

Chapter 5.04

BUSINESS LICENSES GENERALLY

5.04.010: DEFINITIONS:

The following terms shall be defined as indicated for the purpose of this chapter:

BUSINESS: Every trade, occupation, profession or activity engaged in within the City with the object of gain or economic profit, excluding, however, the act of employees rendering service to employers.

EMPLOYEE: All natural persons who work for an employer for salary or commission or wages and who are subject to the direction and control of such employer and who do not share the profits and losses of such employer. It includes all full time officers of public agencies.

ENGAGING IN BUSINESS: Includes, but is not limited to, the sale of tangible personal or real property and the rendering of personal service for others for a consideration by persons engaged in craft, business, occupation, or hobbies. Engaging in business shall also include the occupancy of any office, retail, warehouse or other space in which business transactions are carried out. Engaging in business shall also include the renting by a lessor of space, whether enclosed or not, to be used as office space for any use or endeavor, including, but not limited to, commercial, medical, dental, or other professional activities. Engaging in the rental business shall include the renting by a lessor of all separate units, buildings, apartments, or houses for the purpose of profit.

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

PLACE OF BUSINESS: A place maintained or occupied by the licensee for the transaction of business. It does not include a place in which goods of the licensee are kept for storage or display only if no services are tendered, business transacted or sales consummated at such place.

SOLICITOR: Any person selling, soliciting the sale of, offering for sale, or taking orders for merchandise door to door within the City. Merchandise shall include goods, food, wares, photographs, subscriptions to any kind of publication, tickets, coupons or receipts representing value. The term "solicitor" also includes, but is not limited to, photographers, sellers of magazines, cosmetics, home care products, etc., and any other person engaged in direct sales, but specifically excludes newspaper carriers and any person who obtains orders for or sells goods solely for resale.

TEMPORARY BUSINESS: A business conducted on a lot for a period of no more than ninety five (95) consecutive days within a single calendar year (with or without a permanent building) and which is not associated with any other business conducted on the same lot. (Ord. 2017-10: Ord. 91-07)

5.04.020: LICENSE REQUIRED:

- A. Every person engaged in business in the City shall secure a license from the City for such business. Such license shall be issued upon written application in such form as the City may prescribe and upon payment of the fees required, and when it is ascertained that all prerequisites or the issuance of each such license have been satisfied and fulfilled.

- B. In the case of a new building, the business license will not be approved until the building has been approved for occupancy by the Farr West City Building Inspection Department.
- C. If the proposed business or existing business is located or relocated in an existing building, the business license or relocation of business will not be approved until site plan approval is granted by the Farr West City Planning Commission and City Council. (Ord. 91-07)

5.04.030: UNLAWFUL OPERATION:

It is unlawful for any person to engage in business without first obtaining a license in accordance with the provisions of this chapter. (Ord. 91-07)

5.04.040: LICENSE EXEMPT BUSINESSES:

The following businesses, ventures or activities are exempt from the licensing and fee requirements of this chapter:

- A. Any organization carried on or managed wholly for the benefit of charitable purposes or from which profit is not derived, directly or indirectly, by any person;
- B. Any activity the receipts from which are to be appropriated entirely to any church, school, religious or benevolent purpose;
- C. Any activity conducted by a religious, charitable, fraternal, educational, military or governmental organization so long as the receipts from such activity are appropriated for the purposes and objects for which such organization is formed and no person directly or indirectly derives a profit therefrom;
- D. Any person conducting a business, venture or activity which is exempted from the licensing and fee requirements pursuant to this section shall still be required to pay any fee required to cover the costs of necessary inspection done by the City, which shall include all inspection to determine compliance with applicable codes. The inspection fees shall be in an amount determined by resolution of the City Council;
- E. Nothing in this chapter shall apply to any public utility business holding a franchise from the City under which the City is to be paid a franchise fee or tax in lieu of all other license fees or taxes;
- F. If any person furnishes such evidence as shall satisfy the City Council that he or she, by reason of their misfortune or physical infirmities, merits exception from the payment of any license fee required in this chapter, the Mayor may remit such license with the consent of the City Council;

- G. Any organization conducting a business on behalf or at the request of the City in connection with the promotion of the City sponsored celebrations, pageants, displays, projects or other City sponsored events. (Ord. 91-07)

5.04.050: APPLICATION; REQUIREMENTS:

