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## Title 5 BUSINESS LICENSES AND REGULATIONS

### CHAPTER 5.04 OCCUPATIONS, PROFESSIONS, AND ~~BUSINESSES~~ TAX LICENSES

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#### Sec. 5.04.010. Definitions. As used in this chapter:

- A. “Applicant” means the person applying for a license to operate a business within the city.
- B. “Business” means any activity, trade, profession, occupation, or pursuit that generates revenue, whether for profit or not-for-profit, regardless of the form under which the activity, trade, profession, occupation, or pursuit is operated, engaged, conducted, or carried on within the city.
- C. “Day” means a calendar day unless otherwise noted.
- D. “License” means the permission granted by the City under this chapter to operate, engage, conduct, or carry on a business within the city.
- E. “Licensee” means an applicant who has received a business license.
- F. “Person” means an individual, partnership, corporation, limited company, joint venture, cooperative or any other entity in law or in fact.

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- G. “Revenue” means value received directly or indirectly in money, credits, property, services, or any other consideration for the purpose of the reimbursement of costs, sale, barter, trade for a product or service; the payment of fees, charges, dues, entrance fees, membership fees; or to make a contribution or donation.
- H. “Solicitor” means any person 18 years of age or older who goes upon the premises of any private residence in the city without invitation of the occupant or owner thereof, and who communicates in any manner for the purpose of taking orders or attempting to take orders for the sale of goods, merchandise, wares or other personal property of any nature for future delivery or for services to be performed in the future. This definition also includes any person who, without invitation of the occupant or owner, goes upon private property to request contribution of funds or anything of value, or to sell goods or services, for any political, charitable, religious, or other non-commercial purpose.

**~~Sec. 5.04.010. Person and business defined.~~**

~~As used in this chapter, the term "person" means all domestic and foreign corporations, associations, syndicates, partnerships of every kind, joint adventures, societies and individuals transacting and carrying on business in the city; and the term "business" means professions, trades, occupations, shops and all and every kind of calling carried on for profit or livelihood.~~

~~(Ord. No. 17-74 § 1, 1974; Ord. No. 03, 2014; Ord. No. 09, 2015)~~

**Sec. 5.04.020. Purpose.** This chapter is enacted, except as otherwise specified, to:

- A. Secure revenue to assist in defraying the City’s cost of administering and enforcing its laws and ordinances and the City’s provision of certain municipal services; and
- B. Obtain valuable information for emergency responders, planning and building personnel, and economic development.

**~~Sec. 5.04.020. Employer to pay tax.~~**

~~No person whose income is based solely on an hourly, daily, weekly, monthly or annual wage or salary shall, for the purpose of this chapter, be deemed a person transacting or carrying on any business in the city; and it is the intention that all license taxes levied herein shall be borne by the employer for the privilege of doing business in the city.~~

~~(Ord. No. 17-74 § 2, 1974)~~

**Sec. 5.04.030. Applicability.**

Nothing in this chapter shall be construed to apply to any person transacting and carrying on any business within the city of Sandy which is exempt from taxation or regulation by the City by virtue of the constitutions of the United States or the State of Oregon, or applicable federal or state law.

**~~Sec. 5.04.030. Agent liable to pay tax.~~**

~~The agents of a nonresident proprietor engaged in any business for which a license is required by this chapter shall be liable for the payment of the tax thereon as herein provided and for the penalties for failure to pay the same or to comply with the provisions of this chapter to the extent and with like effect as if such agent or agents were themselves the proprietors or owners thereof.~~

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~~Any person representing himself or itself or exhibiting any sign or advertisement that he or it is engaged in any of the businesses in the city on which an occupational tax is levied by this chapter, shall be deemed to be actually engaged in such business and shall be liable for the payment of such tax, and subject to the penalties for failure to pay same.~~

