CHAPTER TWENTY-THREE

ARTICLE I - Business License Tax and Contractor's License Tax

23.1.1 Finding of Facts – The Council of the Town of Glasgow, West Virginia after thorough consideration of all factors relevant thereto, does hereby make the following finding of facts:

A. There is no business license fee or business license required within the Town of Glasgow.

B. In order to generate revenue and, further in order to monitor all business activity within the Town of Glasgow, the Council feels that it is imperative that a business license fee be imposed upon all businesses including contractors who operate within the Town of Glasgow.

C. The Ordinance herein contained is just, and reasonable, and is applied without unjust discrimination or preference; and is based primarily upon the cost of effectuating such an imposition of a license fee.

23.1.2 Definitions

A. The term "person" shall include any group or combination acting as a unit, individual, committee, guardian, trustee, executor, administrator, partnership, co-partnership, joint venture, association, trust, or corporation, either domestic or foreign, which is controlled or held with others by majority stock ownership or

ultimately controlled or directed by one management or association of ultimate management.

B. The term "business" means any business, whether a person engaged expressly or impliedly, holds himself out as engaged in business or supplying his products or a commodity or service to the public as a class or to a limited portion of the public or sells any goods, wares, merchandise of any kind or provides a service of any kind; provided that "business" shall not include the sale of products of the farm, garden, or dairy by the producer or grower thereof; occasional sales by societies acting for charitable, religious or benevolent purposes; judicial sales directed by law or court order; or any business of which the gross income is less than $100.00 per license year and, in this connection, "gross income" shall mean the gross receipts of the business received as compensation for personal services and from trade, commerce or sales and the value accruing from the sale of tangible property (real or personal) or service, or both, without any deduction on the account of the cost of the property sold, materials used, labor costs, taxes or any other expenses whatsoever.

C. Business Franchise Registration Certificate means a franchise certificate issued by or in behalf of the State, authorizing a person to conduct business within the state and when referred in this article as certificate or registration shall mean Business Franchise Registration Certificate.

D. "Contractor" means any individual or company operating within the town limits of the Town of Glasgow and performing any services for any business or individual within the Town of Glasgow, whether a registered corporation, partnership or sole proprietorship, and such contractor shall be obligated to abide by the

requirement of this ordinance and other business and occupational taxes which might be due in connection with such service performed.

23.1.3 Purpose – No person shall conduct within the Town any business, profession, calling or vocation for which a town license is required by this article or elsewhere in these codified ordinances or other ordinance without obtaining from the Town such town license as may be required therefore; and each person so licensed by the Town shall pay such Town license tax or fee as may be imposed thereon by the Town and shall maintain such license in a currently valid status at all times when conducting the business, profession, calling or vocation to which such license relates.

23.1.4 Business Conducted Pursuant to State Certificate – Every person engaging in any activity within the Town for which a State Business Franchise Registration Certificate is required and for which no other Town License Tax or fee is prescribed in the codified ordinances, or other ordinance, and which is not exempted from the payment of any Town License Tax or fee by State Law, or the codified ordinance, shall obtain annually a Town License thereof and shall pay to the Town an annual license tax of Fifteen Dollars ($15.00) for each location within the Town where they engage in activity.

23.1.5 Contractors

A. Building Contractor means any person, corporation, or business enterprise engaged in the building and construction business as a general contractor and also includes all specialized phases thereof, including, but not limited to, services in connection with site preparation and excavation, landscaping, roofing and siding, plumbing and electrical, heating and air conditioning, glass and fencing, and all

services involved in the repair and improvement of real estate, homes, buildings, and other structures.

B. By virtue of this section, no person, corporation, or business enterprise may engage in the business of building or construction, as the same is hereinafter defined, unless first duly licensed so to do by the Town; provided, however, that this requirement shall not apply to any person, corporation or business enterprise which is the aggregate engages in such building or construction work at a cost of less than One Hundred Dollars ($100.00) per year.

C. The license required by this section shall be referred to as a "contractor's license", and shall be obtained at the Office of the Recorder upon submission of form to be provided by the Town and executed by the applicant for license. The license period shall be the calendar year from January 1 to December 31, and the fee shall be Fifteen Dollars ($15.00) per year. Any license obtained after the start of the fiscal year shall be prorated.

23.1.6 Application for License – Each applicant for a Town License shall make application to the Recorder on a form to be provided by the Town, and holders of Business Franchise Registration Certificates or other forms of State Licenses authorizing them to do business within the Town shall display such State Certificate or License to the Recorder at the time of making application for a Town License.

23.1.7 Issuance of License – Upon payment to the Recorder of such License Tax or Fee, for the Town License in which application is made, the Recorder shall issue the License applied for; provided, that the application is in proper form and that all

requirements of State Law, these codified ordinances or other ordinances appear to the recorder to have been complied with; and provided further.

