CHAPTER 11

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CHAPTER 11

LICENSES AND TAXES

ARTICLE I. IN GENERAL

SECTION 11-1. APPLICABILITY IN GENERAL.

The provisions of this article shall govern every business, as defined in Section 11-18, licensed in the city, except as otherwise provided by the provisions of this Code or other ordinances of the city under which such business is licensed.

SECTION 11-2. APPLICATIONS; FORM.

Applications for all licenses and permits required by ordinance shall be made in writing to the city clerk on the form provided by the city clerk. Such application shall be made under oath and signed by the person making such application.

SECTION 11-3. ISSUANCE; PAYMENT OF TAXES; SIGNATURE; TERM; PRO-RATING OF FEES.

Each person making application for a business license shall, at the time of making such application, pay the required license tax. Every license shall be signed by the city clerk under the city seal. No person shall be deemed to be licensed until the license is issued in due form as required by this section, and no license shall authorize any person other than the licensee to conduct business thereunder.

SECTION 11-4. REFUND OF LICENSE TAX.

No refund shall be made to any licensee by reason of discontinuance of any business licensed under this Code or other ordinances of the city for any reason whatsoever.

SECTION 11-5. FORM OF LICENSE.

Every license issued under this chapter shall show:

(a) The name of the licensee.

(b) Nature of business.

(c) Place of business.

(d) That such license is not transferable, except by approval of the city.

(e) The amount of the tax paid.

SECTION 11-6. DISPLAY.

Every business licensed under this Code or other ordinance of the city shall at all times have such license prominently displayed in the place of business or available upon request.

SECTION 11-7. EXPIRATION DATE.

Unless otherwise provided, each license shall expire as indicated on the license.

SECTION 11-8. RENEWAL; DELINQUENCY.

(a) Every person licensed to conduct, engage in , or operate any business in the city shall, if such business or work is to be continued, promptly and voluntarily renew such license in the office of the city clerk upon expiration of the license.

(b) All licenses which have expired shall be delinquent if not renewed within 60 days. No delinquent license shall be renewed unless the licensee shall pay to the city clerk, in addition to the renewal license tax, a penalty for delinquency. The delinquency penalty shall be ten percent (10%) per month of the non-delinquent license tax, and will be computed as follows:
Number of months delinquent X 10% = A%

A% X non-delinquent license fee = delinquency penalty

Example:

Number of months delinquent = 3

3 X 10% = 30%

Non-delinquent license tax = $100.00

30% X $100.00 = $30.00

$30.00 = delinquency penalty

(c) The city clerk shall refuse the issuance of a license to any person whose license shall have become delinquent within the year immediately preceding, unless such licensee shall pay the penalty provided by this section.

SECTION 11-9. PRORATION.

The fee for any business license, except for a retail or limited liquor license, for a business initiating operations after March 31 of any year, shall be prorated as follows:

Fees Due	Prorated Fee
April 1 to April 30	84% of full fee
May 1 to May 31	76% of full fee
June 1 to June 30	68% of full fee
July 1 to July 31	60% of full fee
August 1 to August 31	52% of full fee
September 1 to September 30	44% of full fee
October 1 to October 31	36% of full fee
November 1 to November 30	28% of full fee
December 1 to December 31	20% of full fee

SECTION 11-10. TRANSFER.

Licenses are personal privileges to the person to whom they are issued but may be transferred to another person if the place of business and the nature of the business remain the same, and if the city shall so approve said transfer. A proposed transfer may be submitted for the city's approval by the assignee's filing with the city clerk a copy of the assignment, executed by the licensee within thirty (30) days of the sale of the business covered by the license, and filing an application form for a new license in the assignee's name, as provided by Section 11-2 above. The assignee shall pay a Ten Dollar ($10.00) fee to the city clerk at the time he submits his request for transfer of the license. No additional fee shall be required for the balance of the year in which such new license shall be issued.

SECTION 11-11. CHANGE OF LOCATION.

Each business license issued shall entitle the licensee to operate such business only in the location described in such license. Should any such licensee desire to move to a different location, he shall make application as herein required for a new license at such location. Upon issuance of such new license under the provisions of this ordinance, credit shall be given for the unexpired or unused portion, if any, of the license tax paid for the previous license.