~~(Ord. No. 17-74, § 3, 1974)~~

### **Sec. 5.04.040. License Required.**

- A. No person shall engage in any business within the city without first obtaining a license and paying the license fee prescribed.
- B. The provisions of this chapter shall be in addition to any other license requirements or license fees contained in this code, unless otherwise specified.
- C. A person engaged in business in more than one location shall make a separate application, pay a separate license fee, and obtain a separate license for each location, except as otherwise provided in this chapter.
  - 1. Only one license under this chapter is required for mobile businesses such as housekeeping services, solicitors, and other related businesses which travel throughout the city.
  - 2. If more than one business is conducted on the same premises, each business must obtain a separate license.
  - 3. Only one license under this chapter is required for businesses that operate self-service machines at multiple locations, such as vending machines or movie rental kiosks.
- D. If a person is engaged in more than one business, the person shall obtain a separate business license for each business conducted, whether conducted at a single location or multiple locations.
- E. A not-for-profit business is required to obtain a business license. A not-for-profit business with an IRS 501(c)(3) classification may file proof of such classification with the City and obtain a reduction to the business license fee, but this will not waive the mandatory third-party processing fee.
- F. A person representing themselves or exhibiting any sign or advertisement that they are engaged in a business within the city shall be deemed to be actually engaged in such business and shall be liable for the payment of such license fee and subject to the penalties for failure to comply with the requirements of this chapter. No person shall do business within the city as the agent or representative of another person unless either the principal or the agent or representative has a current, valid City business license for the business, no matter where the principal offices of that business are situated.
- G. It shall be the responsibility of all general contractors and utility companies working in the city to provide a list of all names and addresses of subcontractors under their direction to the City. Failure of any subcontractor to pay a business license may result in a "stop work" order on any project in process within the city.
- H. A business that makes space available for independent contractors to conduct business (e.g., hair salons, flea markets) or arranges for independent contractors to perform a service essential to that business (e.g., installation of products or equipment sold) shall obtain a business license. No person or person in charge of property shall lease, license, or otherwise make space available for an independent contractor if the independent contractor has not obtained a business license.

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### **~~Sec. 5.04.040. Purpose of chapter.~~**

~~This chapter is enacted, except as hereinafter otherwise specified, to provide revenue for municipal purposes and to provide revenue to pay for the necessary expenses required to issue the license.~~

~~(Ord. No. 17-74, § 4, 1974)~~

### **Sec. 5.04.050. Business License Application Requirements.**

Each person desiring to engage in business in the city must apply for a business license in such a manner as the Development Services Director may prescribe. The application must be accompanied by the applicable license fee, listed in the City's current master fee schedule. The application must be filed with the Development Services Department and, in addition to any other information reasonably required by the Development Services Director, must contain the following information:

- A. The date of the application.
- B. The name of the business.
- C. The physical address of the business or, if no such address, the address used for income tax purposes.
- D. The mailing address of the principal office of the business.
- E. Business owner's name and address, if an individual or partnership.
- F. Property owner information (name, address, email, and phone number).
- G. A brief description of the nature of the business, including its primary or predominant business activity and the business's North American Industry Classification System (NAICS) code, if applicable.
- H. The name and address of the applicant and, if the applicant is an entity, the name and address of the authorized agent submitting an application on behalf of the applicant.
- I. The number of people employed by the business.
- J. Whether hazardous materials are on the premises as defined under ORS 466.605.
- K. The license fee tendered with the application.
- L. A verification by the applicant, or authorized agent submitting the application on behalf of the applicant of the following:
  - 1. The information stated in the application is true, accurate, and complete.
  - 2. There is an agreement to abide by all applicable codes and ordinances of the City of Sandy and to correct any hazards or violations as they pertain to the above business.
  - 3. There is agreement that the applicant understands that issuance of a license does not guarantee that the site, building, or use conforms to the City of Sandy land use regulations.
- M. A notice that the application is a public record, and that the City will exempt from disclosure only information of a sensitive and confidential nature to the extent required by the Oregon Public Records

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Law (ORS 192.410-192.505) and other applicable laws.

- N. Any other information necessary to enable the Development Services Director or designee to review the application to determine whether the application should be approved.

**Sec. 5.04.050. Applicability.**

~~Nothing in this chapter shall be construed to apply to any person transacting and carrying on any business within the city which is exempt from such license fee or regulation by the city by virtue of the Constitution or laws of the United States of America, or the constitution or laws of the state of Oregon.~~

~~(Ord. No. 17-74, § 5, 1974)~~

**Sec. 5.04.060. Fees Imposed.**

- A. An annual license fee is imposed on the act of doing business within the city according to the City's master fee schedule. The City Council may establish different fee amounts based on certain factors or categories, including but not limited to business location and nature of the business.
- B. Fees are due at the time of the initial application. Renewal fees are due annually by January 1 of the respective year. The business license expires on December 31.
- C. A late fee (established in the City's master fee schedule) will be assessed for any business license fee not received by the last day in February.
- D. A person doing business in the city, for whom payment of a business license fee is delinquent, shall pay a penalty fee charged daily or monthly (as established in the City's master fee schedule) or fraction thereof for which payment remains delinquent.

