

**Chapter 5.05
BUSINESS LICENSES**

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5.05.010 Purpose

The purpose of this chapter is to (a) provide revenue for municipal purposes, (b) develop a database of businesses to allow the city to provide services efficiently, and (c) promote the health, safety, and welfare of the city's residents.

5.05.020 Definitions

"Applicant" means the agent or owner of the named business.

"Auction" means the sale, or offer to sell, by public outcry or to the highest bidder.

"Business" means any profession, trade, occupation, shop, and every type of calling wherein a charge is made for goods, materials, or services.

"Chapter" means this Burns Municipal Code Chapter 5.05.

"Chief of police" means the city's chief of police, his or her designee, or such other city representative appointed by the city's city manager.

"City" means the City of Burns, Oregon.

"Council" means the Burns City Council.

"License" means the permission granted for the carrying on of a business, profession, or occupation within the city's corporate limits.

"Licensee" means the business as specified and named by the applicant.

"Nonprofit organization" means a bona fide organization with tax exempt status.

"Peddler" means a person or persons, traveling from place to place, selling and delivering at the same time.

"Person" means all public and private corporations, including domestic and foreign corporations, limited liability companies, limited liability partnerships, firms, partnerships of every kind, associations, organizations, syndicates, joint ventures, societies, any other group acting as a unit, and individuals transacting and carrying on any business within the city.

"Revocation (of business license)" means rescission of approval to operate a business.

"Solicitor" means one who travels from place to place, not carrying his or her goods with him or her, but taking orders for future deliveries.

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

“Transient merchant” means one who occupies a temporary fixed location, sells and delivers from stock on hand, and does business in much the same manner as a permanent business, but without a permanently established business location locally.

5.05.030 License Required

(1) Except as exempted under BMC 5.05.040, every business must apply for and obtain a business license to engage in business within the city.

(2) The agent(s) of a nonresident proprietor engaged in any business for which a license is required by this chapter will be liable for any failure to comply with the provisions of this chapter, or for any penalty assessed under this chapter, to the extent, and with like effect, as if such agent(s) were themselves the proprietors or owners of the business.

(3) A person engaged in business in more than one location, or in more than one business licensed under this chapter, will make a separate application and pay a separate license fee for each business or location, except as otherwise provided in this chapter.

(4) A person representing him or herself to be or exhibiting any sign or advertisement that he or she is engaged in a business within the city for which a license is required by this chapter will be deemed to be actually engaged in such business and will be liable for the payment of a license fee and subject to the penalties for failure to comply with the requirements of this chapter.

(5) The city may require proof of bonding or state registration. An applicant will possess any county or state license required or will be awaiting final approval by the county or state, if the city approval is a prerequisite, before a city license will be issued.

(6) The council reserves the right to waive or reduce the fee for nonprofit organizations having tax exempt status.

5.05.040 Exemptions

The following are exempt from the requirement to obtain a business license:

(1) Any person transacting and carrying on business within the city that is exempt from taxation by the city under the United States Constitution or state or federal law.

(2) Any business paying a privilege tax or franchise fee under any city ordinances or resolutions now existing.

(3) Wholesalers making deliveries or taking orders from duly licensed retail outlets within the city.

(4) Delivery, installation, or warranty repair of consumer goods by the selling retailer.

(5) Any person 16 years of age or younger who operates on a part-time basis a business with an annual gross income of less than \$2,000.00.

(6) Nonprofit organizations except as provided in BMC 5.05.130.

(7) Any person or business exempt from licensing requirements under applicable federal, state, and/or local laws and/or regulations.

5.05.050 Application

Application for a business license, or for renewal of a business license, will be made to the office of the city clerk (or his or her designee) upon forms furnished by the city. The applicant will pay the license fee at the time of filing the application. All initial applications will include the nonrefundable application fee established by the council by resolution. The amount of the application fee may be increased or decreased at any time by resolution of the council. Each application will contain, at a minimum, the following information:

- (1) The name and description of the proposed business;
- (2) The date that business operations commenced or will commence;
- (3) The name and address of the applicant;
- (4) The address at which the business will be conducted or of its Burns office;
- (5) The amount of the license fee tendered with the application and the basis for its calculation;
- (6) The signature of the applicant or agency applying;
- (7) The date of the application;
- (8) Evidence of satisfaction of state registration, bonding, or insurance, if required, including registration number and expiration date;
- (9) The fiscal year for which application is made; and
- (10) Any additional information the city determines necessary or appropriate.