SECTION 11-12. REGISTER.

The city clerk shall maintain a license register, in which shall be entered the full name of each licensee, the address at which such business is conducted, the date of issuance, the purpose for which the license is issued, the amount paid therefor, the time such license will continue in force.

SECTION 11-13. BUSINESS TO BE CONDUCTED ONLY AT LICENSED LOCATIONS; COMPLIANCE WITH ZONING REGULATIONS.

Every business or shop licensed under the provisions of this Code or other ordinance of the city shall be conducted only in or from the location so licensed and from no other place. Separate licenses shall be secured for additional locations. No business shall be licensed or conducted from any location unless the same shall be in compliance with the provisions of the building ordinances and the zoning ordinances of the city, as may from time to time be amended or unless a special use permit or a variance from the provisions of the zoning ordinances has been granted in accordance with the provisions of said ordinance, for the location of the building in which the business is to be conducted.

SECTION 11-14. SUSPENSION; REVOCATION - GENERALLY.

The city council may suspend or revoke any business or occupational license if the licensee fails or refuses to comply with the provisions of this Code or other ordinances of the city under which such license is issued; provided, that such suspension or revocation shall not bar the imposition of the penalties provided for a violation of this Code or other ordinances of the city by Section 1-5.

SECTION 11-15. SAME - VIOLATIONS PRIMA FACIE CAUSE FOR REVOCATION.

The violation by any person licensed under this Code or other ordinance of the city of any provision of this Code or other ordinance of the city applicable to the business which he is licensed to conduct shall be prima facie cause for revocation, without refund of any portion of the license fee, of the license under which such business is conducted; provided, that such revocation shall not bar the imposition of the penalties provided for a violation of this Code or other ordinances of the city by Section 1-5.

SECTION 11-16. SECURING LICENSE BY FRAUD OR MISREPRESENTATION.

No business shall be deemed to be licensed in the city when it shall be found that such license has been secured through fraud or misrepresentation or in violation of any provision of this Code or other ordinances of the city. The securing of any license by fraud or misrepresentation shall be just cause for revocation of such license by the city council and shall subject such person to the penalty provided in Section 1-5.

SECTION 11-17. LIABILITY OF FIRMS OR CORPORATIONS FOR VIOLATIONS.

Should there by a violation by a firm or corporation of any provision of this Code or other ordinance of the city under which they may be licensed, each partner of such firm and each officer of such corporation shall be deemed guilty as an individual and punished as provided by this Code. Any officer, agent or employee of a firm or corporation who is individually

convicted of such violation shall be punished as provided by this Code.

ARTICLE 11. OCCUPATIONS GENERALLY

SECTION 11-18. DEFINITIONS.

Wherever in this article or its related resolutions or ordinances the following words are used, they shall, unless the context requires otherwise, be deemed to have the following meanings:

Business: Any activity by which a person, firm, partnership, corporation or any other entity whatsoever offers or furnishes, publicly or privately, goods, chattels or services to another in return for compensation or any valuable consideration, including, but not necessarily limited to, any trade, occupation, profession, avocation or calling of any kind, and also including any activity subject to a license tax under Section 11-22 hereof.

For the purposes of this code, business will not include the casual sale of used property which was acquired with the primary intention of personal use and not for resale. Such sales shall not involve the receipt of a commission or fee by the person transacting the sale and shall be primarily for the disposal of unwanted and unneeded items and not for the primary purpose of generating income. Business will include all activity which requires a state issued license.

Charitable Organization: Any service organization whose primary purpose is to relieve the poor, the sick, the neglected, the dependent and the destitute without compensation; such as American Red Cross, Cancer Society, Heart Association.

Civic Organization: Any community oriented service organization formed to promote and benefit community projects and purposes; such as Lions Club, Rotary Club, Business and Professional Women's Club, Chamber of Commerce, Turn of the Century Days Committee.

Engaged in Business: Engaged in the business as owner or operator.

Governmental Organization: Any division of local, county, state or federal government or public school district or special governmental districts.

