auctions per event: \$100.
 - (2) Carnival, circus or menagerie, per day: \$100.
 - (3) Home occupation: \$100.
 - (4) Junk dealers: \$100.
 - (5) Kiddy rides: \$35.
 - (6) Pawnbrokers and pawn shops: \$100.
- B. A separate license is required for each place of business conducted or maintained by the same person, firm, corporation, or association.

§ 20-14. Issuance of license.

- A. Each year all businesses engaging in a type of business listed in this article shall apply for a business license for that year or event. These businesses shall include payment with the application. The business license fee shall not be prorated.
- B. Any business may protest the requirement of a business license fee by filing a written protest with the Municipal Clerk/Treasurer. The governing body shall give the protesting business notice of a public hearing at which time the protest shall be heard by the governing body. The governing body shall determine whether the business falls within

the meaning of the definitions. Upon the receipt of an application for a business license, the Clerk/Treasurer shall require an investigation of the applicant's business to determine whether the applicant's business is conducive to the public health, safety and welfare. If the Clerk/Treasurer finds substantial cause to believe that the issuance of a business license is not conducive to the public health, safety and welfare, the application shall be referred to the governing body for hearing and issuance or denial of the license. The Clerk/Treasurer shall notify the applicant of the time and place of such hearing, and the applicant shall have a full and fair opportunity to be heard before the Village governing body. The governing body may also hear any other evidence presented on the matter. If, upon hearing, a majority of the governing body present determines that issuance of the license is not in the best interest of the public health, safety or welfare, the license shall be refused and the governing body shall enter findings and conclusion justifying the refusal. Otherwise, the license shall be issued.

- C. If refused, the governing body shall enter findings and conclusions justifying the refusal. Otherwise, the license shall be issued.

§ 20-15. Application.

Applicants for license under this article must file with the Municipal Clerk/Treasurer a sworn application, in writing, on a form to be furnished by the Municipal Clerk/Treasurer, which shall include, but is not limited to the following information:

- A. Owner's name;
- B. Owner's home address;
- C. Business name;
- D. Business address;
- E. Current New Mexico tax identification number or evidence of application for number;
- F. A brief description of the nature of the business;
- G. Copy of New Mexico State license, when applicable;
- H. Written permission of the property owner upon which the business is to be located, when applicable.

§ 20-16. Pawnbrokers.

Any person engaging in the business of pawnbroker shall comply with any and all laws of the Pawnbrokers Act, NMSA 1978, §§ 56-12-1 to 56-12-16.

§ 20-17. Junk dealers.

Any person engaging in the business of junk shall comply with the Trade Practices and Regulations, NMSA 1978, § 57-7-1.

§ 20-18. Carnival.

Any person engaging in the business of carnival with rides shall comply with the Carnival Ride Insurance Act, NMSA 1978, § 57-25-2.

ARTICLE III
Itinerant Vendor License

§ 20-19. Purpose.

The purpose of this article is to regulate the location, time, manner and amount of activities relating to vending, solicitation, sale of merchandise, goods, and entertainment on public and private property in such a 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.

§ 20-20. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ITINERANT VENDOR — Any person, including a natural person, firm, corporation, partnership or association, who engages in the sale of goods, wares, merchandise or services within the Village on a transient, temporary basis, or seasonal basis, including the following:

- A. Persons conducting business out of a vehicle, truck, trailer or other mobile unit.
- B. Persons who in conjunction with a special event engage in temporary or transient business in the Village.
- C. Village business persons or establishments that sell goods, wares, merchandise or services at a location separate from their usual place of business on a temporary basis during special events.
- D. Village business persons or establishments that set up stalls or other facilities at their usual places of business during special Village events when the items offered for sale were not purchased by the merchant in advance for resale and the items offered for sale differ from the regular merchandise of such local business or the business accepts any fee or percentage of the sales from a transient vendor in exchange for the temporary use of the local premises.

§ 20-21. General policy.

The Village of Jemez Springs governing body recognizes that the business activity of itinerant vendors is extremely difficult to regulate for the protection of the vendors and the public, that there is great difficulty in assuring the payment of gross receipts taxes, that the failure of itinerant vendors to pay such taxes is common. Accordingly, the Village governing body has determined that certain regulations shall apply to itinerant vendors doing business within the municipal limits of the Village. The person, firm or corporation engaged in itinerant vending shall not be relieved from the provisions of this article by reason of association with any local

dealer, trader or merchant, or by conducting such temporary or transient business in connection with, as a part of or in the name of any local dealer, trader or merchant.

§ 20-22. Vendor license required.

It shall be unlawful for any person to engage in the business of itinerant vending within the Village limits without first obtaining a license. The vendor license must be prominently displayed and available for public inspection at all times.

