

KALISPEL RESOLUTION NO. 2018-12



Kalispel Tribe of Indians
P.O. Box 39
Usk, WA 99180

(509) 445-1147
(509) 445-1705 fax
www.kalispeltribe.com

RESOLUTION

WHEREAS, the Kalispel Business Committee is the duly Constituted governing body of the Kalispel Tribe by the authority of the Constitution and By-Laws for the Kalispel Tribe; and

WHEREAS, under the Constitution and By-Laws of the Tribe, the Kalispel Business Committee is charged with the duty of protecting the health, security and general welfare of the Kalispel Tribe and all reservation residents; and

WHEREAS, economic development is an important component of the Kalispel Tribe's desire to attain Tribal aspirations of becoming a successful and healthy community; and,

WHEREAS, in order to promote economic development and to clearly establish and exercise the Tribe's sovereign authority to regulate the conduct and operations of businesses within the Kalispel Reservation; and


WHEREAS, Chapter 28 – Kalispel Business Licensing was adopted to promote economic development that was initially established for Specialty Licenses and Certificates for a Vehicle Dealership; and

WHEREAS, Tribal economic development plans have expanded as the Tribe looks to diversify business opportunities on Reservation lands in Pend Oreille and Spokane counties.

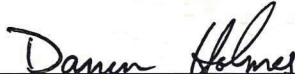
NOW, THEREFORE, BE IT RESOLVED that in support of the Tribe's sovereign powers of self-government adopts the attached expanded Chapter 28 KALISPEL BUSINESS LICENSING.

CERTIFICATION

The Kalispel Business Committee adopted the foregoing RESOLUTION at a meeting held on the 14 day of November, 2017, at the Tribal office on the Kalispel Indian Reservation near Usk, Washington, with the required quorum present by a vote of 4 FOR and 0 AGAINST.



GLEN NENEMA, CHAIRMAN
KALISPEL BUSINESS COMMITTEE
(TERM EXPIRES JUNE 2020)



DARREN HOLMES, SECRETARY
KALISPEL BUSINESS COMMITTEE
(TERM EXPIRES JUNE 2019)

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CHAPTER 28- KALISPEL BUSINESS LICENSING
SECTION 28-1: GENERAL PROVISIONS

28-1.01 PURPOSE

- (1) The purpose of this Chapter is to promote economic development on the Kalispel Reservation and to clearly establish and exercise the Tribe's authority to regulate the conduct and operations of businesses within the Kalispel Reservation. Such regulation is to protect the economic security, health, safety and welfare of the Kalispel Tribe of Indians, its members, and of community members.
- (2) The grant of the privilege of doing business on the Kalispel Reservation constitutes a consensual relationship with the Kalispel Tribe of Indians and/or its members. The Kalispel Tribe has the sole and exclusive authority to grant, deny, or withdraw the privilege of doing business on the Kalispel Reservation.

28-1.02 APPLICABILITY

The Kalispel Business Licensing Chapter shall apply to all businesses located on Reservation lands that are designated by the Tribe for commercial development.

28-1.03 ADMINISTRATION

The Kalispel Business Committee/Tribal Council delegates the authority to issue business licenses to the [coordinate department to be determined by Tribal Council].

28-1.04 SOVEREIGN IMMUNITY

The sovereign immunity of the Kalispel Tribe is not in any way waived or limited by this Chapter, or by any appeal commenced pursuant to this Chapter, and nothing in this Chapter shall constitute or be construed as a waiver of the sovereign immunity of the Tribe. Such sovereign immunity shall extend to the Tribe, the Kalispel Business Committee, its corporations chartered under Section 17 of the Indian Reorganization Act of 1934, 25 U.S.C. § 5124, any subordinate organization or Kalispel governmental corporation chartered and duly empowered pursuant to the Kalispel Tribe Law and Order Code, as amended, and all Tribal officials, employees, staff, and agents, as to all actions taken in, or concerning, the administration or enforcement of this Chapter, and as to all actions taken pursuant to any authority of any action, decision or order authorized by this Chapter.