Non-Profit Organization: Any organization that has filed for and received tax exempt status as a non-profit organization by the Internal Revenue Service.

Religious Organization: Any organized religion and those entities owned by, affiliated with or adjunct to an organized religion.

Out-of-Home Business: A business operated out of the business owner's or operator's residence which is solely for a supplemental income and is not the sole source of financial support for the owner or operator.

SECTION 11-19. REQUIRED.

It shall be unlawful for any person or his agent or servant to engage in or carry on a business in the city for which there is required a license, without first having paid the required license tax and obtained the license. For the purpose of this section, the opening of a place of business or offering to sell followed by a single sale shall be construed to be engaging in or carrying on such business. Nothing contained herein shall apply to charitable, religious, non-profit, civic or governmental organizations or their fund raising events.

SECTION 11-20. REQUIRED FOR EACH BUSINESS.

The payment of any particular tax imposed by this article shall not relieve the person paying the same from the payment of any other tax imposed by this chapter for any other business he may carry on, unless so provided by the section imposing such tax. License taxes prescribed by various sections of this article applicable to any business shall be cumulative except where otherwise specifically provided.

SECTION 11-21. REQUIRED FOR EACH PLACE OF BUSINESS.

A license issued for the privilege of conducting a business shall be valid only for the business conducted at the place and by the licensee named therein. Every person doing business in more than one (1) place of business shall secure a separate license for each such place of business, unless such places of business are contiguous, communicate directly with and open into each other and are operated as a unit.

SECTION 11-22. TAX LEVIED; IMPOSITION OF ADDITIONAL TAXES; TO BE SUBJECT TO CODE, ETC.

(a) In addition to the tax on property there is hereby levied a privilege license tax on trades, professions, agencies, business operations, exhibitions, circuses and all subjects authorized to be licensed, as set out in the schedule of occupational taxes.

(b) Nothing contained in this chapter shall be construed to prevent the city council from imposing, from time to time as they may see fit, such license taxes as are not specifically herein defined or from increasing or decreasing the amount of any special license tax or from prohibiting or regulating the business or acts licensed.

(c) All licenses granted shall be subject to the provisions of this Code, existing ordinances or those thereafter enacted.

SECTION 11-23. SCHEDULE OF TAXES.

(a) The amount of the license tax levied on each trade, profession, agency, business or

other subject shall be established by the city council from time to time by resolution. Such tax schedules shall be deemed to be a part of this chapter as if set out herein in their entirety.

(b) Any such schedules of license taxes shall be maintained on file in the office of the city clerk where they shall be available for public inspection during the regular office hours of the city clerk.

ARTICLE III. REGULATORY CODES

QUALIFICATIONS, EXAMINATION, LICENSING AND APPEALS

SECTION 11-24. PURPOSE.

The purpose of this Article is to regulate and control the issuance of permits within the City of Kemmerer to licensed contractors to provide for the various classifications of contractors; and to require strict adherence to the City's codes and ordinances relating to construction and alteration.

SECTION 11-25. DEFINITIONS.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. Affidavit means a properly notarized written statement from former employers, governmental entities, or firm representatives who will corroborate the number of years claimed to have been worked at the relevant trade. This statement must describe the work performed and be written on the firm stationery or on an affidavit furnished by the administrative authority.

2. Boiler operator, high pressure means a person entrusted with the operation ,care and management of steam boilers not in excess of two hundred fifty psi or water boilers not in excess of three hundred seventy-five psi.

3. Boiler operator, low pressure means a person entrusted with the operation, care and management of steam boilers not in excess of fifteen psi gauge pressure or water boilers not in excess of fifty psi.

4. Building contractor means a person who builds, constructs, alters, repairs, adds to or demolishes a building or structure for a fixed sum, price, fee, percentage or other compensation, and for which a permit is required.

5. City means the City of Kemmerer, Wyoming.

6. City engineer shall mean the Kemmerer City Engineer.

7. Commercial building means a structure intended to be used for the barter of goods, office facilities, warehousing, or other commercial purpose, as opposed to a residence, which shall mean a structure intended to be used for human habitation.

