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**ZCA-2023-04**  
**Marijuana**  
**Establishments &**  
**Dispensaries**  
**Code Text**  
**Amendment**

**October 24, 2023**  
**Planning & Zoning**  
**Commission**

**Staff Report**  
**Attachment A:**  
*Proposed Business*  
*Taxes, Licenses and*  
*Regulations Revisions*  
*DMC §5.02.010, -.040,*

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## Chapter 5.02 BUSINESS LICENSES

### 5.02.010 Definitions.

The following definitions apply unless the context requires otherwise. Undefined terms shall be defined by using ordinary and commonly understood meaning or Arizona statutory definitions.

1. *Accountant* means any person acting as a certified public accountant or bookkeeper, or performing bookkeeping services and includes persons performing income tax services or holding themselves out as income tax preparers.
2. *Canvasser* means one who asks persons or groups for opinions, votes, subscriptions, polling or conducts investigations by inquiry.
3. *Carnival* means a collection of shows, exhibitions, feats of strength, merchandise booths, games of skill, fortunetelling, games of chance, wheels of fortune or any other amusement device presented or offered upon the streets, parks or vacant property within the City, other than circuses, animal shows or side shows with circuses.
4. *Circus* means a public entertainment consisting typically of a variety of performances by acrobats, clowns, and trained animals.
5. *Contractor* means a person who, for either a fixed sum, price, fee, percentage, bonus or other compensation other than actual wages, undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. The term "contractor" includes subcontractors, specialty contractors, developers and speculative builders.
6. *Dealer* means a trader or one who buys articles and sells them without materially altering their condition.
7. *Fair or festival* means a yearly periodic program of cultural events or entertainment comprised of food, crafts, amusement, vendors, goods, services, promotion, dealer or sales, individually or in combination of any category listed herein.
8. *Finance and loan companies and loan brokers* means industrial loan companies and other persons, companies or corporations loaning money or wages, salaries, personal property, endorsements or personal security at a legal rate of interest, where such loan is to be repaid in installments.
9. *Fuel dealer* means any person of any kind who shall sell or offer for sale fuel that has been bought with the intention of reselling to industries, institutions, firms or individuals. Any person of any kind who shall purchase fuel in bulk lots and resell or distribute it to employees, friends, relatives or others shall be construed to be a fuel dealer.
10. *Full-time equivalency (also known as FTE)* means the average number of permanent or nonseasonal employees, including part-time employees, managers and owners acting as managers or employees. The average shall be based upon employment for the six-month period immediately prior to the date a fee under this chapter is due. Part-time employees shall be weighted by assigning to each part-time employee a percentage wherein the numerator is the number of hours worked per week and the denominator is forty.

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11. *Laundries* means and includes places where washing, drying or ironing are done as a business either by means of steam, machinery or other power.
12. *Marijuana establishment, off-site cultivation location.* A marijuana establishment off-site cultivation location is where marijuana may be cultivated, processed, and marijuana products manufactured, but from which marijuana and marijuana products may not be transferred or sold to consumers, per A.R.S § 36-2850.21.
13. *Marijuana establishment, product manufacturing.* A marijuana product manufacturing establishment is where marijuana products may be manufactured, packaged, and stored, but from which marijuana and marijuana products may not be transferred or sold to consumers, per A.R.S § 36-2850.21.
14. *Marijuana establishment, retail.* A marijuana retail establishment shall mean a single responsible adult use marijuana retail location at which an Arizona Department of Health Services-approved licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products, per A.R.S § 36-2850.21.
15. *Massage therapist* means a person who is licensed to engage in the practice of massage therapy. "Practice of massage therapy" means the application of massage therapy to any person for a fee or other consideration. Practice of massage therapy does not include the diagnosis of illness or disease, medical procedures, naturopathic manipulative medicine, osteopathic manipulative medicine, chiropractic adjustive procedures, homeopathic neuromuscular integration, electrical stimulation, ultrasound, prescription of medicines or the use of modalities for which a license to practice medicine, chiropractic, nursing, occupational therapy, athletic training, physical therapy, acupuncture or podiatry is required by law.
- ~~13~~16. *Medical marijuana dispensary.* A medical marijuana dispensary shall have meaning as "Nonprofit Medical Marijuana Dispensary" set forth in the Arizona Medical Marijuana Act A.R.S. § 36-2801.11.
- ~~14~~17. *Medical marijuana dispensary off-site cultivation location.* a medical marijuana dispensary off-site cultivation location means the additional location, if any, where marijuana may be cultivated for the use of a medical marijuana dispensary as disclosed pursuant to the Arizona Medical Marijuana Act A.R.S. § 36-2804.B.1.b.ii.
- ~~15~~18. *Peddler* means one who travels about and sells small wares at retail. Peddler also means a transient merchant.
- ~~16~~19. *Petting zoo* means a collection of farm animals, such as goats, ducks, and sheep, and sometimes docile wild animals such as turtles or deer, for children to feed and pet.
- ~~17~~20. *Solicitor* means one who solicits, seeks funds or whose business it is to solicit orders or trade.
- ~~18~~21. *Stock and bond dealer* means every person conducting, managing or carrying on the business of buying, selling or otherwise dealing in stocks and bonds, whether acting in person or representing others in the purchase, sale, negotiation or exchange of any stocks or bonds, whether upon commission, percentage or salary.
- ~~19~~22. *Swap meet* means a place of commercial activity, popularly known as a swap meet, flea market, park-and-swap, which is:
- a. Open to the general public for the purchase of merchandise on the premises;
  - b. Available to the general public who wish to sell merchandise on the premises, whether such sellers or vendors are in the business of vending or are making casual sales or some combination thereof;
  - c. Composed of stalls, stands or spaces allotted to vendors, at least one of whom does not occupy the same allotted space or spaces on an uninterrupted continuous daily basis.



