

## Chapter 5.04

### BUSINESS LICENSES GENERALLY

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#### **5.04.010 Declaration.**

In order to eliminate inequity and discrimination that may exist under the present ordinance of the city regulating licenses, a license ordinance should be passed which levies a license upon each business for the purpose of revenue, and which recognizes certain home industries; therefore, it does enact the ordinance codified in this title, by licensing all businesses, and for the purpose of requiring certain businesses to contribute their fair share of the cost of municipal services, supervisions, inspection and regulations. (Prior cod 14 – 1)

#### **5.04.020 Ordination.**

Every person, firm, and corporation conducting a business in the city enjoys certain privileges, advantages, protection and assistance of city government and should therefore share in the cost of its operation. (Prior code 14-2)

#### **5.04.030 License required.**

There are imposed upon all businesses in the city, except as hereinafter specifically exempted, licensed taxes in the amount hereinafter prescribed. It is unlawful for any person, to commence, transact, or carry on any business in the city, not excluded herein, without first having procured a license from the city so to do, or without complying with any and all regulations contained in this title. (Prior code 14-3)

#### **5.04.040 Other ordinances and laws.**

All requirements of zoning ordinances of the city as now in effect or as hereinafter amended, and all requirements of the building ordinances of the city as now in effect or as hereinafter amended shall be a condition precedent to the issuance of any business license within the city limits and an applicant for a business license in the city shall exhibit to the city clerk, upon demand, evidence of such compliance; and failure so to do shall be cause for denying the issuance of a business license. (Prior code 14-4)

#### **5.04.050 Definitions.**

For the purpose herein certain words and phrases are defined, and certain provisions shall be construed as herein set forth, unless it shall be apparent from their context that a different meaning is intended as follows:

\_\_\_Administrator” means the finance director, his or her designee, or another city officer or employee charged by the city manager with the administration of this chapter.

Average Number of Employees – Fixed Place of Business. The “average number of employees for any business having a fixed place of business” in the city means the average number of employees listed on Employer’s Tax Return Under Federal Insurance Contributions Acts, Treasury Department, Internal Revenue Service, for the previous three months of any given quarter year for which a license tax is due hereunder, plus any owner, member of owner’s family, partner, agent, or manager actively engaged in working in the business who are not listed on Employer’s Tax Return, Federal Insurance Contribution, as of the fifteenth day of the third month of each quarter.

Average Number of Employees – No Fixed Place of Business. The “average number of employees for any business not having a fixed place of business” in the city means the number of persons employed daily in the city in the licensee’s business for the period during which such licensee conducts such business in the city, and shall be determined by ascertaining the total number of employees, including owners, members of owners family, partners, agents or managers actively engaged in working in the business during the three days of less on which the greatest number of persons are so employed.

“Business” means professions, trades, occupations, and all and every kind of calling carried on for profit or livelihood.

“Employee” means all persons engaged in the operation or conduct of any business, whether as owner, any member of an owner’s family, partner, agent, manager, solicitor, and any and all other persons employed or working in any business.

“Fixed place of business” means a place of business in the city regularly kept open, with someone in charge thereof for the transaction of the particular business engaged in during the hours customary, to transact such business, and shall not so qualify unless and until such place of business shall have been so operated for a period of not less than three months.

For the period of three months, such business shall be licensed as a business with no fixed place of business under the provisions of, and at the rates specified herein. Thereafter, and provided, such business qualified during such period, as a business with a fixed place of business, it shall be licensed at the rates specified herein, and shall be entitled to a rebate, for which a claim shall be filed, of the difference between the license paid for the first three months and that it would have paid for the period, as a business with a fixed place of business under Section 5.04.060.

“Peddler” means any person who sells at retail and makes immediate delivery, or offers for sale and immediate deliver, an goods, wares, merchandise or thing in the possession of the seller, at any place in the city, other than from a fixed place of business and who does, or does not, follow a fixed route or serve purchasers in the city regularly and continuously.