28-1.05 SEVERABILITY

The provisions of this Chapter are severable. If a court of competent jurisdiction should hold any provision of this Chapter invalid, such ruling shall not affect the validity of any other provision, such that the remaining provisions shall have full force and effect

28-1.06 DEFINITIONS

For purposes of this Chapter, unless otherwise expressly provided, the following definitions shall apply:

- (1) "Business" shall mean a person, partnership, or corporation engaged in a profit-seeking commercial, manufacturing, or service enterprise. For the purposes of this Chapter, a business includes, but is not limited to, operating a retail store, restaurant, hotel, or entertainment venue.
- (2) "Business License" means a license, issued by the Tribe, to engage in business within the Kalispel Reservation.
- (3) "Business Licensee" or "Licensee" means a person who has been issued a Business License by the Tribe to engage in business. Business Licensees are considered to be a person authorized to engage in trade on the Kalispel Reservation.
- (4) "Person" means any individual, agent, principal, entity, receiver, assignee, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, association, society, or group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. "Person" does not include the Tribe.
- (5) "Reservation" means all the lands owned by Kalispel Tribe of Indians as defined in KLOC 1-2.03.
- (6) "Sale" shall mean goods, services, rooms, admission fees, or food and beverages; charged by a business; to a buyer for purchase, use, entertainment, recreation, amusement, or rent; whether such provision is complementary or for a consideration. A sale also consists of the delivery of goods or services by a business located within the boundaries of the Reservation, for the use or benefit of any person of which the business is a part.

SECTION 28-2: LICENSING

28-2.01 LICENSE REQUIREMENTS

- (1) General. All persons engaging in business activities on the Kalispel Reservation must possess and display a valid Business License to engage in such activities within the Kalispel Reservation. Business Licenses must be posted in a conspicuous place at the place of business, or if the Licensee has no established place of business, such license must be carried by the licensee when engaged in the licensed business activity.
- (2) Limitations. No Business License issued under the authority of this Chapter shall entitle the

licensee to conduct or operate the business or other activity for which s/he has secured such license at a place or location other than the location stated in such license. No Business License issued under the provisions of this Chapter shall be *transferable* or assignable.

- (3) Tribal Law. Each Business Licensee shall comply with all applicable Tribal laws.
- (4) Insurance. Each Business Licensee shall maintain in force any liability insurance required by the Tribe throughout the effective period of a Business License.
- (5) Initial license and Renewal. Business Licenses issued pursuant to this Chapter are valid for a period of four calendar years.

28-2.02 SPECIALTY LICENSES AND CERTIFICATES

- (1) Vehicle Dealer License. Vehicle dealers located on the Reservation shall obtain a vehicle dealer license in addition to a Business License. A vehicle dealer license is required for vehicle dealers engaging in the buying and/or selling five or more vehicles in a twelve-month period, or in any other way engaged in dealer activity on the Reservation. Vehicle dealers must abide by the following:
 - (A) A vehicle dealer must maintain an office in a commercially zoned location and in a location complying with all applicable federal and Tribal laws for land-use. The vehicle dealer must have a sign affixed to its exterior displaying its business name and the hours of the business.
 - (B) A vehicle dealer must obtain a motor vehicle dealer bond in the amount of \$30,000. The name of the principal on the bond must reflect the business owner's name and the business name. Each separate business location must have its own bond.
 - (C) A vehicle dealer must provide proof of a completed training program by a certified or accredited training program for vehicle dealers, or proof of at least 8 hours of similar training.
 - (D) If a vehicle dealer is not an enterprise of the Kalispel Tribe, the Tribe shall have the option of requesting additional background and criminal history, financial information, and business lease information from the applicant.
- (2) Resale Exemption Certificate. Resale exemption certificates may be issued by the Tribe to retailers, manufacturers, and wholesalers to purchase items for resale in the regular course of business without paying state sales tax.
 - (A) Resale exemption certificates must contain the following information:
 - (i) Name and business address of the buyer;

- (ii) Tribal Business License, Kalispel Tribal Resale Permit Number, or uniform business identifier or registration certificate number of the buyer, if the buyer is required to be registered;
 - (iii) Type of business engaged in;
 - (iv) Effective date and expiration date;
 - (v) Statement regarding why exemption is given;
 - (vi) Signature of the authorized Tribal government individual issuing the certificate; and
 - (vii) Signature of the buyer.
- (B) Resale certificates shall be valid for a period of four years from the date the certificate is provided to the seller.