5.05.060 License Fees

All business license fees will be determined by resolution of the council. The amount of the business license fees may be increased or decreased at any time by resolution of the council. Peddlers and transient merchants will pay a business license fee which is 200% of the regular fee for business licenses. Business license fees are nonrefundable except when the application for the initial issuance of the license is denied.

5.05.070 License Duration and Transfer of Business or Business Location

(1) License Term. A business license issued under this chapter will be valid from the date of issuance through the immediately following June 30th. License fees are due and payable on or before July 1 for the period commencing on July 1 and ending on the immediately following June 30.

(2) License Renewal. Licenses will be renewable annually for one year beginning July 1, at which time the required license fee will be due and payable. Subject to the terms of this chapter, a licensee's license will renew on July 1 provided the city is in receipt of the required license fee. The effective date of the renewed license will be July 1 if the license fee is received on or before July 1. If the license fee is not received on or before July 1, the effective date of a renewed license will be the date the license fee is received by the city. At the time of license renewal, each licensee will provide the city with information concerning any updates or changes to the information required to be provided to the city under Section 5.05.050 of this chapter.

(3) Transfer of License. If ownership of any business is transferred during the license year, the applicable business license may be transferred by application to the city clerk. The city may approve the transfer upon finding that the new applicant meets the requirements of this chapter.

(3) Relocation of an Existing Business. If a business relocates, the licensee will apply to the city clerk to transfer the business license. The city may issue the license upon finding that the new location meets the requirements of this chapter.

5.050.080 Issuance, Denial, Revocation, and Suspension of Licenses

- (1) Issuance
 - (a) The city clerk will review applications and issue licenses.
 - (b) The city clerk will issue a license within 30 days of receipt of a complete application and the applicable license fee.
- (2) Denial, Revocation, or Suspension of License. The city clerk may deny, suspend, or revoke a business license upon finding that:
 - (a) The applicant has provided false or misleading material information, or has omitted a material fact on the application, related materials, or license;

(b) The applicant's past or present violation of law or ordinance, including a violation that does not lead to a conviction, presents a reasonable doubt about his or her ability to perform the licensed activity without endangering property or the public health, safety, or welfare;

(c) The information provided indicates that the applicant does not have the special knowledge or skill required to perform the licensed activity; and/or

(d) The licensed activity or device would endanger property or the public health, safety, or welfare.

(3) **Notice**

(a) The city clerk will provide written notice to the applicant that a license has been issued. The notice will state any conditions or limitations placed on the license as a condition of maintaining the license deemed necessary to protect the public health, safety, or welfare.

(b) The city clerk will provide written notice to the applicant or licensee of a denial, suspension, or revocation. The notice will state the reason for the action taken and inform the applicant or licensee of the right to an appeal under BMC 5.05.090. For revocations, the notice will be given at least 15 days before the revocation takes effect. If the violation ceases within the 15-day period, the city clerk may discontinue the revocation proceedings.

(4) **Reapplication.** A person whose application for a business license has been denied or whose license has been revoked may, after 90 days from the date of denial or revocation, reapply.

(5) **Disqualification.** A person whose application for a business license has been denied or whose license has been revoked twice in one year or who has had a total of four denials or revocations will be prohibited from applying for a license for a period of two years from the date of the last denial or revocation.

(6) **Summary Suspension.** Upon determining that a licensed activity or device presents an immediate danger to person or property, the city clerk may summarily suspend the license for the activity or device. The suspension takes effect immediately upon receipt by the licensee of notice of the suspension or upon delivery of such notice to the licensee's business address as stated on the application for the license being suspended. Such notice will state the reason for the suspension and inform the licensee of the right to an appeal under BMC 5.050.090. The city may continue the suspension so long as the reason for the suspension continues to exist or until a determination is made on appeal regarding the suspension.

5.05.090 Appeal

Any applicant whose license application is denied, any licensee whose license is suspended or revoked, and any applicant or licensee who contests any other action or decision by the city relating to a business license may file a written notice of appeal with the city clerk within 15 days after such denial, suspension, revocation, or other action or decision. The council will hear and make a determination in regard to the appeal at its next regular meeting.