“Person” means all domestic and foreign corporations, clubs, business or common law trusts, societies and individuals commencing, transacting and carrying on any business in the city.

“Solicitor” means any person who sells or takes orders, or offers to sell or take orders, at retail, for any goods, wares, merchandise or thing, for future delivery, or for services to be performed, at any place in the city, other then at a fixed place of business, and who does, or does not, follow a fixed route or serve prospective purchasers in the city regularly or continuously.

“Zoning ordinance” and “building ordinance” means those ordinances adopted by the city for the use of land as defined in said ordinances and for the requirements of construction as defined in said ordinances. (See Titles 16 and 17 of this code.)

Home Occupations. For the purpose of this title, “home occupations” shall be defined as the same is defined in Title 17 of this code. (Prior code 14-5)

#### **5.04.060 License tax – Fixed place of business.**

Every person commencing, transacting and carrying on at a fixed place of business or conducting a home occupation in the city and any other business other than those enumerated in Sections 5.04.070 through 5.04.090, shall pay a quarterly license tax based upon the average number of employees in such business as defined in Section 5.04.050, as follow:

- A. If the business employs five persons or less, including the owner, ~~ten~~ **twenty** dollars (~~\$10.00~~ **\$20.00**);
- B. If the business employs more than five persons but less than eleven (11), including the owner, ~~twenty~~ **forty** dollars (~~\$20.00~~ **\$40.00**);
- C. If the business employs eleven (11) or more persons, including the owner, ~~forty~~ **eighty** dollars (~~\$40.00~~ **\$80.00**). (Prior code 14-6)

#### **5.04.070 License tax – No fixed place of business**

Every person commencing, transacting and carrying on at other than a fixed place of business in the city, any business other than those enumerated in Section 5.04.090 of this chapter, shall pay a quarterly license tax based upon the average number of employees as defined in Section 5.04.050, of ~~twenty-five~~ **fifty** dollars (~~\$25.00~~ **\$50.00**), for the first owner or employee, ~~ten~~

**twenty** dollars (~~\$10.00~~) per employee for the second employee through the fifth employee in addition to the above and ~~seven~~ **fourteen** dollars (~~\$7.00~~ **\$14.00**) per employee for each employee in addition to the above. (Prior code 14-8)

**5.04.080 License tax – Delivery trucks or delivery vehicles**

For each person, firm, association or corporation having a fixed place of business outside the city, and who operates there from delivery trucks or delivery vehicles by means thereof wholesale orders are taken in the city (whether on the date of delivery or prior thereto) for the delivery of ice cream, milk, meats, cake, pastry, soft oils, or other merchandise of any class or nature, there shall be a license tax, imposed of ~~ten~~ **twenty** dollars (~~\$10.00~~ **\$20.00**), per quarter year for each delivery truck or delivery vehicle so operated in or through the city. (Prior code 14-9)

**5.04.090 License tax – Flat rate and gross receipts**

Every person transacting and/or carrying on in the city any business hereinafter enumerated shall pay a license tax for revenue purposes for the period and in the amount as set out after such business:

<b>Business</b>	<b>Period</b>	<b>Tax</b>
Auctioneers	Event	<del>15.00</del> <b>30.00</b>
Children’s rides (under 12 years)	Day	<del>5.00</del> <b>10.00</b>
Circuses	Event	<del>150.00</del> <b>300.00</b>
Carnivals	Event	<del>200.00</del> <b>400.00</b>
Peddlers and solicitors	Day	<del>10.00</del> <b>20.00</b>
Palmists and fortune tellers	Day	<del>50.00</del> <b>100.00</b>
Operators of demountable transient skating rinks	Day	<del>10.00</del> <b>20.00</b>
Junk Dealer	Day	<del>50.00</del> <b>100.00</b>
Vendors selling or displaying products outdoors	Day	<del>5.00</del> <b>10.00</b>
Each coin-operated amusement machine	Quarter	<del>10.00</del> <b>20.00</b>
Each coin-operated music box	Quarter	<del>5.00</del> <b>10.00</b>

(Prior Code 14-10)

**5.04.095 Multifamily residential rental fee.**

A. This section shall apply to persons engaging in the business of renting or leasing multifamily property in the city for residential tenancies of 30 or more days. The record owner of a property that is rented or leased for such tenancies shall be presumed to be the person renting or leasing the property and liable for the fee due under this section unless that record owner demonstrates to the satisfaction of the administrator that some other person is engaged in the

business of renting or leasing a particular property, in which case that other person shall be liable for the fee due under this section as to that property.