28-2.03 LICENSE EXEMPTIONS

- (1) The following activities, persons, entities or businesses are exempt from the license requirements of this Chapter:
- (A) Charitable, religious or nonprofit organizations or corporations;
 - (B) Newspaper carriers;
 - (C) Sales by enrolled members of the Kalispel Tribe of Indians of Native American arts, crafts or goods;
 - (D) Services or goods ordered by mail, phone or internet;
 - (E) Business activity that is conducted pursuant to and in accordance with a permit or license that has been issued by the Tribe under any other law, provision, or regulation;
 - (F) Any activity conducted by the Kalispel Tribe of Indians , a Tribal Department, a Tribal entity or a Tribal enterprise;
 - (G) Occasional yard or garage sales; and
 - (H) Cutting and/or splitting of firewood by an enrolled member of the Kalispel Tribe of Indians or by the spouse of an enrolled member.

28-2.04 LICENSE APPLICATION PROCESS

- (1) All applications for a Business License required by this Chapter shall be made upon forms to be furnished by the Tribe, signed by the applicant pursuant to and submitted to the Tribe. The application may request such information as is deemed relevant by the Tribe to carry out the purposes of this Chapter, including the residence of the applicant, the nature

of the proposed business activity, the previous business experience of the applicant, the place where the business is proposed to be conducted, civil or criminal judgments entered against the applicant or the applicant's business, and the duration for which the business license is requested not to exceed four calendar years unless the applicant has negotiated a specific period of time for their application with the Tribe.

- (2) The Tribe may inspect any proposed place of business after an application for a Business License has been filed to determine whether the premises comply with applicable law. Failure to permit an inspection or to cure any material non-compliance identified in the inspection shall result in a denial or revocation of a Business License.
- (3) The Tribe shall issue a license to the applicant if the Tribe determines that:
 - (A) the applicant is eighteen (18) years or older;
 - (B) the applicant has truthfully and accurately provided all information requested by the Tribe;
 - (C) the character, business experience and any required insurance coverage of the applicant are satisfactory to the Tribe;
 - (D) the applicant has paid all applicable fees;
 - (E) operation of the proposed business at the location identified by the applicant will be consistent with all Tribal laws, and
 - (F) issuance of the license is in the best interests of the Tribe, the members of the Tribe and the residents of the Kalispel Reservation.
- (4) The Tribe may deny any business license application at its discretion. The Tribe shall deny the applicant a license if the applicant does not meet all of the requirements in KLOC 28-2.04(3).

28-2.05 LICENSE FEES

The fees set out by the Tribe shall be paid, as applicable, at the time of the filing of an application for issuance or renewal of a Business License. No application shall be accepted until all of the applicable fees have been paid in full. The License fees are non-refundable.

28-2.06 INSURANCE

The Tribe may require that an applicant for a Business License have and maintain in force, throughout the effective period of any Business License that is issued, insurance with terms and conditions as the Tribe may deem necessary to protect the Tribe, its members, the Reservation, and the community.

SECTION 28-3: BUSINESS LICENSING ENFORCEMENT

28-3.01 BUSINESS OWNER DUTIES

- (1) Each owner of a business shall comply, and shall assure that the business and all persons employed at the business comply, at all times with all provisions of this Chapter.
- (2) Each owner of a business is responsible for any violation of, or noncompliance with, any provision of this Chapter by the business or by any person employed at the business.

28-3.02 CONDUCTING BUSINESS ACTIVITIES WITHOUT A LICENSE

If any person engages in business activities on the Kalispel Reservation without a business license, he or she shall be ordered to cease and desist, and levied a fine of up to _____, and shall not be issued a Tribal license or permit until the fine is paid.

28-3.03 SUSPENSION OR REVOCATION OF LICENSE

- (1) A Business License issued pursuant to this Chapter may be suspended or revoked by the Kalispel Business Committee/Tribal Council for any of the reasons listed in this Section. A revocation of a business license upon order of the Business Committee is final and conclusive.
- (2) Reasons for suspension or revocation:
 - (A) The Licensee made a material misrepresentation or false or misleading statement in the application for the Business License and the statement was not known by the Tribe to be a misrepresentation, false or misleading at the time that the license was issued;
 - (B) The conduct of the business licensed by the Tribe violated a material term or condition of the License; or
 - (C) The conduct of the business violated a provision of this Chapter or other Tribal Code provision, or the conduct constituted a breach of the peace or as to constitute a material threat to the health, safety and general welfare of the Tribe, its members or residents of or persons present in the Kalispel Reservation.
- (3) The Tribe may suspend a license, rather than revoking the license, in order to afford the Business Licensee a reasonable opportunity to cure the circumstances that gave rise to the suspension.