5.05.100 Effect of Issuance of License

Issuance of a license is not evidence that the applicant is in compliance with, or exempt from; any provision of law.

5.05.110 Disclaimers

(1) Notwithstanding any provision herein, neither the city nor any agent thereof will have any liability for acts or omissions of any licensee; nor will the city be a guarantor of the ability, integrity, or competence of any licensee or have any liability to any member of the public by reason of the mere licensure of certain activities hereunder.

(2) Nothing in this chapter will be taken or construed as vesting any right in any licensee as a contract obligation on the part of the city. Business license fees, as set by council resolution, may be increased or decreased, and other or additional taxes or fees may be levied, increased, and/or decreased at any time by the council. No person having paid the fee required and having made application for a business license will be entitled to any refund. (EXCEPTION OF 505.06)

5.05.120 Compliance with Law and General Requirements

(1) All licensees must comply with all federal, state, and local laws, regulations, and ordinances, and the issuance of a business license does not authorize a business to operate in violation of any federal, state, and/or local laws, regulations, and/or ordinances.

(2) In addition to any other requirement of this chapter, each licensee will:

(a) Notify the city within 10 days of any change in material information contained in the application, related materials, and/or license; and

(b) Display a business license upon request to any person with whom he or she is dealing as part of the licensed activity or to an officer or employee of the city.

5.05.130 Specific Requirements

(1) **Secondhand Goods.** IE: pawn shops, payday loans,.. Businesses dealing in the purchase or trade of secondhand goods, including, but not limited to, precious metals and jewelry, guns, or electronic equipment, will keep a record of sales for inspection by the chief of police. Such a record will include the name of the seller, the name of the buyer, the date of sale, a description of the merchandise sold, any serial numbers or distinguishing marks on the goods being traded, as well as other information that would enable return of stolen goods.

(2) **Merchant Police, Security Services, and Similar Businesses.** Each individual will agree to a complete background check by the O.S.P or designee to determine the qualifications and reliability of the individual for the proposed business. The city may require a bond and such insurance as may be deemed proper. The license will be issued only upon the chief of police's approval of each person involved, such approval to be based on the complete background check.

(3) **Peddlers, Solicitors.** The applicant must supply the names, addresses, dates of birth, and any other pertinent information regarding each individual intending to take part in the solicitation. Each individual will agree to a complete background check by the O.S.P. or designee to determine the qualifications and reliability of the individual. The city may require a bond and such insurance as may be deemed proper. The license will be issued only upon the chief of police's approval of each person involved, such approval to be based on the complete background check.

(4) **Nonprofit Organizations.**

(a) A nonprofit organization that will conduct any type of business within the city on a continuous basis throughout the year may make application to the city clerk upon suitable forms, furnished by the city, for the license to carry on the business for the current year. Upon submission of the application and payment of the fee, the city clerk will submit the application to the council at its next regular meeting. After once obtaining approval by the council, subsequent annual renewals of the nonprofit organization business license may be approved the city clerk. After once issued, the licensed business is subject to all the provisions of this chapter.

(b) Approval of a business license for a nonprofit organization required in subsection (4)(a) of this section is subject to the following additional conditions:

(i) Business license is only for activities conducted by members; and

(ii) Nonprofit organization is required to obtain any and all county, state, and federal permits for the business to be conducted.

5.05.140 Violations and Penalties

(1) Penalties. Violation of any provision of this chapter will be punished by a fine not to exceed \$500.00 or by imprisonment in the city or county jail for a period of not more than six months or by both such fine and imprisonment. Each full day during which an activity continues to be conducted in violation of this chapter will be considered a separate offense.

(2) Abatement. Any business established, operated, moved, altered, enlarged, or maintained contrary to this chapter will be, and is hereby declared to be, unlawful and a public nuisance, and it may be abated as such.

(3) Legal Proceedings by City Attorney. In addition to the enforcement provisions of this chapter, the city attorney may, upon request by the council, institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this chapter.

5.05.150 Forms.

License applications in a form approved by motion or resolution of the council will be used by all license and renewal applicants.