

Chapter 1

BUSINESS LICENSES AND REGULATIONS

3-1-1: LICENSE OFFICE AND LICENSE OFFICIAL:

A. Definitions: Whenever used in this chapter, the following terms shall mean:

LICENSE DEPARTMENT: The license office of the city.

LICENSE OFFICIAL: The city recorder or other designee appointed by the city.

B. Office Created; Personnel: There is hereby created a license office within the city. The city recorder shall be the license official and shall have charge of the license office and shall direct the same subject to and in accordance with such terms and conditions as the city council may prescribe.

C. License Official; Powers And Duties: The license official shall assess each licensee in accordance with the provisions of this chapter and the applicable statutes of the state, and shall receive all license fees required herein to be paid. The assessment shall be based upon the fees herein established. The license official shall also keep and maintain a suitable index, properly alphabetized, containing the names of all licensees. (Ord. 05-20-03B, 5-20-2003)

3-1-2: LICENSE CERTIFICATES AND REGULATIONS:

A. Business Rules And Regulations: Rules and regulations covering the health, safety, morals, peace, good order, comfort and convenience of the general public with respect to any business covered under this chapter may be adopted by the city council, and copies of such rules and regulations shall be made available to and displayed by the licensee affected thereby in a conspicuous place upon the licensed premises.

B. Posting License On Premises Required: It shall be the duty of any person conducting a licensed business in the city to keep his license posted in a prominent place on the premises used for such business at all times.

- C. License Certificate To Be Shown To Officials: It shall be the duty of each and every person to whom a certificate of license has been issued to show the same at any proper time when requested to do so by the license official, sheriff or other law enforcement officer.
- D. Unlawful Uses Of Business License And/Or Permits: It is unlawful to counterfeit a license certificate, or to deface or mutilate the same while it is required to be posted, or to remove it or attempt to remove it therefrom without destroying it, or to use or permit the same to be used at any place other than that designated therein, or for any licensee to place or permit it to be placed upon any place of business, amusement device, game, machine or vehicle prohibited or declared to be unlawful by this chapter or any other ordinance or law. (Ord. 05-20-03B, 5-20-2003; amd. 2003 Code)

3-1-3: BUSINESS LICENSE FEES:

- A. Definitions: For the purpose of this chapter, the following terms shall have the meanings herein prescribed:

BUSINESS: Means and includes all activities engaged in within the incorporated limits of the city, carried on for the purpose of gain or economic profit and, for the purposes of these provisions, shall include nonprofit corporations, except that the acts of employees rendering service to employers shall not be included in the term "business" unless otherwise specifically prescribed.

ENGAGING IN BUSINESS: Means and includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property, and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation, or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.

PERSON: Any individual, receiver, assignor, trustee in bankruptcy, trust, estate, firm, partnership, limited liability company, joint venture, club, company, joint stock company, business trust, corporation, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

PLACE OF BUSINESS: Any location maintained or operated by a licensee within the city, from which business activity is conducted or transacted.

- B. License Required: It is unlawful for any person to engage in business within the city without first procuring the license required by this chapter.

- C. Exemptions: No license fee shall be imposed under this chapter upon businesses which are exempt from both property taxes and privilege taxes or upon any person engaged in business that is specifically exempt from licensing by political subdivisions under the laws of the United States or the state.
- D. License Fee: There is hereby levied upon the business of every person engaged in business in the city at a place of business within the city, an amount equal to twenty five dollars (\$25.00).
- E. Amendment Of Fee: The business license fee may be amended from time to time by the city council.
- F. Separate Establishments: A separate license must be obtained for each separate establishment or location of business engaged in business within the city as if such separate establishment or location were a separate business, and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing places used in connection with or incident to a business licensed under this chapter shall not be deemed to be separate places of business or branch establishments.
- G. Provisions Not Exclusive: The general business license required under this chapter is in addition to all other licenses and permits required by other ordinance provisions. No person shall engage in business without first procuring the necessary licenses and permits that are required by other provisions of the ordinances, in addition to the license required by this chapter.
- H. Delinquency Penalties:
1. Business license fees for new businesses shall be due and payable upon making application to the license department. The application shall not be processed until the fee is paid.
 2. Business license fees for renewal businesses shall be due and payable each year on or before July 1 in which the license was originally issued. If the license fee is not paid by the due date, a twenty five percent (25%) penalty of the amount of the fee shall be added to the original amount due. If the license fee plus penalty is not paid within one month after the due date, a one hundred percent (100%) penalty of the amount of the license fee shall be added to the original license fee. If the license fee plus penalty is still