- A. All applications for license shall be made in writing to the City Recorder upon the City-approved business license application. Upon receipt of an application for license such application shall be submitted to the City Council at a regularly scheduled City Council meeting; unless in the opinion of the City Recorder or as required hereunder, the application is or should be referred to the building inspector, Fire Marshal or other department for investigation. After the application is submitted to the City Council for approval, the applicant must attend the scheduled City Council meeting when the application will be considered to answer any questions prior to license approval. The City Council may then grant approval, attach conditions for approval, or deny the application for cause.
- B. Upon granting a license, the City shall issue a certificate of license which shall contain the name of the license, the business, calling, trade or profession to be carried on thereunder, the class of the license, if such licenses are divided into classes, and the place where the licensed business is to be carried on, giving the street number if such business is to be carried on at a fixed place, and the date of the expiration of such license. (Ord. 2017-10: Ord. 2016-10: Ord. 91-07)

5.04.060: APPLICATION CONTENT:

The application shall contain:

- A. The date of application;
- B. The name of the person, firm or corporation desiring the license;
- C. The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on;
- D. The class of license desired if licenses are divided into classes;
- E. Proof of such applicant's compliance or qualifications under applicable State regulatory laws before issuing the City revenue license;
- F. The period of time for which the license may be issued; and
- G. Any other matter or thing which may be required and necessary for the purpose of enabling the City to fix the amount of license fee. (Ord. 91-07)

5.04.070: BOND REQUIRED:

All applicants for business licenses for the following businesses shall be required to give bonds in favor of the City for the purposes indicated in such amounts as may be set by resolution. All aggrieved persons shall have a right to bring an action under such bond against the licensee and the sureties. Such bonds shall be executed by corporate sureties only, unless otherwise authorized by the City Council. No license shall be issued until the bonds required in this chapter have been filed and approved by the City Attorney.

- A. Employment agencies, conditioned upon the faithful observance of the ordinances of the City and the payment of all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit practiced by the licensee or his or her agents or employees;
- B. Persons lending money upon personal securities, evidence of indebtedness, assignments of salary, salary warrants or any property, excluding personal property, other than banks and other regulated financial institutions, conditioned upon faithful observance of the ordinances of the City and the laws of the State of Utah respecting money brokers, loan agencies and usury laws;
- C. Messenger or special delivery services conditioned upon the faithful observance of all ordinances of the City and the payment of all damages arising from any negligence in the conducting of such business; and
- D. Solicitors, door to door salespersons and pollsters conditioned upon the faithful observance of the ordinances of the City and the laws of the State of Utah. (Ord. 97-22 §§ 1, 2, 3: Ord. 91-07)

5.04.080: LICENSE FEE:

An applicant shall, upon filing his or her application for a business license, deposit with the City a fee prescribed by resolution for the business, trade, profession, occupation or calling for which a license is applied as published in the fee schedule codified in [title 3, chapter 3.30](#) of this Code. Application for a business license made prior to July 1 shall pay the full fee. Applications made on July 1 through December 31 shall pay one-half ($1/2$) of the prescribed fee. The City shall provide the applicant a receipt for the fee payment, but such receipt shall not be deemed to be a certificate of license. In the event the license application should not be approved by the City Council, the fee paid shall be refunded to the applicant. All license fees shall be payable annually, in advance (unless otherwise provided). (Ord. 2014-07)

5.04.090: LATE PAYMENT PENALTY:

If any license fee or tax is not paid within fifteen (15) days of its due date, the penalty prescribed in the fee schedule (see [title 3, chapter 3.30](#) of this Code) shall be added to the original amount thereof. All penalties provided for in this section shall be collected by the City and payment thereof enforced in the same manner as the license fees are collected and payment thereof enforced. No license shall be issued until all penalties legally assessed have been paid in full. (Ord. 2012-02)

5.04.100: FEE FOR MULTIPLE BUSINESSES:

Except as may be otherwise specifically provided in this chapter, whenever more than one (1) business, trade, profession, calling or occupation is being carried on by one (1) licensee under one (1) roof, such licensee shall for all of such businesses, trades, professions, callings or occupations pay only the highest license fees applicable to any of such businesses, trades, professions, callings or occupations. (Ord. 2012-02)

5.04.110: LICENSE FEE FOR NEW BUSINESS:

The license fees for new businesses shall be due and payable on the date that business is first commenced. The provisions of this section apply only to new businesses, and nothing contained in this chapter shall be construed as exempting a late applicant from payment of the full license fee, or permitting the refund of any portion of a license fee already paid. (Ord. 91-07)

5.04.120: FEE; DEBT TO CITY:

Every license fee tax or assessment levied by any ordinance of the City and all interest accruing thereon after the date of the delinquency, and all penalties levied or assessed thereon by any ordinance of the City for failure to pay the sum within the time required constitutes a debt to the City, and the City may maintain an action to recover the same and all costs associated therewith, including a reasonable attorney fee, in any court of competent jurisdiction, which remedy shall be in addition to any and all other remedies which may be provided. (Ord. 91-07)

5.04.130: REBATE:

No rebate shall be allowed upon any license unless the licensee has been damaged by fire or other unavoidable accident or property damage. In all such cases the City Council shall have discretionary power as to what amount, if any, shall be rebated. (Ord. 91-07)

5.04.140: LICENSE REVOCATION:

- A. All licenses which have been issued or which may hereafter be issued by the City shall be subject to revocation as hereinafter provided, without regard to any expiration date on such license as issued.
- B. Whenever, in the opinion of the Mayor or City Council, the public interest will be best served by revocation of any license or licenses issued by the City, the City Council or the Mayor may direct that notice be sent to the holder(s) of such licenses directing such holder(s) to appear before the City Council at a definite date and hour to be stated in such notice, and to show cause, if any, why such license or licenses should not be revoked; provided, however, that the time set for such appearance by such licensee shall be not less than five (5) days after the date of mailing such notice, and provided further, that such notice shall be mailed to such licensee by regular mail, postage prepaid, and addressed to the address of such licensee as shown on the application for each license, or at any subsequent address which has been given to the City by such licensee.

- C. At the hour and date stated in such notice the licensee shall have an opportunity to appear before the City Council and show cause why such license should not be revoked and canceled, and may appear in person or by counsel, and the City Council shall thereupon proceed to hear all persons interested in the matter and determine whether or not such license should be revoked.
- D. In the event that the City Council, after the required hearing, shall determine that the public interests are best served by the revocation of such license or that the licensee has failed to comply with City ordinances, applicable Building Codes, Fire Codes, Health Codes, or applicable Federal, State, or County laws or regulations or any professional ethics rules for licensee's particular profession or has been convicted of a felony or a crime involving moral turpitude or has admitted to conduct which is tantamount to violating laws relating to felonious conduct or moral turpitude or has failed to comply with the requirements of this chapter relating to business licenses, the City Council shall thereupon order such license canceled and revoked and shall provide notice of the revocation to the business. Upon revocation by the City Council such license shall become null and void.
- E. In the event of revocation as provided in this section, there shall be no refund or rebate of any part of the original license fee paid by the licensee.
- F. In the event that the licensee fails, neglects or refuses to appear at the hour and date set for such hearing, the City Council may proceed to determine the matter in the absence of the licensee, or may in its sole discretion, continue the date of such hearing to some later date and at such later date proceed to act on the matter without further notice to the licensee. (Ord. 2014-05: Ord. 91-07)

5.04.150: BOARD OF EQUALIZATION:

The City Council constitutes a Board of Equalization for the equalization of license rates. The board shall have the authority to examine the assessment rolls, to hear complaints of persons, firms or corporations aggrieved by their license assessments, and to make corrections of any such assessments deemed to be illegal, unequal or unjust; provided, however, that any corrections made by the board shall be entered in detail in a record of license abatements and the members of the board shall approve the entries in writing before the accounts are adjusted. The board shall meet at the call of the mayor to hear any complaints and authorize any adjustments which it may deem proper in the assessments made by the city. All complaints pertaining to licenses due on January 1 must be presented to the board prior to March 1, and all complaints pertaining to licenses due at any other time must be presented to the board within sixty (60) days from the date such licenses are due. All complaints not presented before such deadlines shall be barred. (Ord. 91-07)

5.04.160: LICENSE INSPECTORS:

All police officers and building inspectors are appointed license inspectors and shall examine all places of business or persons required to obtain business licenses. All business licenses shall be displayed in a visible and conspicuous place during all business hours. Inspecting officers shall report to the city administrator all businesses or persons that have failed to obtain or display business licenses as required by this chapter. It shall be the duty and power of all license inspectors:

- A. To cause complaints to be filed against all persons violating any of the provisions of this chapter;
- B. To have and exercise the power to enter free of charge during business hours any place of business of which a license is required by this chapter and to demand the exhibition of a current license from any person or persons engaged or employed in the transaction of such business. (Ord. 91-07)

5.04.170: OPERATING WITH REVOKED LICENSE PROHIBITED:

It is unlawful for any person to carry on, conduct or operate any business, trade or profession for which a city license is required after such person's license has been revoked or canceled in accordance with the provisions of this chapter. (Ord. 91-07)

5.04.180: INTERSTATE COMMERCE; REGISTRATION REQUIRED:

It is unlawful for any person to engage in any business, occupation, calling or profession which is solely in interstate commerce without first registering with the city and paying the registration fee prescribed by resolution and filing with the city such information as may be required by the city council. (Ord. 91-07)

5.04.190: TEMPORARY BUSINESSES; REQUIREMENTS:

- A. Location Requirements: All temporary businesses must be located on improved property containing improvements such as paved off street parking, curb, gutter and sidewalk in good repair. The lot must meet the site development standards for the zone in which it is located.
- B. Zone Requirement: All temporary businesses must be located within commercial or manufacturing zones.
- C. Review And Approval: Review and approval of the site and proposed temporary business by the following departments must occur prior to conducting any sale or rendering any service:
 - 1. Health department, for the purpose of ensuring adequate sanitary facilities;
 - 2. Building inspector, for the purpose of examining and approving the construction of temporary shelters, electrical, plumbing and heating installation, traffic flow and potential hazards, off street parking and general site standards.
- D. Site Plan; Premises Standards; Required Vehicle Information: The applicant for a temporary business license must submit a site plan showing the type of building or shelter from which sales are to be made, as well as its location on the lot. Temporary structures shall be so constructed as to withstand a seventy (70) mile per hour velocity force and to comply with section 2311 of the uniform building code and where the temporary business is conducted between November 15 and March 15 of any year, a roof of substantial strength and design to support a snow load of not less than thirty (30) pounds. If the business is conducted from a vehicle, its license number must be

given. The location of ingress and egress to the site from the street, the location and size of all proposed signs and the number and size of off street parking stalls must also be shown. In addition, the following is required:

1. The proposed hours of operation;
2. The dates upon which the sales are to be conducted;
3. A general description of goods offered for sale;
4. A letter from the property owner granting permission to the temporary business to use his or her lot together with any conditions for approval;
5. A revenue and regulatory license fee for each location, the same to be established by resolution;
6. A refundable deposit in a sum to be established by resolution which shall accompany the application and which shall be returned within fourteen (14) days from the date of termination of the temporary business so long as the area is cleaned and placed in the prebusiness condition and order.

E. Conditions And Responsibility Incumbent On License:

1. Every license issued shall contain on the face thereof the date upon which the license period ends.
2. Every business shall immediately cease doing business at the conclusion of the license period and shall vacate the temporary business site within five (5) days thereof, leaving the same in its prebusiness condition.
3. In the event the city elects or deems it necessary to utilize city manpower or equipment or expend public funds to replace the site of a temporary business in its prebusiness condition, the city shall have and be authorized to maintain a cause of action against the applicant, its officers and employees, for the payment of all costs and expenses, including a reasonable attorney fee, which may arise or accrue in cleaning or repairing the premises, or in pursuing any remedy provided by the laws of the state, whether such remedy necessitates or results in filing of a lawsuit or not.
4. Such applicant further grants unto the city, a lien against all property of applicant located, brought or kept upon such premises for the foregoing costs, expenses and fees. (Ord. 91-07)

5.04.200: CHRISTMAS TREE SALES:

The sale of Christmas trees is subject to the licensing and other requirements for a temporary business. Any nonprofit organization submitting an application for the conduct of a temporary business shall not be required to pay the license fee but shall be subject to other application and use standards set forth in this chapter. (Ord. 91-07)

5.04.210: VIOLATION; PENALTY:

Any person violating any of the provisions of this chapter is guilty of a misdemeanor and, upon

conviction, shall be punished by a fine up to one thousand dollars (\$1,000.00) or by a term of imprisonment up to six (6) months, or by both such fine and term of imprisonment. (Ord. 91-07)