B. Each person subject to this section shall pay a multifamily residential rental fee of \$36.00 for each rental unit for which that person receives any rent during the calendar year prior to the year in which the fee is due.

C. Notwithstanding the provisions of subsection (B) of this section, no multifamily residential rental fee shall be due with respect to any rental unit that the person subject to this section can establish, in a manner satisfactory to the administrator:

1. To be a rental unit located in a building containing three or fewer other such rental units;  
or
2. To have been occupied for at least half of the period during which it was rented to any tenant in the calendar year prior to the year in which the fee is due by:

#### **5.04.100 License tax – How payable**

All licenses shall be payable in advance at the office of the city clerk. When a license tax is due per day it shall be due and payable each day and when due per quarter it shall be due and payable on the first days of January, April, July, and October of each year. For any business or profession for which a license tax is due hereunder commencing after the due dates herein specified such license tax shall be due on the date of commencement thereof for the term remaining in the quarter, without deduction for the period during the quarter year which had theretofore run. (Prior code 14-11)

#### **5.04.110 Delinquency – Penalty – Suit for Collection**

Every license tax which is not paid when due and payable and payable as herein provided shall be deemed delinquent, and if such license tax is not paid within thirty (30) days from such due date, the city clerk shall add, and there shall accrue, in addition to such tax, a penalty of ten percent (10%) of such tax for each month or fraction thereof during which the same shall remain delinquent. In addition to any other penalty prescribed herein for noncompliance with the provisions thereof, or any of them, the license collector may bring suit in the name of the city against any person required to take out a license, who fails, neglects or refuses so to do, or who carries on, or attempts to carry on any business, trade or profession specified herein without such license, for the recovery of the amount of such license tax due, with the penalty accrued as herein provided, and in such case the city clerk or the city attorney may make the necessary affidavit for attachment in such action, and a writ of attachment may issue without any bond being given on behalf of the city.

In the event of a judgment in favor of the city, fifty dollars (\$50.00) shall be added to the judgment as costs and additional penalty, and when collected shall be paid into the city treasury. (Prior code 14-12)

#### **5.04.120 Joint licenses**

Whenever any person is engaged in two or more businesses in the city such person shall be issued one license which shall specify all such businesses on its face, and the license tax to be paid shall be computed as though one business only were being conducted, except that the businesses on its face, and the license tax to be paid shall be computed as though one business only were being conducted, except that the businesses specified in Section 5.04.070, shall be deemed to be separate businesses in every case. (Prior code 14-13)

#### **5.04.130 Transfer of licenses**

No license issued under this title, shall be transferred except under the following conditions:

A. When a licensee transfers his or her business from one location to another in the city the license previously issued may be amended to authorize the conduct of such business at the new location for the balance of the period covered thereby.

B. When a licensee conducting a business in a fixed location in the city makes a bona fide sale thereof, an amended license may be issued to authorize the purchaser to conduct such businesses at such location for the balance of the period for which such license was originally issued.