not paid within two (2) months, the business shall be considered to be operating without a business license in violation of this chapter, subject to criminal prosecution for every day of operation after two (2) months from the due date, and the license fee, if a license is granted thereafter, shall be the license fee plus the one hundred percent (100%) penalty.

3. Penalty fees may be appealed to the mayor who may, for good cause shown, refund all or part of the applicable penalty fee that has been paid.

I. Term: All business licenses, except temporary licenses, shall expire on June 30.

J. Civil Actions To Recover Fees:

1. Where this chapter requires a license to be obtained from the city, the fee being fixed by ordinance, and where such fee is not paid at the time or in the manner provided in this chapter, a civil action may be brought in the name of the city against the person failing to pay such license fee, in any court of this state having jurisdiction of such action, to recover the same, any penalties that may attach, the city's reasonable attorney fees incurred in such action, and/or to enjoin further operation by the licensee. Where several amounts for licenses as fixed by any city ordinance shall remain due and unpaid by any person, the amounts may be joined as separate causes of action in the same complaint in a civil action.
2. The city attorney shall prepare, bring and prosecute the civil actions contemplated by this chapter upon the request of the city.

K. License Application; Public Records; Exceptions:

1. License applications shall be public records and the information contained therein shall be public except for specific items of data that the license official designates or classifies as private, controlled or protected data consistent with the provisions of the government records access and management act¹.
2. It is unlawful for any person to make public or to inform any other person of the contents of any information contained therein, except as authorized in this section. (Ord. 05-20-03B, 5-20-2003)

L. Filing False Return Prohibited: It is unlawful for any person to knowingly file a false license application, or provide false information in conjunction with a license application. (Ord. 05-20-03B, 5-20-2003; amd. 2003 Code)

3-1-4: PROCEDURE FOR OBTAINING LICENSE:

- A. License Required To Carry On Business: Unless exempted by state or federal law, it is unlawful for any person to engage in or carry on or operate any business in the city, or to use any property for such business, without first making application for and obtaining the required license from the city.
- B. Persons Subject To Licensing: Whenever a license is required for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person or corporation shall be subject to the requirements if, by himself or through an agent, employee or partner, he holds himself forth as being engaged in the business or occupation, or solicits patronage therefor, actively or passively, or performs or attempts to perform any part of such business or occupation in the city.
- C. Application Contents:
1. Applications for licenses and permits required by this chapter shall be made in writing to the city license official at the city license office. Each application shall state the name of the business; the name of the applicant; the permit or license desired; the location of the business, if any; the fee to be paid; the name and street address (and mailing address, if different) of the business agent who is authorized to receive service of process and any communication regarding the applicant's license via certified mail, return receipt requested; and such additional information as may be needed for the purpose of guidance of the city officials in issuing the permit or license. Any change in the above information furnished by the license applicant shall be forwarded, in writing, within ten (10) days after the change, to the license official.
 2. Forms for all licenses and permits, and the applications therefor, shall be prepared and kept on file by the license official.
- D. Fees And Waiver:
1. Each application for a license under this chapter shall be accompanied by the license fee required to be paid for the issuance of the license desired. In addition to the license fee regularly assessed, any applicant which shall have commenced doing business prior to obtaining a valid license shall be assessed a penalty fee. The penalty fee shall be as provided in subsection 3-1-3H of this chapter. The fee may be paid by cash or check made payable to the city or a certified cashier's check and conditioned upon the payment of the license fee to the city in the event of the issuance of the license. Any license which has been issued pursuant to payment by means of a check shall be void

and of no force or effect if such check is not honored. Applications received by the license official shall be numbered in the order of their receipt.

