

**ORDINANCE NO. 1948**

**AN ORDINANCE AMENDING THE KALISPELL ZONING ORDINANCE (ORDINANCE NO. 1677), BY AMENDING CHAPTER 27.33, CONDITIONAL USE PERMITS, BY ADDING LANGUAGE THAT CLARIFIES THE REVOCATION PROCESS IN NEW SECTION 27.33.045, AND AMENDING SECTIONS 37.33.060, 37.33.090, AND 37.33.100, AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS,** the City of Kalispell has submitted a written request to amend the Kalispell Zoning Ordinance, clarifying the process for revocation of an issued conditional use permit; and

**WHEREAS,** the request was forwarded to the Kalispell Zoning Commission by the Kalispell Planning Department as a recommended text amendment by after making such evaluation under 27.29.020 of the Kalispell Zoning Ordinance; and

**WHEREAS,** the Kalispell Zoning Commission recommended that the text of the Kalispell Zoning Ordinance be amended by clarifying the process for revocation of an issued conditional use permit; and

**WHEREAS,** the City Council has reviewed the Kalispell Planning Department Report and the transmittal from the Kalispell Zoning Commission and hereby adopts the findings made in Report #KZTA-25-02.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KALISPELL AS FOLLOWS:**

**SECTION 1.** The City of Kalispell Zoning Ordinance, Ordinance No. 1677, is hereby amended as follows on Exhibit "A".

**SECTION 2.** All parts and portions of Ordinance No. 1677 not amended hereby remain unchanged.

**SECTION 3.** This Ordinance shall take effect thirty (30) days after its final passage.

**PASSED AND APPROVED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR OF THE CITY OF KALISPELL, THIS 15TH DAY OF DECEMBER, 2025.**

ATTEST:

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Mark Johnson  
Mayor

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Aimee Brunckhorst, CMC  
City Clerk

## EXHIBIT A

### 27.33.010 General Provisions

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- (3) All changes made to Section 27.33 through Ordinance 1948 shall apply only to conditional use permits granted after January 15, 2026.

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### Section 27.33.045: Revocation:

- (1) If a conditional use for which a conditional use permit has been granted is not in compliance with the requirements of the conditional use permit, the city may revoke that conditional use permit.
- (2) Prior to revocation, the city must send a written notice of revocation by certified mail to the property owner and the user of the property. The revocation notice must:
  - (a) Identify which material misrepresentations the City believes the conditional use permit holder made and/or which conditions the City believes the conditional use permit holder has violated;
  - (b) State that the property must be brought into compliance within thirty (30) business days of the date of the notice of revocation; and
  - (c) Set a hearing date for consideration of the revocation.
- (3) The City Council shall be the hearing body and follow its standard hearing procedures including, but not limited to, hearing from the conditional use permit holder, and any other witnesses through public comment. To revoke the conditional use permit, the City Council must make a finding that one or more of the criteria in Section 27.33.045(4) has been established by a preponderance of the evidence. In the case of a revocation of a conditional use permit, the determination of the City Council shall be final, unless recourse is sought in Flathead County District Court within thirty (30) days.
- (4) The City Council may revoke, suspend, or reconsider a conditional use permit if it determines that:
  - (a) The information in the application or otherwise provided by the applicant or the applicant's agent as part of the original conditional use permit approval was false or inaccurate, whether deliberate or unintentional, and that the misrepresentation was material to the City's decision to grant the conditional use permit;
  - (b) The development or use of the property is not in compliance with the application submitted as part of the original conditional use permit approval; or

- (c) The development or use of the property is not in compliance with any condition or other requirement of the conditional use permit.
- (5) As the granting of a conditional use permit is a matter of grace per Section 27.33.090, resting in the discretion of the City and a refusal is not the denial of a right, conditional or otherwise, the revocation, suspension, or reconsideration of a conditional use permit shall also be a matter of grace and not a denial of a right, conditional or otherwise.
- (6) A conditional use permit revoked pursuant to this section may be reinstated at the City Council's discretion within one year upon a showing that all requirements of the conditional use permit are being met and that any other deficiencies have been remedied. Should the requirements not be met and/or all deficiencies not be remedied within one year, a new application for conditional use permit must be submitted for review.

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**27.33.060: Termination and Transferability.**

- (1) The Conditional Use Permit shall **not** run with the lot, building, structure, or use. **When a new owner, lessee or other operator intends to continue a conditional use, the new user must submit an administrative renewal application to the zoning administrator verifying terms and conditions of the original grant of the conditional use permit. If material changes related to the use of the property are proposed, the new user shall reapply for a new conditional use permit subject to this Chapter.**

- (2) ...

**27.33.090: Burden of Applicant.** The burden of proof for satisfying the aforementioned criteria considered for approval shall rest with the applicant and not the City Council. The granting of the Conditional Use Permit is a matter of grace, resting in the discretion of the City Council and a refusal, **or revocation thereof**, is not the denial of a right, conditional, or otherwise. **Should any information or representation submitted in connection with a conditional use permit be incorrect or untrue, the approval based thereon may be rescinded, and other appropriate action taken.**

**27.33.100: Decision Based on Findings.** Every decision of the City Council pertaining to the granting, denial, or amendment of a request for a Conditional Use Permit, **or the revocation of a conditional use permit**, shall be based upon "Findings of Fact", and every finding of fact shall be supported in the records of its proceedings.