**Sec. 5.04.060. Tax not to sanction unlawful business.**

~~The levy or collection of an occupational tax upon any business shall not be construed to be a license or permit of the city to the person engaged therein to engage therein in the event such business shall be unlawful, illegal or prohibited by the laws of the state or the United States or ordinances of the city.~~

~~(Ord. No. 17-74, § 6, 1974; Ord. No. 03, 2014; Ord. 09, 2015)~~

**Sec. 5.04.070. Posting and Display of License.**

A licensee shall post the license in a conspicuous place upon the business premises, available for inspection by the public, and any employees and prospective employees of the business. When the licensee has no office, business premises, or other established place of business within the city, the license must be in the possession of the agent or representative of the business who is present in the city at all times during which business is being completed by the agent or representative in the city and must be made available upon request from any person. If a licensed business is based in a motor vehicle, a copy of the license must be carried in the motor vehicle.

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**~~Sec. 5.04.070. Subcontractors—Failure to pay.~~**

~~It shall be the responsibility of all general contractors and utility companies working in the city to provide a list of all names and addresses of subcontractors under their direction. Failure of any subcontractor to pay an occupational tax result in a "stop work" order on any project in process within the city.~~

~~(Ord. No. 17-74, § 7, 1974)~~

**Sec. 5.04.080. Transfers and Relocations.**

- A. No transfer or assignment of any business license is permitted. If a person sells or transfers a business for which a license has been obtained, the new owner must obtain a new business license.
- B. Relocation of an Existing Business. In the event a business is relocated, the licensee shall reapply for a new business license.

**~~Sec. 5.04.080. Tax fees designated.~~**

~~The city council shall set by resolution tax fees to be imposed upon businesses, trades, shops, professions, callings and occupations.~~

~~(Ord. No. 17-74, § 8, 1974; Ord. No. 3-84, § 1, 1984; Ord. No. 18-93, § 1, 1993)~~

**Sec. 5.04.090. Exemptions.**

The following are exempt from the licensing requirement in this chapter:

- A. A service business operated by a person under the age of 18, such as a lawn mowing business, cookie sales, a lemonade stand, and the like.
- B. Garage sales, yard sales, and other similar activity conducted, carried on, or operated by an individual; provided, however, such exemption will not apply if either of the following conditions are met:
  - 1. The individual conducts, carries on, or operates more than five such sales within any calendar year; or
  - 2. Any one such sale has a duration of more than 72 consecutive hours.
- C. A person whose income is based solely on an hourly, daily, weekly, monthly, or annual wage or salary.
- D. Any business whose sole operation is at a temporary community or public event with a duration of three days or less.
- E. A person whose only business in the city is the delivery of materials or products that were purchased at the person's place of business in another jurisdiction. However, a license shall be required for a person whose primary business is the receipt and delivery of packages from and to third parties.

**~~Sec. 5.04.090. Tax year.~~**

~~The tax year for which occupational taxes shall be charged hereunder shall commence with the first day of January of each year and terminate with the close of the 31st day of December of each year. The taxing year shall~~

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~~begin with the first day of January, and all taxes shall be due and payable on the first day of January of each year, which shall be in advance for the ensuing year, and if not paid before the first day of February of the respective year, the license fee will be delinquent and the penalties and rights given the city under this chapter may be imposed as hereinafter set forth, subject to further provisions set forth in Section 5.04.100.~~

~~(Ord. No. 17-74, § 9, 1974)~~

### **Sec. 5.04.100. Approval, Denial, Revocation, and Suspension.**

- A. Approval of Application. The Development Services Director or designee shall approve or deny an application for a new business license within 30 days of the submission of a complete application and required fee.
- B. Denial, Suspension, or Revocation of Application. The Development Services Director may deny, suspend, or revoke a business license upon finding that the applicant has provided false or misleading information or has omitted disclosure of a material fact on the application or in any related materials.
- C. Notice. The Development Services Director shall provide written notice to the applicant or licensee of the denial, suspension, or revocation. The notice shall state the reason for the action taken.
- D. Reapplication. A person whose application for a business license has been denied, suspended, or revoked, may apply for a license or reinstatement upon payment of the application fee and submission of an application form and any necessary related documents.