2. The license official may not, under any circumstances, waive the business license fees due the city for the current year or for prior years in which the business operated.

- E. Fees Not Refunded When: No license fee, or any part thereof, shall be refunded for any reason whatsoever, once the application has been received or the license has been granted or issued by the city.
- F. Investigation: Upon receipt of an application for a license or permit, where ordinances of the city require an inspection or investigation before the issuance of such permit or license, the building official or his authorized representative or such other agency, including the sheriff's office and the planning and zoning division, as these ordinances specifically empower, shall make such investigation within five (5) business days after the time the application was received by the agency or department. However, when adequate investigation requires correspondence with agencies or other sources of information outside the city, or the license applicant is not ready to be inspected, such investigation shall be completed within fifteen (15) days, or as soon thereafter as possible. The officer charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within five (5) business days after making the investigation or inspection.
- G. Additional Investigations: As soon as practical, the license official, in his discretion, may refer the application for additional investigation to the other official or body for the purpose of investigation and inspection concerning the general reputation of the licensee, whether the business is or has been conducted in a lawful, quiet, orderly and helpful manner, and the conditions of health and safety of such premises, together with any other fact or facts that the city should know in acting upon the application.
- H. Report Of Investigations: Upon being requested to do so by the mayor or the license official, the sheriff, fire department, or any other official or department so requested, shall conduct the investigation and inspection provided for in this chapter and submit to the mayor or license official a report on such investigation and inspection, together with recommendations as to whether the license should be granted or denied.
- I. Action By Mayor: After receipt of the referenced reports and recommendations of the license official, sheriff, fire department or other official or body, the mayor shall act upon the application as he deems just and proper in regard to granting or denying the same, and may order further information or investigation if such appears necessary.

J. Compliance With Building And Zoning Requirements: No license shall be issued for the conduct of any business, and no permit shall be issued for any thing or the performance of any act if the premises and building to be used for the purpose do not fully comply with the city building and zoning ordinances.

K. Approval: In the event the city approves a business license, the business license shall be signed by the mayor or impressed by his facsimile, and forwarded to the applicant.

L. Denial Conditions:

1. The mayor, upon recommendation of the license official, may deny the issuance of a license if the applicant has:
 - a. Been convicted of a felony or any crime involving moral turpitude; or
 - b. Obtained, or has aided another to obtain, a license by fraud, deceit, material misrepresentation or material omission; or
 - c. Failed to pay any applicable taxes or fees; or
 - d. Violated the laws of the state, the United States government, the ordinances of the city, or the rules and regulations of any state or city agency governing operation of the business holding the license or permit.
2. The reason for denial shall be endorsed on the application by the license official, and the city recorder shall return to the applicant, via certified mail, return receipt requested, the application, notice of the applicant's rights to an appeal and any fees that are refundable.

M. Appeal Hearing On Denial Of License; Effect Of Denial: If the applicant files a written notice of appeal within twenty (20) days of the notice of denial, a hearing to consider the denial of a license shall be held as provided in section 3-1-6 of this chapter. Unless the mayor or hearing examiner orders otherwise, it shall be unlawful for an applicant who has been denied a license to commence or conduct the business or occupation contemplated in the application.

N. Effect Of Denial: If at any time a license or renewal is denied under the provisions of this chapter, it shall thereafter be unlawful for any person to engage in or carry on or operate or use or permit to be operated or used, any property for any business with respect to

which the license or renewal has been denied, until a license or renewal shall be granted by the city. (Ord. 05-20-03B, 5-20-2003)

3-1-5: SUSPENSION, REVOCATION OR DENIAL TO RENEW A LICENSE:

