

Title 5

BUSINESS LICENSES AND REGULATIONS

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- 5.04 Business Licenses Generally
- 5.08 Pinball Machines and Similar Devices
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Chapter 5.04

BUSINESS LICENSES GENERALLY\*

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- 5.04.060 Approval, denial, revocation or suspension of license.
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\* Prior ordinance history: Ords. 1114 and 1119.

5.04.010 Purpose.

It is the purpose of this chapter, except as otherwise specified, to provide revenue for municipal purposes and to provide for the health, safety and welfare of the citizens of the city through the licensing of businesses, occupations and trades. (Ord. 1231 § 1, 1995)

5.04.020 Definitions.

For the purposes of this chapter and the resolution establishing business license fees, the following definitions shall apply:

“Applicant” means the agent or owner of the named business.

“Business” means any trade, profession, paraprofession, occupation or pursuit conducted for gain, including, but not limited to the following: door-to-door salespeople, itinerant salespeople and sales

operations, operations which have headquarters outside the city but which engage in business in Toledo, contractors and subcontractors and all other enterprises which sell retail goods or services.

“City” means the city of Toledo, Oregon.

“City council” means the city council of the city of Toledo, Oregon.

“City manager” means the city manager of the city of Toledo, Oregon, or a designated person(s).

“Employee” means a person who works for or at a business, including any owner, manager or agent.

“Full-time equivalent (FTE)” means the total number of hours worked in one year by all employees of a business divided by two thousand eighty (2080).

“Licensee” means the name specified on a license.

“Person” means any public or private corporation, including domestic and foreign corporations, firms, partnerships of every kind, associations, organizations, syndicates, joint ventures, societies, any other group or entity acting as a unit, and individuals.

“Solicitor” means one who travels from place to place, taking orders for future delivery.

“Suspension (of business license)” means an official order to suspend business operation pending correction or to cease certain conditions or practices.

“Wholesale distributor” means any organization that sells a product directly to a business entity for retail and is engaged exclusively in a wholesale business. (Ord. 1231 § 2, 1995)

#### 5.04.030 License required.

A. No person shall engage in or carry on any business within the city without first obtaining a business license and paying in advance the license fee, as required by this chapter.

B. If the business is owned by a corporation or the owner is not a resident of the city, it shall be the responsibility of the local business manager to obtain the license and pay the fee. Any person exhibiting a sign or advertisement or otherwise represents that they are engaging in any business in the city shall be deemed to be actually engaging in such business and shall be responsible for obtaining a license and paying the required fee.

C. If two or more related businesses are carried on at the same premises by the same owners, one license issued in the name of the business for which the premises is primarily used shall be sufficient for all such activities. If a business employs more than one door-to-door salesperson, one license in the name of the business shall be sufficient. Otherwise, each business shall obtain a separate license and pay the required fee. (Ord. 1231 § 3, 1995)

#### 5.04.040 Duration.

Business licenses shall be valid from the date of issue to the following June 30th and shall be renewable annually for one year beginning July 1st. (Ord. 1231 § 4, 1995)

#### 5.04.050 Application for business license.

A. Any person conducting any business required to be licensed shall, prior to engaging in that business, make application for a business license. Such application shall be made on forms provided by the city. The applicant shall pay a nonrefundable fee for processing, in addition to the license fee at the time of filing the completed application. The application shall, at a minimum, state:

1. The name of the proposed business;
2. A description of the trade, shop, business, profession or occupation to be carried on;
3. The name and address of the applicant, the manager and all parties having any ownership or proprietary interest therein;
4. The address at which the business will be conducted;
5. The name and address of the owner of the property at which the business will be conducted;
6. The signature of the applicant or agent making application;
7. The date of the application;
8. Evidence of satisfaction of state registration and bonding or insurance where required by state law (including registration number and expiration date);
9. The number of persons employed in the business based upon full-time equivalent (FTE);
10. The fiscal year for which application is made.

B. The city may require that the applicant supply any additional information necessary to determine the applicant's compliance with the requirements of this chapter and other provisions of law. Review of an application shall not begin until all requested information has been provided.

C. Prior to approving or denying an application, the city shall cause the application to be reviewed and approved by the community planning and development department. The community planning and development department may deem further review necessary by the police department or fire department. The use listed on the application must meet all requirements of the city's fire, building, zoning and other pertinent codes. If any of those departments finds the application incomplete or in violation of city, state, or federal laws, the application may be amended to correct the violation or it may be denied.