### **~~Sec. 5.04.100. Separate businesses—Branch establishments.~~**

~~If any person is engaged in operating or carrying on in the city more than one trade, shop, profession, occupation, business or calling, then such person shall pay the occupational tax prescribed for as many of said trades, businesses, professions, occupations, shops or callings as are carried on by such person.~~

~~Each branch establishment of business or location of a business conducted by any person shall, for the purposes hereof, be a separate business and subject to the tax therefor herein provided, except that warehouses used solely incidental in connection with a business licensed pursuant to the provisions of this chapter and operated by the person conducting such business shall not be separate places of business or branch establishments.~~

~~(Ord. No. 17-74, § 10, 1974)~~

### **Sec. 5.04.110. Appeal.**

In the event an application for a business license under this chapter is denied, or in the event a license is suspended or revoked, the applicant or licensee shall have the right to appeal.

- A. The written notice of appeal to the City Council shall be filed with the Development Services Director within 15 days after the license denial, suspension, or revocation.
- B. The City Council shall hear and make a determination in regard to the appeal at a regularly scheduled meeting within 60 days of the filing of the appeal.

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C. The decision of the City Council on the appeal shall be final and conclusive.

**~~Sec. 5.04.110. Proration of tax.~~**

~~Occupational taxes for persons engaged in any trade, shop, business, occupation, profession or calling after July 1 shall be prorated at one-half the full year rate.~~

~~(Ord. No. 17-74, § 11, 1974)~~

**Sec. 5.04.120. Violations and Penalties.**

- A. Any person violating any of the provisions of this chapter shall be in violation of a Class C Civil Infraction and is subject to the Forfeitures defined in Section 1.18.050. Each day on which a violation occurs or continues shall be considered a separate violation.
- B. Inspection and Right of Entry. Whenever they shall have cause to suspect a violation of any provisions of this chapter, or when necessary to investigate an application to, or revocation of a license under any of the procedures prescribed in this chapter, officials for the enforcement or administration of this chapter, or their duly authorized representatives, may enter on any site, or into any structure, for the purpose of investigation. If an owner or occupant denies access for an inspection, the City may seek a warrant. No premises not open to the public shall be entered without the consent of the owner or occupant unless under the authority of a lawful warrant.
- C. Legal Proceedings by City Attorney. In addition to the enforcement provisions of this chapter, upon request by the City Council, the City Attorney may institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this chapter.

**~~Sec. 5.04.120. Application for license.~~**

~~On or before the first day of January of each and every tax year as herein provided, after the passage of the ordinance codified herein, every person as herein defined, engaged in business as defined herein, in the city, which said businesses are in this chapter scheduled and designated, shall make application to the city recorder upon suitable blanks furnished by the city, for a license to carry on his business for the license year and at the time of filing same shall make payment of the tax fee herein required. Said application shall be filed with the recorder for use of city officials.~~

~~(Ord. No. 17-74, § 12, 1974)~~

**Sec. 5.04.130. Severability Clause.**

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section, or part of this chapter shall not affect the validity of the remaining parts of this chapter.

**~~Sec. 5.04.130. Transfer or assignment.~~**

~~No transfer or assignment of any occupational tax herein provided shall be made without consent of the city manager. An entry of such transfer shall be made by the recorder in the record of taxes, for which entry the recorder shall charge and receive the sum of \$10.00.~~

~~(Ord. No. 17-74, § 13, 1974)~~



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### **Sec. 5.04.140. Residential Rental Property License Required**