8. Demolition contractor means a person who demolishes or removes a building or structure for a fixed sum, price, fee, percentage or other compensation and for which a permit is required.

9. Department means the city building inspection department.

10. Electrical contractor means any person who contracts or offers to contract for another the planning, laying out, supervising and installing, or the making of additions, alterations and repairs in the installation or wiring of apparatus and equipment for electric light, heat and power. Such contractor shall hold a current state electrical contractor's license and be, or employ, a master electrician Any person who only plans or designs electrical installations need not be classed as a electrical contractor.

11. Electrician, apprentice means a person being taught and laboring at the electrical trade as an employee under the supervision and in the presence of a master of journeyman electrician.

12. Electrician, journeyman means a person having at least four years experience in the electrical wiring industry with technical knowledge to wire, supervise, install and repair electrical apparatus and equipment for light, heat, power and other purposes, in accordance with the National Electrical Code, the city electrical ordinance and holding a current state journeyman's license.

13. Electrician, master means a person having at least eight years practical experience in the electrical wiring industry with technical knowledge to properly plan, lay out and supervise the physical installation and repair of wiring apparatus and equipment for electrical light, heat, power and other purposes in accordance with the National Electrical Code, the city electrical ordinance, and holding a current state master electrician's license.

14. Full time employee means a person who is employed in an active full time capacity as his principal employment. A qualifying person shall represent no more than one firm or corporation, and must be available during regular business hours.

15. Governing body means the mayor and council of the City of Kemmerer.

16. License means the authority granted by the City to a person to whom it is issued, authorizing said person to perform certain work as provided in this Article.

17. Mechanical, apprentice means a person who labors at the trade of heating, air conditioning, refrigeration ventilation and associated sheet metal as an employee under the supervision and in the presence and instruction of a master or journeyman.

18. Mechanical contractor means a person who may conduct, carry on or engage in the business of heating, air conditioning, ventilation, refrigeration and associated sheet metal work, as identified by the International Mechanical Code, latest edition, and must have a licensed master mechanical as a full-time employee.

19. Mechanical journeyman means a person who labors at the trade of heating, air conditioning, refrigeration ventilation and associated sheet metal as an employee of a licensed mechanical contractor.

20. Mechanical master means a person skilled in the planning, superintending and practical installation of heating, air conditioning, refrigeration ventilation and associated sheet metal.

21. Permit means the written authority given by the City to build, construct, alter, repair, move, improve, or remove, convert, or demolish any building or structure or appurtenances thereto in the City as required by city ordinance.

22. Person means an individual, firm, partnership, corporation, company or association.

23. Plumber, apprentice means a person who labors at the trade of plumbing as an employee under the supervision and in the presence of a master plumber or journeyman plumber.

24. Plumber, journeyman means a person who labors at the trade of plumbing as an employee of a licensed plumbing contractor.

25. Plumber, master means a person skilled in the planning, superintending and practical installation of plumbing, and who is familiar with the laws, rules and regulations governing the same.

26. Plumbing contractor means a person who may conduct, carry on or engage in the business of plumbing, together with steam or hot-water boiler installations, and must have a master plumber in his full-time employment.

27. Qualified person means an individual person who qualifies, as provided in this Article, for a license on behalf of a partnership, corporation or association.

28. Roofing contractor means a person who solely constructs, alters, repairs, or is engaged in the business of installation and repair of roofs for a fixed sum, price, fee, percentage or other compensation, and for which a permit is required.

29. Written exam or written examination shall mean the examination conducted by the Wyoming Trades Certification Program, or other examination specifically approved by the city engineer.

SECTION 11-26. CITY ENGINEER - POWERS AND DUTIES.

Deleted 4/22/96 by Ordinance #96-723.

SECTION 11-27. LICENSE - REQUIRED - CONTENTS.

(a) No person shall perform work as a contractor, or be issued a permit to do work within the City for which a permit is required, who has not met the qualifications for licensing and is found to be competent by examination to perform the duties of the trade for which he has applied, and possess the appropriate license as recognized by the Wyoming Association of Municipalities.