D. Any business entity that owes the city any moneys, and is delinquent with regards to such moneys, shall not be issued a license until it has made arrangements with the city to pay such moneys due and owing to the city in an arrangement which is satisfactory to the city. (Ord. 1231 § 5, 1995)

#### 5.04.060 Approval, denial, revocation or suspension of license.

A. Approval of License. The city shall issue a decision on an application within thirty (30) days of the submission of a complete application form, all requested additional information and fees. The city may issue a license upon finding that the applicant has met all requirements of this chapter. If an application for a new or renewed license is approved, the city shall issue the license. If any restrictions or limitations are placed on the license, the city shall note such restrictions or limitations on the license.

B. Denial, Revocation or Suspension of License. The city may deny, suspend or revoke a business license upon finding that:

1. The licensee fails to meet the requirements of, or is doing business in violation of this or any other applicable city ordinance;
2. The applicant has provided false or misleading material information, or has omitted disclosure of a material fact of the application, related materials or license.

C. Notice. The city shall provide written notice to the applicant or licensee of a denial, suspension or revocation. The notice shall state the reason for the action taken and shall inform the applicant of the right to appeal under Section 5.04.070 of this chapter. The notice shall be given at least fifteen

(15) days before revocation or suspension becomes effective. If the violation or other condition serving as the basis for such action shall be discontinued or resolved within the fifteen (15) days, the city may discontinue the revocation proceedings.

D. Summary Suspension. Upon determining that a licensed activity presents an immediate danger to person or property, the city may summarily suspend the license for the activity. The suspension takes effect immediately upon notice of the suspension being received by the licensee or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. Such a notice shall state the reason for the suspension and inform the licensee of the provisions for appeal under Section 5.04.070 of this chapter. The city may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made. (Ord. 1231 § 6, 1995)

#### 5.04.070 Appeal.

In the event an applicant for a license under this chapter is denied such license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the council shall be filed with the city manager within fifteen (15) days after the denial, suspension or revocation of the license. The council shall hear and make a determination in regard to the appeal at its next regular meeting held not less than twenty (20) days after the filing of the notice of appeal. The decision of the council on such appeal shall be final and conclusive. (Ord. 1231 § 7, 1995)

#### 5.04.080 License fee.

The amount of the license fee or fees shall be set by resolution of the city council and may be amended as the council sees fit. The fee may contain categories with different amounts due for different kinds of businesses.

A. If a person begins a business after July 1st, that person shall pay one quarter of the annual fee for each quarter or part thereof remaining in the fiscal year.

B. Except as provided in this section, all persons engaged in business shall pay the full annual license fee as set by resolution of the city council, no matter how short the period of time in which they are engaged in business.

C. The city shall send renewal applications on July 1st each year. If the licensee is still in business, they shall complete the application and return it with the proper fee before July 31st.

D. All license fees for continuing businesses shall be due July 1st and shall be delinquent after August 31st. Delinquent license fees paid after August 31st and on or before September 15th shall have a ten (10) percent surcharge added. Delinquent license fees paid after September 15th shall have a further fifteen (15) percent surcharge imposed. (Ord. 1231 § 8, 1995)

#### 5.04.090 Transfers and relocations.

A. Transfer of License. In the event of the transfer of ownership of any business, the applicable business license may be transferred by application to the city and payment of the required fee. The city may approve the transfer upon finding that the new applicant has complied with the requirements of this chapter.

B. Relocation of an Existing Business. In the event a business relocates, the licensee shall apply to the city to transfer the business and pay the required fee. The city may issue the license upon finding that the new location meets the requirements of this and all other city ordinances. (Ord. 1231 § 9, 1995)

5.04.100 Disclaimers, exceptions and general requirements.

A. Disclaimers and Exceptions. The levy or collection of a license fee upon any business shall not be construed to be a license or permit by the city to the person engaged therein in the event such business shall be unlawful, illegal or prohibited by the laws of the United States, the state of Oregon, or the city of Toledo. Nothing therein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the city.