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~~20~~23. *Taxicab* means transportation for hire in a vehicle designed to transport eight passengers or less.

~~21~~24. *Taxi service* means and includes motor vehicles engaged in carrying passengers for hire over and upon the public streets of the City, except for such vehicles as the City may not lawfully license or regulate.

~~22~~25. *Travel or tourist bureau or agent* means a person who for compensation sells or offers for sale or negotiates for or holds himself out as one who sells, provides or furnishes transportation as principal or agent.

~~23~~26. *Special enterprise* means any persons or groups that engage in a special event and practice, transact, or carry out seasonal business such as a Farmers' Market and is further limited to the specific location of the event and is not authorized for any activity any other location.

~~24~~27. *Home occupations* means any business, professions, occupations or trade conducted for gain or support within a residential building or an accessory structure thereto, which is incidental and secondary to the use of such a building for dwelling, purposes and which does not change the essential character of such building.

(Ord. 577, § 1, 1990; Ord. 574, § 2, 1990; Ord. No. 09-959, § 1, 2009; Ord. No. 09-976, § 2, 2010; Ord. 11-997, §§ 2, 8, 2011)

### **5.02.020 License—Required—Exceptions.**

- A. It shall be unlawful for any person, partnership, association, company or corporation to commence, transact or carry on any trade, business, game or amusement, calling, profession or occupation, without first having procured a license from the City to do so, or without complying with any and all regulations of such trade, business, game or amusement, calling, profession or occupation designated in this chapter.
- B. The practicing, transaction or carrying on of any trade, business, game or amusement, calling, profession or occupation without complying with any and all regulation of such trades, businesses, games or amusements, callings, professions or occupations, shall constitute a violation of this chapter for each trade, business, game or amusement, calling, profession or occupation that is practiced, transacted or carried on.
- C. The granting of a license is not deemed as evidence or proof that the licensee has complied with the provisions of this chapter or other provisions of the laws of the City, nor shall it stop the prosecution by the City for any violation of the laws of the City.
- D. A license shall be required for each business. For instance, if a person, partnership, association, company, or corporation conducts two separate businesses (i.e., a travel agency and a blacksmith shop), then two licenses shall be required. This requirement shall be applicable to situations where two or more businesses are being operated from the same location.
- E. Should questions as to form of business arise, interpretations of this section shall be based upon form indicia contained in the following: Arizona Revised Statutes; Internal Revenue Code and Rules and Regulations prescribed by the Internal Revenue Service.
- F. All transfers of ownership shall be considered to be a new business and, as such, shall be required to obtain a valid, current business license and pay a fee in accordance with the schedule for new businesses listed in this chapter.
- G. The only exceptions to the afore-mentioned licensing requirements shall be:
  - 1. Nonprofit educational institutions, fraternal, civic and service clubs, bona fide religious organizations, and agencies of any federal, state or local governments;

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2. Nonprofit private clubs where a basic membership fee covers the cost of the use of facilities;
  3. Fund raising projects of nonprofit civic and service clubs and public or private youth or adult sport groups and bona fide religious organizations, not conducted on a regular basis;
  4. Judicial sales;
  5. Sales by executors or administrators, trustees or assignees under the terms of any instrument given to secure a bona fide indebtedness granting the power of sale;
  6. Sales of unclaimed freight or express, as provided by law;
  7. Sales by sheriffs, constables or other officers of the state, or the United States or as may hereinafter be authorized;
  8. Sales conducted by a nonprofit corporation exempt from taxation pursuant to Section 501 of the United States Internal Revenue Code as it now exists or may hereafter be amended, except that no more than four such sales per year shall be conducted by each said nonprofit corporation.
  9. A special enterprise is required to obtain a special event permit.