- A. Except as otherwise provided in this section, no person shall maintain or operate a residential rental property within the city without first obtaining a residential rental property license. An application for a residential rental property license shall be filed with the Development Services Department in such a manner as the Development Services Director may prescribe.
- B. The requirements of this section shall apply to the following residential rental property classifications:
  - 1. Owner-occupied dwellings containing one or more residential rental units;
  - 2. Non-owner-occupied dwellings containing one or more residential rental units; and
  - 3. Owner-occupied dwellings containing one or more sleeping units or rooming units rented or leased.
- C. Residential rental property shall be deemed to be operated/rented and subject to the provisions of this chapter if any unit within the property has been occupied by a tenant or advertised for rent within the last 12 months.
- D. The requirements of this section shall not apply to:
  - 1. Motels, hotels, short-term rentals, rooming houses, assisted living facilities, adult foster care homes administered by the state of Oregon, temporary housing.
  - 2. Approved accessory dwellings, sleeping units, or rooming units, occupied by a person or person from whom the owner does not collect any monetary compensation.
- E. In order to obtain or renew a residential rental property license, the owner or designated agent must submit an application containing the following information concerning each residential rental property that they own in the city:
  - 1. The owner(s) name, address, telephone number(s), and email address, if applicable;
  - 2. The name, address, telephone number(s), and email address of the owner's designated agent, if applicable;
  - 3. The address of the residential rental property and the number of rental units; and,
  - 4. Such other information as may be reasonably required by the Development Services Director.
- F. The owner or designated agent must certify the truthfulness and accuracy of the information that is provided in the residential rental property license application.
- G. The owner or designated agent must submit the completed residential rental property license application to the Development Services Department prior to commencing rental or advertisement for rental of the property.
- H. The owner or designated agent must inform the Development Services Department of any change concerning the information contained in the residential rental property license application within 30 calendar days of such change.

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- I. The application shall be accompanied by the fee required for the residential rental property license as established in the City’s master fee schedule. Renewal fees are due annually by January 1 of the respective year. The license expires on December 31. A late fee (established in the City’s master fee schedule) will be assessed for any residential rental property license fee not received by the last day in February.
  - J. A license issued under Section 5.04.140 is not transferable to a new owner or from one property to another.

**~~Sec. 5.04.140. Compliance—Delinquent fee.~~**

~~It is unlawful for any person to willfully make any false or misleading statement to the recorder in his application for the purpose of determining the amount of any occupational tax herein provided to be paid by any such person, or to fail or refuse to comply with any of the provisions of this chapter to be complied with or observed by such person, or to fail or refuse to pay before, the same shall be delinquent, any occupational tax or penalty required to be paid by any such person.~~

~~In the event any person required to pay an occupational tax fails or neglects to pay the same before the same becomes delinquent, the recorder shall collect upon the payment thereof and in addition thereto a penalty of five percent thereof for each calendar month or fraction thereof the same shall be delinquent.~~

~~The conviction of any person for violation of any of the provisions of this chapter shall not operate to relieve such person from paying any occupational tax or penalty thereupon for which such person shall be liable, nor shall the payment of any such tax be a bar to or prevent any prosecution in the city municipal court of any complaint for the violation of any of the provisions of this chapter.~~

~~(Ord. No. 17-74, § 14, 1974)~~

**~~Sec. 5.04.150. City rights—Reclassification and change in fees.~~**

~~Nothing herein contained shall be taken or construed as vesting any right in any licensee as a contract obligation on the part of the city as to the amount or character of license hereunder, and such occupational tax may be increased or decreased in any or all instances at any time by said city, and any trade, business, profession or occupation herein scheduled may be reclassified or sub-classified at any time, and all occupational taxes herein levied shall be due and payable in advance.~~

~~(Ord. No. 17-74, § 15, 1974)~~

**~~Sec. 5.04.160. Violation—Penalty.~~**

~~Any person violating any of the provisions of this chapter shall upon conviction thereof in the municipal court of the city, be punished by a fine of not to exceed \$100.00, or by imprisonment in the county jail not to exceed 30 days, or by both fine and imprisonment, in the discretion of the municipal judge.~~

~~(Ord. No. 17-74, § 16, 1974)~~

**~~Sec. 5.04.170. Legal action by city.~~**

~~In addition to the penalty provided for the violation of this chapter, and as separate and distinct remedies, the city may sue in any court of competent jurisdiction to obtain judgment and enforce collection of the occupational taxes, or any of them, due under this chapter, and may avail itself of the right of mandamus or injunction in such courts to properly enforce the provisions of this chapter.~~

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~~(Ord. No. 17-74, § 17, 1974)~~

**~~Sec. 5.04.180. Receipt and disbursement of moneys.~~**

~~The recorder is authorized to receive such occupational taxes on and after the first day of the month immediately preceding the first day of the license year for which it is paid. Said moneys received from such occupational taxes shall be placed in the general fund.~~

~~(Ord. No. 17-74, § 18, 1974)~~

**~~Sec. 5.04.190. Display of license.~~**

~~Occupational tax licenses (business licenses) shall be openly displayed in the place of business so taxed, if such place of business is within the city, or shall be carried by these persons, their employees or agents, engaged in business in the city but whose place of business is outside the city.~~