B. General License Requirements. In addition to any other requirement of this chapter, each licensee shall:

1. Conform to all federal, state and local laws and regulations, the provisions of this chapter, and any rules adopted hereunder;

2. Notify the city within then ten (10) days of any change in material information contained in the application, related materials or license;

3. Display a business license upon request to any person dealing with the licensee as part of the licensed activity or to an officer or employee of the city. (Ord. 1231 § 10, 1995)

5.04.110 Tax exempt organizations.

A business license is required for tax exempt organizations; however, tax exempt organizations shall be exempt from the fees required in this chapter. Proof of federal recognition of a tax exempt status shall accompany the application. (Ord. 1231 § 11, 1995)

5.04.120 Exemptions.

The following are exempt from the requirements of this chapter:

A. Any person transacting and carrying on business within the city which is exempt from taxation by the city by virtue of the Constitution of the United States, or the state of Oregon, or federal or state law;

B. Any person whose income is based solely on a wage or salary shall not, for the purposes of this chapter, be deemed a person transacting or carrying on any business in the city, and it is the intention that all license fees will be borne by the employer;

C. Any business paying a franchise fee under any city franchise ordinance;

D. Any person sixteen (16) years or younger who operates a business on a part-time basis, which business has annual gross receipts of less than one thousand dollars (\$1,000.00);

E. Any person conducting judicial sales by executors, administrators or trustees under court order, or sales being held solely for the lawful execution of government;

F. Any organization that sells a product directly to a business entity for retail and is engaged exclusively in a wholesale business;

G. Landowners with fewer than three rental units within the city. (Ord. 1231 § 12, 1995)

5.04.130 Violation--Penalty.

A violation of this chapter will constitute a Class B infraction. This remedy is not intended to be exclusive, and the city may pursue any other remedy available to it by law. (Ord. 1244 § 22, 1996; Ord. 1231 § 13, 1995)

Chapter 5.08

PINBALL MACHINES AND SIMILAR DEVICES

Sections:

- 5.08.010 Purpose.
- 5.08.020 License required.
- 5.08.030 License--Application-- Issuance.
- 5.08.040 License fee.
- 5.08.050 License--Display required.
- 5.08.060 Violation--Penalty.

5.08.010 Purpose.

The ordinance codified in this chapter is adopted pursuant to the police powers conferred upon the city of Toledo, and it is deemed for the best interest of the city and for the welfare of the inhabitants thereof that the machines and devices heretofore referred to be licensed and regulated rather than to have the same operated without police regulation and licensing. (Ord. 873 § 5, 1971)

5.08.020 License required.

A. It is unlawful for any person to operate or permit operation or playing of any pinball machine or similar device or game in which coins or slugs are deposited, without first obtaining a license therefor in the manner hereinafter provided; and further provided that no such pinball machine or similar device so licensed shall be operated or permitted to be operated as a gambling machine or device.

B. The term "person" wherever used in this chapter shall also mean and apply to any firm, individual or corporation. (Ord. 873 § 1, 1971)

5.08.030 License--Application-- Issuance.

Any person desiring to obtain a license to operate or maintain a pinball machine or similar device or game shall make application therefor at the office of the city recorder on blanks to be furnished for that purpose and shall describe the place of business or premises where such machine or device is to be operated or maintained, and also describe the kind of machine. Each license shall be approved by the city recorder before issuance for the particular machine so licensed. (Ord. 873 § 2, 1971)

5.08.040 License fee.

A monthly license fee shall be charged for each and every machine so licensed. Each such license shall expire on the last day of the calendar month for which the same is issued. The license fee shall be set by council resolution. (Ord. 1226 § 3, 1994)

5.08.050 License--Display required.

It is unlawful for any person to display in his or its place of business any such pinball machine or similar device or game upon which any such license is not attached as provided in this chapter. It shall be, and it is made, the duty of the city marshal to seize any such machine upon which the license is not attached as herein provided. (Ord. 873 § 4, 1971)

5.08.060 Violation--Penalty.

Violation of this chapter will constitute a Class C infraction. Any machine or device as herein described which shall be operated or displayed for operation without a license attached as herein provided for shall be confiscated. (Ord. 1244 § 12, 1996: Ord. 873 § 6, 1971)

Chapter 5.12

SOCIAL GAMES

Sections:

5.12.010 Social games defined.

5.12.020 Authorization.

5.12.010 Social games defined.

“Social games” as used in this chapter means “social games” as defined in ORS 167.117, as constituted in the 1983 Replacement Part. (Ord. 1168 § 1, 1985)

5.12.020 Authorization.

Pursuant to the authority given to the city by ORS 167.121, as constituted in the 1983 Replacement Part, the playing and conducting of social games in a private business, private club or in a place of public accommodation is authorized to be done within the city limits of the city of Toledo. (Ord. 1168 § 2, 1985)