(Ord. 574, § 3, 1990; Ord. No. 09-959, § 2, 2009; Ord. No. 09-976, § 3, 2010)

#### **5.02.030 License—Application and issuance.**

- A. It shall be the duty of the City, to issue a license under this chapter for every person required to pay a license fee hereunder, and to state in each license the amount thereof, the period of time covered thereby, the name of the person for whom issued, the trade, business, game or amusement, calling, profession or occupation licensed and the location and place of business where such trade, business, game or amusement, calling, profession or occupation is to be practiced, transacted or carried on.
- B. It shall be the duty of the City before issuing a license under this chapter to require from every applicant a valid government issued picture identification and a sworn application, on a form to be furnished by the City, which shall give the following information: business trade name, location of business, business mailing address, business owner, home street address, home telephone number, business telephone number, exact nature of business, number of employees, date business began in the City, signature of applicant certifying his statements are true and correct and title of applicant.
- C. If the business is to be located within the City limits, a zoning compliance certificate must be obtained from the zoning administrator of the City before a license can be issued.
- D. Upon verification by the Zoning Administrator that the business is in the approved zone, the City may issue a license to the applicant before the formal zoning compliance certificate is approved by the Zoning Administrator and fire inspector, and that the determination from the Zoning Administrator and fire inspector concerning the zoning compliance certificate be forthcoming in a period not to exceed five business days.
- E. In no case shall any mistake made by the City in issuing any license or collecting the amount of fee for any license not in the amount actually due from any person required to pay for a license as provided herein, prevent, prejudice or stop the City from collecting the correct amount of fee or charge for any license or the amount actually due from any person required to pay for a license as provided herein, or revoking any license erroneously issued and refunding the fee collected.
- F. No greater or lesser amount of money shall be charged or received by the City for any license than is provided for in this chapter, and no license shall be issued for any period of time other than as provided in this chapter.

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- G. All charges for a license required by this chapter shall be paid in advance and in lawful money of the United States of America to the City.
  - H. To be issued a business license, applicant must be up to date with all past and current financial obligations owed directly to the City.

(Ord. 574, § 4, 1990; Ord. No. 09-959, § 3, 2009; Ord. No. 09-976, § 4, 2010)

### 5.02.040 Schedule.

- A. The license fee set out in the following schedule is established for trades, businesses, games or amusements, callings, professions or occupations and shall be paid by each person, partnership, association, company or corporation who shall practice, transact, carry on or engage in such trades, businesses, games or amusements, callings, professions or occupations. The license fee set out in this section shall be based on a twelve-month period, and shall be due and payable on or before the last day of the month, twelve months from the month of issuance, and shall be renewable each twelve-month period thereafter. In the case of a new trade, business, game or amusement, calling, profession or occupation, the same such schedule shall apply. The annual schedule shall be as follows:
  - 1. Pilot program. Geared toward connecting residents and visitors to local shopping, dining and hospitality amenities in the City of Douglas. The brochure shall be designed in-house and City shall charge a \$25.00 fee to be paid by participating merchants.
  - 2. Carnival, circus, and petting zoo. No license shall be issued until the applicant has placed on file with the city a certificate of liability insurance listing the City of Douglas as an additional insured at a minimum amount of \$1,000,000.00. No carnival, circus, or petting zoo may avoid payment of license fees if sponsored by local organizations or societies without having met the requirements. \$35.00 (per day)
  - 3. Contractor. Must comply with Arizona Revised Statutes regarding licensing of contractors. \$75.00 (yearly)
  - 4. Deliveries. Business making deliveries from outside the City. \$150.00 (yearly)
  - 5. Fair, festivals or swap meet. Fair, festival or swap meet participants shall pay the City \$5.00 per day of operation per business or booth which charges for its goods or services or solicits future sales of goods or services unless the business is exempt under subsection 5.02.020(G). Regardless of whether the fair, festival or swap meet is exempt under subsection 5.02.020(G), the applicant is required to obtain a license and for events taking place on City-owned property no license shall issue until the fair, festival or swap meet organizer as the applicant has placed on file with the city a certificate of liability insurance listing the City of Douglas as an additional insured at a minimum amount of \$1,000,000. The liability for payment of the license fee shall be that of the vendor of goods or services.
  - 6. Fortuneteller, palmist. \$75.00 (yearly)
  - 7. Marijuana establishment.
    - a. Retail Location. \$1,000.00 (yearly).
    - b. Off-site cultivation location. \$1,000.00 (yearly).
  - 8. Marijuana testing facility. \$1,000.00 (yearly).
  - ~~7~~9. Massage therapist. \$75.00 (yearly)
  - ~~8~~10. Medical marijuana facility.
    - a. ~~dispensary~~Medical Marijuana Dispensary. \$1,000.00 (yearly).