- A. **Enforcement Powers:** The city shall be responsible for the enforcement of this chapter. The city official may, on his own initiative, or in response to complaints referred from the general public or otherwise, investigate and gather evidence of violations of the licensing provisions of this chapter.
- B. **Grounds For Suspension, Revocation Or Denial To Renew:** In addition to any fine imposed, every license or permit issued by the city may be revoked, suspended or renewal denied as prescribed herein. Upon recommendation of the license official or sheriff and upon a hearing held pursuant to section 3-1-6 of this chapter, the mayor or hearings examiner may revoke, suspend or deny renewal of licenses or permits, if the licensee or permittee:
1. Has been convicted of a felony or any crime involving moral turpitude;
 2. Has obtained, or aided another to obtain, a license by fraud or deceit;
 3. Has failed to pay any applicable taxes or fees;
 4. Has violated the laws of the state, the United States government, the ordinances of the city, or the rules and regulations of any agency of the city or the state governing the operation of the business holding a license or permit; or
 5. Has refused to permit authorized officers or employees to make an inspection or to take a sample of a commodity, or has interfered with such officer or employee while in the performance of his duty in making such inspection.
- C. **Notice Of Violation And Hearing:** The city shall send the licensee written notice by certified mail, return receipt requested, in care of the process agent specified in the license application, of the alleged violation and notice of hearing and the licensee's right to appear at the hearing, the consequences of the failure to appear and answer, and of the date, time and place set for the hearing.
- D. **Waiting Period For New License:** No person denied a license, or whose license has been revoked under the provisions of this chapter, and no person associated or connected with such person in conduct of such business, shall be granted a license for the same purpose for a period of six (6) months after the denial or revocation has occurred. However, the mayor may, in his discretion, waive the prohibition against persons formerly associated or

connected with an individual who has had his license revoked. (Ord. 05-20-03B, 5-20-2003)

3-1-6: HEARINGS; DECISION; ENFORCEMENT; APPEAL:

A. Hearing Procedure:

1. A suspension, revocation or denial to renew a license issued pursuant to the ordinances of the city shall not be imposed until a hearing is first held pursuant to this chapter before the mayor or a hearing examiner.
2. At least twenty (20) days prior to a hearing hereunder, the city shall cause notice of the time and place of the hearing to be served upon the licensee or applicant by mailing a copy to the licensee or applicant via certified mail, return receipt requested, in care of the licensee specified in the license or applicant specified in the application.
3. Failure to appear at such hearing or otherwise defend against suspension, revocation, denial of a license or denial to renew a license shall constitute grounds for immediate suspension, revocation, denial of a license or denial to renew a license.
4. All witnesses called at a hearing shall be sworn by a person duly authorized to administer oaths, and a record of such hearing shall be made by a recording or a court reporter. A licensee or applicant shall have the right to appear at the hearing in person or by counsel, or both, present evidence, present argument on the applicant's behalf, cross examine witnesses, and in all proper ways defend the licensee or applicant's position.
5. If the hearing is before a hearing examiner, the hearing examiner shall, within ten (10) days after the conclusion of the hearing, submit to the mayor proposed written findings of fact and conclusions of law and order based upon and supported by the evidence presented at such hearing.

B. Hearing Examiner; Appointment And Powers: The mayor may appoint one or more hearing examiners upon the advice and consent of the city council, and the mayor or any hearing examiner shall have power and authority to call, preside at and conduct hearings to consider the suspension, revocation, denial or approval of licenses or renewals issued by the city, including the power to examine witnesses and receive evidence, compel the attendance of witnesses, and compel the production of documents.

C. Mayor Action:

1. Upon receiving the hearing examiner's proposed findings of fact and conclusions of law and order, the mayor may adopt and enter the proposed findings of fact and

conclusions of law and order, or may enter his own findings of fact and conclusions of law and order, provided such order is based upon and supported by the record. Immediately after entry, the order shall be filed with the office of the city recorder and a copy served upon the licensee or applicant personally or by mailing a copy to the licensee or applicant via certified mail, return receipt requested.

2. In the event the mayor's order institutes a sanction of suspension, probation, denial, denial to renew, or revocation of a license, such sanction shall apply immediately after entry and shall apply to the licensee, applicant, the licenses issued by the city, and to the premises in question for the full term of the imposed sanction.