(b) A license issued to a partnership, corporation or association shall state the name address and phone number of the qualified person upon whose competency it is issued, and the name and address of the partnership, corporation or association to whom it is issued.

SECTION 11-28. EXCEPTIONS.

(a) The provisions of this Article shall not apply to:

1. A person who constructs, alters or repairs his own residence for his personal use, and not for resale, without the aid of a contractor may secure a permit without the necessity of being licensed. A person who alters or repairs his own commercial building, without the aid of a contractor, may secure a permit without the necessity of being registered.

2. An owner of a residence and its accessory buildings, who makes ordinary repairs which can be considered as routine maintenance of his residence and accessory buildings shall not be considered to be a contractor.

3. Buildings constructed by a school or community college district as part of an industrial arts curriculum under the direct supervision of a qualified industrial arts instructor, provided, however, that the school or community college district shall have the installations inspected as required by law.

4. Work performed by any person for which a plumbing permit is required and is within the exception set forth in Section 106.2, numbers 1 and 2 of the International Plumbing Code as adopted by city ordinance

   a. Steam heating boilers operated at not over fifteen (15) pounds per square inch gauge pressure in private residences or apartments of six (6) or less families or to hot water heating or supply boilers operated at not over fifty (50) pounds per square inch gauge pressure and temperatures not over two hundred fifty degrees Fahrenheit (220°F) when in private residences or apartments of six (6) or less families.

5. The above exceptions shall not apply to any person who contracts or subcontracts to or for any exempt person.

SECTIONS 11-29, 11-30, 11-31, 11-32, 11-33, 1134, & 11-35 were deleted 4/22/96 by Ordinance #96-723.

SECTION 11-36. LICENSEE RESPONSIBILITY.

A licensee shall be responsible for work requiring a permit under the provisions of this Article or other applicable city ordinance without limitation to the items as herein listed, and shall do or cause to be done the following:

(a) To present his license when required by the city engineer.

(b) To obtain a permit when the same is required.

(c) To faithfully construct, without substantial departure from or disregard of drawings and specifications, when such drawings and specifications have been filed and approved by the building inspector or the city engineer and a permit issued for same, unless such changes are approved by the building inspector or city engineer.

(d) To complete all work authorized on the permit issued by the building inspector or city engineer.

(e) To obtain inspection services when the same are required by city ordinances or state law.

(f) To pay any fee assessed under the authority of the Building Code and other codes adopted by the City.

(g) To build in compliance with all applicable codes.

(h) To warrant the workmanship, structural soundness and code compliance of the residence or building for a period of one (1) year from the date of occupancy of such residence or building, or in case of a remodeling, one (1) year from the date of final inspection.

SECTION 11-37. LICENSE - INSURANCE REQUIREMENTS.

Every contractor granted a license permit of any kind under the terms hereof shall be required as a condition of receiving and holding said license permit to maintain, at all times, insurance as required by the State of Wyoming or, if not required by the State of Wyoming, employer's liability insurance and worker's compensation insurance (if employees are hired by such contractor) and public liability insurance of a minimum limit of not less than One Hundred Thousand Dollars ($100,000.00) for personal injury or death of one person; Three Hundred Thousand Dollars ($300,000.00) for personal injury or death of all persons arising out of any one incident; property damage insurance with a minimum limit of not less than One Hundred Thousand Dollars ($100,000.00) for one incident; and shall furnish the City a certificate that such insurance is maintained.

SECTIONS 11-38, 11-39, 11-40, 11-41, 11-43, 11-44, 11-45 and 11-46 are hereby deleted and the entire Chapter renumbered accordingly. (by Ordinance #96-723 on 4/22/96)

ARTICLE IV. LODGING TAX

SECTION 11.50 ENACTMENT AND PURPOSE

A new Article IV. with Sections 11.50, 11.51, 11.52, 11.53, 11.54, 11.55, 11.56, 11.57, 11.58, 11.59 and 11.60, all within Chapter 11 of the Kemmerer City are hereby enacted to provide the necessary ordinance for the proper imposition, collection and distribution of an excise tax on lodging services.