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9b. Medical marijuana off-site cultivation location. \$1,000.00 (yearly).

~~9-5~~11. Peddler, transient merchants and auctions. \$15.00 (per day)

~~10~~12. Solicitor, canvasser, demonstrator and salesman. \$200.00 (per year)

~~11~~13. Taxicab. Per vehicle per year. \$100.00

~~12~~14. Transportation for hire in vehicles designed to hold more than eight passengers. Per vehicle per year.  
\$150.00

~~13~~15. Yard sales. Per day, not to exceed six per year. \$5.00

~~14~~16. Special enterprise where there is a promoter subletting booth space to vendors, the promoter shall pay a special event fee and each vendor shall pay a fee of \$1.00 per day.

~~15~~17. Fairs, festivals, swap meets, trade, games, amusements, callings, professions, occupations, dealers and all other businesses not classified, unless exempt under subsection 5.02.020(G). \$75.00 (yearly)

- B. In addition, twenty dollars per FTE employee (not to include the first three FTE employees) shall be paid; however, in no case shall this fee exceed six hundred dollars per year. For purposes of this section, management personnel and owners acting as managers or employees are to be included in the calculation.
- C. All new licensees costing \$20 or more shall pay a one-time twenty-dollar application fee.
- D. A ten-dollar fee shall be paid whenever a licensee's business name is changed.
- E. A twenty-five dollar fee shall be paid whenever a licensee's business location is changed.
- F. No fees are refundable, nor may fees be prorated.

(Ord. 574, § 5, 1990; Ord. 577, § 2, 1990; Ord. No. 09-959, § 4, 2009; Ord. No. 976, § 5, 2010; Ord. 11-997, §§ 2, 8, 2011; Ord. 18-1087, § 1, 2018; Res. 19-1331, § 2, 3-13-2019)

### **5.02.050 Number of licenses.**

- A. A separate charge for a license shall be paid for each branch establishment or separate place of business in which any person, corporation or partnership shall carry on, transact or practice a trade, calling, profession, occupation or business.
- B. When more than one trade, calling, profession, occupation or business shall be carried on, transacted or practiced by the same person, corporation or partnership without any fixed place of business, a separate license shall be required and a separate appropriate charge be paid for each activity for which a license is required by this chapter.

(Ord. 574, § 6, 1990)

### **5.02.060 License to be exhibited.**

Each person, corporation or partnership having a license and having a fixed place of business shall keep said license, while in force, at some conspicuous place or location within the place of business.

(Ord. 574 § 7, 1990)



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### **5.02.070 Inspector of licenses.**

- A. The City shall be inspector of licenses, all City of Douglas Police Officers, and all City of Douglas Code Enforcement Officers shall be assistant inspectors of licenses and, in addition to their several duties, are hereby required to see that all required licenses are obtained.
- B. Each assistant inspector of licenses, immediately upon the facts coming to his knowledge, shall report to the City the name of any person, corporation or partnership carrying on, transacting or practicing any trade, calling, profession or business within the City without first having obtained a license as required by ordinance.

(Ord. 574, § 8, 1990; Ord. No. 09-959, § 5, 2009; Ord. No. 09-976, § 6, 2010)

### **5.02.080 Duties and powers of inspector.**

- A. The Inspector of Licenses and the Assistant Inspectors, each in the discharge and performance of his duties, shall have and exercise the following powers:
  - 1. To order the issuance of a citation through a City of Douglas Police Officer or City of Douglas Code Enforcement Officer for any violation of the provisions of this chapter;
  - 2. To enter, free of charge and at any reasonable time, any place of business for which a license is required by this chapter and to demand exhibition of the license for the current period of time from any person, corporation or partnership engaged in carrying on, transacting or practicing any trade, calling, profession, occupation or business at such place of business and, if such person, corporation or partnership shall fail then and there to exhibit such license, such person, corporation or partnership shall be liable to the penalties provided for violation of this chapter.
- B. When the charge for any license required hereunder shall remain unpaid for ten days from and after the due date, such charge shall be delinquent and the City, on the day upon which said charge becomes delinquent, shall add thereto an amount equal to twenty-five percent of said charge as a penalty and no receipt or license shall be issued thereafter by the Finance Director until the charge and penalty shall be paid in full.