§ 20-23. Application

To obtain a license, a vendor shall file in the office of the Municipal Clerk/Treasurer a verified application (furnished by the Municipal Clerk/Treasurer) with the following information:

- A. Name and address of applicant.
- B. Name of business.
- C. State taxpayer identification number.
- D. Dates of operation.
- E. Name of property owner where business is to be located.
- F. Location of property where business is to be located.
- G. Description of type of vending business.
- H. Written permission to use the property must accompany application or approval of governing body to operate on public property.
- I. Express permission for the Village Clerk/Treasurer, police or safety personnel to conduct investigations of the vending premises.
- J. Liability insurance of no less than \$300,000.

§ 20-24. Itinerant vendor fee imposed.

The governing body finds that licensing and regulation of itinerant vending is necessary for the general safety and welfare of the Village. In particular, the presence of itinerant vendors during special events causes large increases in the cost of police and fire protection, sanitation and emergency services necessary to protect the vendors and the public. To offset these additional costs, and in reasonable relation thereto, the governing body has determined that the following are reasonable and necessary charges for itinerant vending:

- A. Business license: \$35.
- B. Vendor fee: \$10 unless special event.
- C. Vendor license fee: \$35.

§ 20-25. Exemptions.

These exceptions are subject to the discretion of the governing body with regard to locations, traffic and safety issues.

- A. Car washes, fund-raisers, or other activities held on private property by charitable, educational, youth or civic nonprofit organizations for fund-raising purposes.
- B. School sponsored activities or fund-raising events on school property.
- C. Church activities or church sponsored events on church property.
- D. Newspaper vending.
- E. Sales of home grown fruits, vegetables, flowers or farm or garden products in their natural state or homemade jelly.
- F. Sales to wholesale or retail merchants, by sample, for future delivery made by representatives or established wholesales or manufacturers.
- G. Events sponsored by the Village of Jemez Springs.
- H. Garage sales.

§ 20-26. Vehicular or pedestrian traffic flow.

It shall be unlawful for any itinerant vendor to peddle, sell, advertise, or display any article on private property in such a manner as to hinder the flow of vehicular traffic on public streets or hinder the flow of pedestrian traffic on public walkways, sidewalks, streets, or other public thoroughfares.

§ 20-27. Use of public property.

Public property may be made available for special events, subject to the discretion of the governing body, when such use of public property is determined to be in the best interests of the Village.

§ 20-28. Violations and penalties.

Any person convicted of a violation of any provision of this article shall be guilty of a misdemeanor, punishable as set out in § 1-122 of this Code. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

ARTICLE IV
Real Property Transactions Permit

§ 20-29. Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning indicated, unless a different meaning is clearly indicated by the context.

CONSTRUCTION — The building, altering, repairing, remodeling, or demolishing of any building or structure.

GROSS RECEIPTS — The total amount of money or the value of other consideration received from the sale of real property or from construction or remodeling of real property within the Village of Jemez Springs.

PERMIT OR REAL PROPERTY TRANSACTIONS PERMIT — A permit issued by the Village of Jemez Springs for the sale of real property or for construction or remodeling of real property within the Village pursuant to this article.

§ 20-30. Permit and affidavit required.

- A. Every realtor, contractor or developer intending to sell, construct or remodel any real property in the Village shall, prior to commencing the performance of such sale, construction or remodeling, obtain from the Village a real property transactions permit for each parcel of land to be sold or upon which construction or remodeling will take place. The governing body by resolution shall establish and may from time to time modify the amount of a fee for each permit issued, which fee shall be payable to the Village upon sale of the property or the initiation of construction.
- B. As a condition for any permit issued under this section, the applicant (or an officer of the applicant if the applicant is a corporation or other organization) must submit an affidavit, in a form satisfactory to the Village, affirming under oath that the applicant will report on applicant's CRS-1 reports, under the Tax Location Code No. 29-504, all gross receipts accruing from sale of property within the Village or from goods delivered or services performed within the Village in connection with the construction or remodeling described in the permit.

§ 20-31. Posting of permit.

- A. Any permit issued pursuant to this article shall be promptly displayed in a clear and prominent manner on the real property to be sold or on which the permitted construction or remodeling is taking place, and shall not be removed until:
 - (1) The property is sold;
 - (2) The construction or remodeling has been completed; or
 - (3) The anticipated sale, construction or remodeling is abandoned and will not be renewed by the permittee

- B. The permittee may, at permittee's option, display the permit on permittee's sign posted on the premises, or may post the permit separately in a prominent location on the property where the permit is clearly visible from the street or road.

§ 20-32. Violations and penalties.

- A. Any realtor, developer or contractor found to be in violation of this article shall be prohibited from engaging in the sale, construction or remodeling of real property in the Village of Jemez Springs until such time as the realtor, developer or contractor comes into compliance. The Village may suspend or revoke the business license or home occupation permit (if applicable) of any person found to be in violation of this article. If gross receipts taxes due to the Village were not paid to the Village as a consequence of the realtor's, developer's or contractor's violation of this article, the Village may require that the realtor, developer or contractor make the Village whole for the loss of tax revenues resulting from such noncompliance.
- B. In addition to the penalties specifically set forth in this section, any person in violation of this article shall be subject to any other penalties, whether administrative, criminal or civil, that are imposed or permitted under applicable law.