C. The license transfers authorized herein may be obtained from the city clerk upon payment of a fee of ~~one~~ **two** dollar (~~\$1.00~~ **\$2.00**), which fee is fixed and established for such service. (Prior code 14-14)

#### **5.04.140 Posting of license**

Every person holding a license under the provisions herein and carrying on a business at a fixed place of business shall keep such license posted and exhibited in some conspicuous place on the premises thereof. Every person holding such license, without a fixed place of business in the city shall carry such license with him or her at all times or shall have attached to the vehicle or vehicles and machine or machines used in such business a sticker as provided herein. (Prior code 14-15)

#### **5.04.150 Contents of license**

All licenses shall be prepared and issued by the city clerk and each shall state upon the face thereof the following:

- A. Name of the person or business to whom license is issued;
- B. Kind of kinds of business licensed thereby;
- C. Location of such business;
- D. Date of expiration of such license;
- E. Such other information as the clerk shall require. (Prior code 14-16)

#### **5.04.160 Procedure for issuance of license – Affidavit**

A. Every person required to be licensed under the provisions herein shall make application for the same in writing to the city clerk on a form provided by the city clerk for the purpose, which shall, in addition to the license, state the facts necessary to determine the amount of the license tax to be paid by applicant. The application shall be sworn to before a notary public or shall be sworn to under penalty of perjury, and filed with the city clerk on or before the first day of the period for which the license is to be applicable.

B. Every person required to be licensed under the provisions herein, and who falls within the provisions of Section 7 shall make an application for the same in writing on a form provided by the city clerk for the purpose, which shall state the facts necessary to determine whether or not the applicant meets the requirements of Section 7, in addition to the matters required by Section 5.04.040.

C. Every person making application for a business license, and taxable under Section 5.04.060, whose business has not been established in the city for a sufficient length of time to meet the requirement of Section 5.04.050, definition of “fixed place of business”, with certainty, shall pay to the city the minimum license tax due hereunder, under Section 5.04.070, for the business in which he or she is engaged. The license tax thus paid shall be tentative only. Such licensee shall within thirty (30) days after the expiration of the period for which such license was issued, furnish the city clerk with an affidavit as prescribed in subsection A of this section showing the average number of employees employed in the business during the period of such license, and the license tax due shall be finally ascertained, fixed and paid upon the basis of the average number of employees as shown by such affidavit, with credit given for tentative minimum license tax previously paid. Every person making application under this section, shall furnish such information as may be deemed necessary by the city clerk to provide satisfactory proof of intent to establish a fixed place of business and operate the same in the city.

D. Every person making application for a license for a business without a fixed place of business in the city and not included in Section 5.04.090, shall pay to the city clerk the minimum license tax for the business in which he or she is engaged. The tax thus paid shall be tentative only, and prior to the expiration of the period for which such license was issued, such person shall furnish the city clerk with an affidavit prescribed in subsection A of this section, showing the average number of employees in such business as provided in Section 5.04.050, definition of “average number of employees – fixed place of business:”. The license tax shall be ascertained and paid upon the basis of such average number of employees, credit being given for the minimum tax previously paid. (Prior code 14-17)

#### **5.04.170 Revocation of license**

The city council shall have the power to revoke any license under the provisions herein upon information that the licensee has not complied with, or is not complying with, any provision herein, or any other ordinance of the city, or of any state or federal law or laws. (Prior code 14-18)

**5.04.180 Examination of records**

For the purposes of ascertaining the correctness of any affidavit filed, or the amount of license tax paid, the city clerk, or any person designated by him or her for that purpose, shall have the power and authority to examine any papers, records and memoranda of the licensee bearing on the matter, and may require the attendance of any person having knowledge in the premises and may take the testimony of such person with reference thereto, and shall have power to administer oath to such person or persons. It shall be the duty of all licensees to give access to such papers, records and memoranda in his or her possession of the city clerk for the purposes herein stated, and any person refusing to do so, on proper demand of the clerk, shall be guilty of a misdemeanor. (Prior code 14-19)

**5.04.190 Additional powers of city clerk**

In addition to all other powers conferred upon him or her, the city clerk shall have the power, for good cause shown, to extend the time for filing any required sworn statement required herein, for a period not to exceed thirty (30) days, and in such case to waive any penalty that would otherwise have accrued, and shall have the further power, with the consent of the city council, to compromise any claim as to the amount of license tax of the city, and with all provisions of the laws of the state, and of the federal government, as a prerequisite for the issuance by him or her of any license prescribed herein. (Prior code 14-20)