(Ord. 574, § 9, 1990; Ord. No. 09-959, § 6, 2009; Ord. No. 09-976, § 7, 2010; Ord. 14-1040, § 1, 2014)

### **5.02.090 Transfer of license.**

No license issued under the provisions of this chapter shall be assigned or transferred to any other person, corporation or partnership.

(Ord. 574, § 10, 1990)

### **5.02.100 Civil court action.**

In any action brought under or arising out of any of the provisions of this chapter, the fact that the defendant, himself, herself, or itself, or any agents or employees, is engaged in any trade, business, game or amusement, calling, profession or occupation for the transaction of business for which a license is required by this chapter or that such party exhibited a sign indicating such trade, business, game or amusement, calling, profession or occupation shall be prima facie evidence of the liability of such party to pay a license fee.

(Ord. 574, § 11, 1990; Ord. No. 09-959, § 7, 2009)

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### **5.02.110 Notice of termination of business required.**

Every licensee shall notify the City in writing of the termination of his trade, business, game or amusement, calling, profession or occupation either before the termination date or within ten days thereafter.

(Ord. 574, § 12, 1990; Ord. No. 09-976, § 8, 2010)

### **5.02.120 Certificate or permit from Health Department required.**

Where any trade, business, game or amusement, calling, profession or occupation as set forth in this chapter is subjected to a certificate of health or sanitary examination, before any license is issued, the applicant must produce to the City such certificate or permit from the County Health Department, as provided for in Arizona Revised Statutes Section 36-136 as amended. This section shall also apply to all new and remodeled restaurants and bars located within the City limits.

(Ord. 574, § 13, 1990; Ord. No. 09-976, § 9, 2010)

### **5.02.130 Applicability to businesses and occupations located outside City.**

Every person who conducts an established trade, business, game or amusement, calling, profession or occupation and who solicits or canvasses within the City, and delivers his products, or performs a service within the City, shall pay a license fee.

(Ord. 574, § 14, 1990; Ord. No. 09-959, § 8, 2009)

### **5.02.140 Finding of responsible and payment of fees for failing to have a license not to excuse nonpayment of tax.**

The finding of responsible and payment of fees of any person for transacting any trade, business, game or amusement, calling, profession or occupation without a license shall not excuse or exempt such persons from the payment of any license fee due or unpaid.

(Ord. 574, § 15, 1990; Ord. No. 09-959, § 9, 2009)

### **5.02.150 Revocation.**

Licenses issued under the provisions of this chapter may be revoked by the City after notice and hearing, for any of the following causes:

- A. Fraud, misrepresentation or false statement contained in application of license;
- B. Any violation of this chapter;
- C. Failure to provide a sales tax number, if applicable to the business, within sixty days;
- D. Conducting a trade, business, game or amusement, calling, profession or occupation in violation of Arizona Revised Statutes.

(Ord. 574, § 16, 1990; Ord. No. 09-959, § 10, 2009; Ord. No. 09-976, § 10, 2010)

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**5.02.160 Notice of hearing and appeal.**

- A. Notice of the hearing for revocation of license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, certified mail to the licensee at the address shown on the application for license at least ten days prior to the date set for hearing.
- B. Any person aggrieved by the denial of an application for license as provided in this chapter or the decisions with reference to the revocation of a license shall have the right of appeal to the Council. Such appeal shall be taken by filing with the Council, within fourteen days after notice of the action complained of has been mailed to such person's address shown on the application for license, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided for notice of hearing on revocation. The decision and order of the Council in such appeal shall be final and conclusive, except any person aggrieved may pursue any proper judicial proceedings.

(Ord. 574, § 17, 1990)

**5.02.170 Violation—Penalty.**

- A. Any person, firm, company or corporation violating any of the provisions of this chapter shall be fined a minimum of seventy-five dollars (\$75.00) not to exceed five hundred twenty-five dollars (\$525.00) or by payment of retroactive fee from the first day of operation or by both fine and retroactive fee.

(Ord. 574, § 18, 1990; Ord. No. 09-959, § 11, 2009)