23.1.8 Record Retention – The Recorder shall maintain on file all applications for Town Licenses and a record of each license issued, which shall set forth the name and business address of the licensee, the date of issuance and the terms for which issued, the type of license, the amount of license tax or fee paid, the number of license, and such other additional information as may be pertinent to establish that all the requirements of law and ordinances have been compiled with for the issuance of such license.

23.1.9 False Statements Prohibited – No person shall knowingly make any false statement in any application for Town License, or any tax return, report or other statement relating to any activity licensed by the Town in which they are required to be made to any Town officer or agency.

23.1.10 Separate License Required for Each Place of Business – Except as may be provided otherwise, any person who, at more than one fixed place of business within the Town, engages in or prosecutes any business, profession, calling or vocation for which a Town License is required, or who within the Town engages in or prosecutes more than one type of business, profession, calling or vocation for which a Town License is required, shall obtain a separate license and pay the prescribed tax or fee therefore for each such fixed place of business and for each such business, profession, calling or vocation.

23.1.11 Renewal; Prorating – Town Licenses shall expire at midnight on the 31st day of December subsequent to the date of issuance and shall be renewable

annually, except such licenses for which the tax or fee is by the day, week, month or other period less than a year, and except as may be provided otherwise by these codified ordinances or other ordinance. The License Tax or Fee for an initial license upon commencement of the business shall be in proportion to the duration of such license to the annual tax or fee.

23.1.12 Display of License – Each person to whom a Town License has been issued shall keep such license conspicuously posted upon or within the premises to which such license relates. Each licensee having no fixed place of business shall carry his license upon his person at all times while engaging in a licensed business or any transaction incidental thereto and shall display such license upon request of any person with whom he is transacting business or any law enforcement officer.

23.1.13 Assignment – Each Town License shall confer a personal privilege only; to transact a business, profession, calling or vocation which is the subject of the license, and shall not be exercised except by the person holding the same and shall not be assignable to any other person.

23.1.14 Conditions Prerequisite To Doing Business – Nothing in this article and no payment for the issuance of any Town License under the provisions hereof, shall be deemed to legalize any act which otherwise may be in violation of the law, or to exempt any person from any penalty prescribed for such violation.

23.1.15 Collection by Distraint – The Recorder may distrain upon any real or personal property, including intangibles of any person delinquent in the payment of Town License Taxes, fees or penalties accrued and unpaid under the provisions of this article, or he may bring a civil action or institute appropriate legal or equitable

procedure for the collection thereof in any court of competent jurisdiction, and for any such purposes he may have the assistance of the Town Attorney, the Chief of Police or appropriate officer.

23.1.16 Suspension, Revocation of Licenses; Appeals – The Recorder, upon reasonable notice to the Licensee may summarily revoke any license issued by him pursuant to the provisions of these codified ordinances for any reason which would have been grounds for denial of such license when first issued, for violation of any term or condition of such license, for violation of any pertinent provisions of State Law, the codified ordinances or other ordinance, or for the perpetration or attempted perpetration of fraud, malpractice or malfeasance by the Licensee, without prejudice to prosecution of such Licensee by the Town. Any person having an interest in any license so revoked and who feels aggrieved thereby may request the Recorder to further investigate the grounds for revocation and to reconsider his action, and if the Recorder accedes to such request, he may suspend or reinstate the license pending his final decision. If the Recorder refuses to accede to such request, or if, upon reconsideration, he affirms his revocation of the License, the party so aggrieved may appeal to the Town Council, which shall, without delay, afford such person a public hearing at which he may appear in person or by counsel, and may have the attendance of witnesses, books and papers in his behalf, and may testify in person. The decision of Town Council following such hearing shall be final, subject only to such judicial review as may be provided by law.

23.1.17 Injunctions – If any person engages in or prosecutes any business, profession, calling or vocation contrary to any provision of these codified ordinances, whether without first obtaining a license thereof or by continuing the same after the

termination of the effective period of any such license, or by any violation of the terms and conditions of such licenses, shall be subject to immediate prosecution in the Mayor's Court and, in addition, the Town Attorney may, in the name of the Town, seek such injunctive relief as may be appropriate in any Court of competent jurisdiction.

23.1.18 Penalty

A. Except as may be herein be expressly provided, whoever violates any provision of this article shall be fined not more than Two Hundred Dollars ($200.00), and each day or part thereof that any violation continues shall be deemed to constitute a distinct and separate offense and may be punishable accordingly.

B. In addition to the penalty provided in Subsection A hereof, any person engaging in any business or profession without obtaining a license or after the expiration of a license shall be subject to a Fifty Dollar ($50.00) penalty for each month or infraction thereof if they continue to do business in violation of the Article.