D. Unlawful To Operate Without A License:

1. It shall be unlawful for any person to commence or conduct any business, trade or occupation within the city without first procuring all applicable city business licenses.
2. If at any time a license issued under the provisions of this chapter is denied, suspended or revoked, it shall thereafter be unlawful for the holder of such license to conduct business on the premises described in such application or license until the old license is reinstated or a new license is issued.

- E. Appeal Of Hearing Decision: Any licensee or applicant aggrieved by an order entered by the mayor may maintain a plenary action for relief therefrom in any court of competent jurisdiction, provided the action for such relief is filed with the court within thirty (30) days after such decision is deposited in the office of the city recorder. (Ord. 05-20-03B, 5-20-2003)

3-1-7: TRANSFERABILITY:

A. Limitations:

1. No license granted or issued under the provisions of the ordinances of the city shall be deemed to be assignable or transferable, or to authorize any person other than the person therein mentioned or named to do business, or to authorize any other business than is therein mentioned or named to be done or transacted.
2. Persons to whom one or more licenses have been issued to transact or carry on some business at a definite location in the city may, except as hereinafter provided, make application for the transfer of said licenses for the sole purposes of transacting or carrying on the same business as is therein mentioned at some other definite location in the city. Applications therefor shall be filed with the license official ten (10) days in advance of the proposed change. The city, after receiving reports furnished by the

license official or his authorized agent, may, in its discretion, deny or grant the transfer of licenses according to the above limitations. No change shall be permitted without full compliance with the building and zoning requirements of this code.

- B. Transfer Fee Or Fee For Changes In Partnerships And Associations: In the event of a transfer of location as described in subsection A of this section or in the event a partnership or association applies to delete the name or names of an individual or group of individuals from its license, a new license will be reissued for transfer of location or in the name of the new partnership or association provided a fee in the amount of twenty dollars (\$20.00) is paid. (Ord. 05-20-03B, 5-20-2003)

3-1-8: TEMPORARY PERMITS:

- A. Defined: For the purposes of this section, a "temporary business" means the conduct of business which is conducted from a single designated site or premises without a permanent foundation or location from which goods, merchandise or services are sold on a temporary or seasonable basis, and includes a concert, fair, rally, bazaar or melon days festival. The license for a temporary business shall not exceed one hundred (100) consecutive calendar days per year at any location.
- B. Permit Required: It is unlawful for any person to conduct, engage in, promote or carry on a temporary business within the city, without first making application for and obtaining a temporary business permit from the city.
- C. Display: A temporary business permit granted pursuant to this section must be conspicuously displayed in or at the site or premises in which the temporary business is conducted and must be available for inspection.
- D. Fee: The fee for engaging in, carrying on, or conducting a temporary business shall be twenty five dollars (\$25.00).
- E. Permit Application: An application for a temporary business license must be submitted ten (10) days prior to the commencement of the temporary business and must include the following:

1. Site plan delineating where the temporary business will be located and the parking area available for patrons or designation by the city of a location with respect to any special event such as melon days.
 2. Written permission from the property owner where the temporary business will be located in a form acceptable to the city.
 3. Acceptable evidence of a current sales tax permit, license or special event sales tax number issued by the state.
- F. Expedited Permit Charge: The license official may (in his discretion) waive the ten (10) day requirement of subsection E of this section upon payment of an expedited license charge in the amount of ten dollars (\$10.00).
- G. Location: The temporary business permit shall specify the location at which the temporary business may be conducted, and no temporary business may be conducted at any other location.
- H. Inspection Of Merchandise: The sheriff or city official may inspect all goods and merchandise to be sold pursuant to a temporary business permit.
- I. Cleanup Bond Required: Any person applying for a temporary business permit shall file, along with his temporary business permit application, a cash or letter of credit in an amount equal to one hundred dollars (\$100.00). Such bond shall cover the cost of disposing of all litter, garbage and sewage of the individuals attending, observing or performing at the temporary business permit location.
- J. Compliance With Laws: Temporary license holders shall comply with all applicable laws and ordinances of the city and the state governing the operation of its business. (Ord. 05-20-03B, 5-20-2003)

Footnotes - Click any footnote link to go back to its reference.

Footnote 1: UCA § 63-2-101 et seq.