SECTION 11.51 DEFINITIONS. For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. Lodging Service means the provision of sleeping accommodations to transient guests and shall include the providing of sites for the placement of tents, campers, trailers, mobile homes or other mobile sleeping accommodations for transient guests.

2. Lodging Tax means the excise tax imposed on lodging services.

3. Transient Guest means a guest who remains for less than thirty (30) continuous days.

4. Vendor means the provider of lodging services.

SECTION 11.52 LODGING TAX.

On every sale of lodging services within the City of Kemmerer there shall be imposed a two (2%) percent excise tax. This tax shall be collected in accordance with the rules and regulations of the Wyoming Department of Revenue,

SECTION 11.53 ADOPTION OF ARTICLE 1. CHAPTER 15, TITLE 39.

Pursuant to § 39-15-203(a)(ii)(F)(II) W.S. (Lexis, 1999), the City of Kemmerer adopts by this reference provisions identical to those contained in article 1 of that chapter 15, Title 39 except for W.S. 39-15-102(a), insofar as it relates to sales taxes except the name of the City of Kemmerer shall be substituted for that of the state as the taxing agency and an additional license to engage in business shall not be required if the vendor has been issued a City and state license pursuant to law.

SECTION 11.54 AUTOMATIC AMENDMENTS.

Pursuant to §39-15-203(a)(ii)(F)(III) W.S. (Lexis, 1999), the City of Kemmerer adopts by this reference a provision that any amendments made to article 1 of chapter 15, Title 39 of the Wyoming Statutes or to chapter 16, Title 39 of the Wyoming Statutes not in conflict with this article 1 of chapter 15, Title 39 of the Wyoming statutes shall automatically become a part of this ordinance.

SECTION 11.55 CONTRACT FOR COLLECTION.

The City of Kemmerer is hereby authorized to and shall do what is necessary to contract with the Wyoming Department of Revenue, prior to January 1, 2001 for the Wyoming Department of Revenue to perform all functions incident to the administration of this lodging tax ordinance. This contract shall provide that two (2%) percent of the revenues collected by the Department of Revenue shall be deducted the first year for the costs to the state of initial implementation of collection and administration of the tax and one (1%) percent each year thereafter for state administrative costs.

SECTION 11.56 WYOMING SALES TAX NOT SUBJECT TO TAXATION.

The lodging services subject to this lodging tax shall not include the amount of any sales tax imposed by the State of Wyoming.

SECTION 11.57 NO TAX ON LODGING SERVICES PROVIDED MORE THAN A YEAR PRIOR TO NOTIFICATION OF TAX LIABILITY.

No person shall be liable for payment of the lodging tax pursuant to this ordinance for any sale of lodging services made more than one (1) year prior to the date he or she is notified by the Department of Revenue of his or her liability for the tax.

SECTION 11.58 USE OF LODGING TAX FUNDS.

Ninety (90%) percent of the funds received by the City of Kemmerer from the Wyoming department of Revenue from the collections of the lodging tax shall be used to promote travel and tourism within the City of Kemmerer. Expenditures for travel and tourism promotion shall be limited to promotional materials, television and radio advertising, printed advertising, promotion of tours and other specific tourism related objectives. None of these funds shall be spent for capital construction or improvements. Not more than forty thousand dollars ($40,000) of these funds shall be spent for purposes of matching funds programs administered by the Wyoming Business Council. The remaining ten (10%) percent received shall be used for general revenue by the City of Kemmerer.

SECTION 11.59 RECONSIDERATION OF LODGING TAX.

The lodging tax shall be submitted to the voters for reconsideration at the next general election after the imposition of this ordinance and at the general election held every four (4) years thereafter.

SECTION 11.60 NOTIFICATION OF ORDINANCE & LIST OF LODGING PROVIDERS.

The Clerk is hereby ordered to notify the Department of Revenue by December 8, 2000 of the approval of this proposition by the voters and submit a list of all vendors selling lodging services in the City of Kemmerer at that time. The Clerk is further ordered to annually notify the Department or its successor of this ordinance imposing the tax on lodging services and submit to that Department a lost of all entities or vendors selling lodging services in the City of Kemmerer at that time and notify the Department of any additional vendors who provide lodging services at any time.