

**Title 5**  
**BUSINESS LICENSES AND REGULATIONS**

**Chapters:**

- 5.05 Business Licenses**
- 5.10 Cardrooms**
- 5.15 Secondhand Dealers**
- 5.20 Solicitors, Peddlers and Itinerant Merchants**
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**Chapter 5.05  
BUSINESS LICENSES**

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**5.05.010 Purpose.**

This chapter is enacted, except as otherwise specified, to provide revenue for municipal purposes and to provide for the health, safety and welfare of the citizens of Burns through regulation of businesses, occupations and trade. [Ord. 656 § 1, 1988]

**5.05.020 Exemptions.**

(1) Nothing in this chapter shall be construed to apply to any person transacting and carrying on business within the city which is exempt from taxation or regulation by the city by virtue of the Constitution or law of the United States or the state of Oregon.

(2) No person whose income is based solely on a 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 and fees will be borne by the employer.

(3) Any business paying a franchise tax or fee under any city ordinances or resolutions now existing is exempt from the requirements of this chapter.

(4) Wholesalers making deliveries or taking orders from duly licensed retail outlets within the city are exempt from this chapter.

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

(6) Any person 16 years or younger who operates a business on a part-time basis, which business has an annual gross income of less than \$500.00, is exempt from this chapter.

(7) Except as provided in BMC 5.05.110, nonprofit organizations are exempt. [Ord. 656 § 2, 1988]

**5.05.030 Definitions.**

For the purpose of this chapter, certain words, terms and phrases are defined as follows:

“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.

“License” means the permission granted for the carrying on of a business, profession or occupation within the city 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, 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 any business license)” means withdrawal of approval to operate a business.

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

“Suspension (of business license)” means an official order to suspend business operations pending correction or ceasing of 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. [Ord. 656 § 3, 1988]

#### **5.05.040 License required.**

(1) A license fee is hereby imposed on any business not licensed by other ordinances of the city, and it shall be unlawful for any person to engage in any such business within the city without first having obtained a license for the current year as provided under this chapter.

(2) The agent, or agents, of a nonresident proprietor engaged in any business for which a license is required by this chapter shall 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, or agents, 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 shall 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 himself/herself, or exhibiting any sign or advertisement that he/she is engaged in a business within the city on which a license fee is levied by this chapter, 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.

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

(6) The common council reserves the right to waive or reduce the fee for nonprofit organizations having tax exempt status. [Ord. 656 § 4, 1988]

#### **5.05.050 Application.**

(1) Application for a business license, or for renewal of a business license, shall be made to the office of the city clerk upon forms furnished by the city. Each application shall state:

(a) The name of the proposed business.

(b) A description of the trade, shop, business, profession, occupation or calling to be carried on.

(c) The name and address of the applicant.

(d) The address at which the business will be conducted, or the address of its Burns office.

(e) The amount of the license fee tendered with the application and the basis for its calculation.

(f) The signature of the applicant or agent making application.

(g) The date of application.

(h) Evidence of satisfaction of state registration, bonding or insurance if required, including registration number and expiration date.

(i) The fiscal year for which application is made.

(2) Prior to approving or denying an application, the city clerk may require the applicant to supply any additional information necessary to determine under BMC 5.05.080 the applicant’s qualifications for the license. Review of an application shall not begin until all requested information has been provided.

(3) All initial applications shall include a \$25.00 nonrefundable application fee. [Ord. 656 § 5, 1988]

**5.05.060 License fees.**

All business license fees shall be determined by resolution of the common council.

Peddlers and transient merchants shall pay a fee which is 200 percent of the regular fee for business licenses. [Ord. 656 § 6, 1988]

**5.05.070 Transfers and relocations – Term of license.**

(1) 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 clerk. The city may approve the transfer upon finding that the new applicant meets the requirements of this chapter.

(2) Relocation of an Existing Business. In the event a business relocates, the licensee shall reapply 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.

(3) License Term. A business license issued under this chapter shall be valid from the date of issuance through the following June 30th. [Ord. 656 § 7, 1988]

**5.05.080 Approval, denial, revocation or suspension of license.**

(1) Approval of Application.

(a) The city clerk shall issue a decision on an application within 30 days of the submission of a complete application form, all requested additional information, and annual license fee.

(b) The city clerk may issue a license upon finding that the applicant has met all requirements of federal and state law, land use ordinances and this chapter.

(c) If an application for a new or renewed license is approved, the city clerk shall notify the applicant in writing. The notice shall state any conditions or limitations placed on the license as a condition of maintaining the license which the city clerk deems necessary to protect the public health, safety or welfare, or which are required by federal and state law, land use ordinances or this chapter.

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

(a) The licensee fails to meet the requirements of, or is doing business in violation of federal, state, county law, land use ordinances or requirements of this chapter;

(b) The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials, or license;

(c) 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/her ability to perform the licensed activity without endangering property or the public health or safety;

(d) The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity;

(e) The licensed activity or device would endanger property or the public health or safety;

(f) Notwithstanding any provision herein, neither the city nor any agent thereof shall have any liability for acts or omissions of any licensee; nor shall 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.

(3) Notice. The city clerk 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 BMC 5.05.090. The notice shall be given at least 15 days before a revocation becomes effective, except for new licensees. If the violation ends within the 15 days, 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, apply for a license upon payment of the application fee and submission of an application form and related documents.

(5) Disqualification. A person whose application for any business license has been denied or whose license has been revoked for a total of two times within one year or who has a total of four denials or

revocations, shall be disqualified from applying for a license for a period of two years from the date of the last revocation or denial.

(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 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 BMC 5.05.090. 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 under BMC 5.05.090. [Ord. 656 § 8, 1988]

**5.05.090 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 clerk within 15 days after the denial of license or license suspension or revocation. The council shall hear and make a determination in regard to the appeal at its next regular meeting held not less conclusive. [Ord. 656 § 9, 1988]

**5.05.100 Disclaimers, exceptions, general requirements.**

(1) 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 state of Oregon or the United States, or ordinances of the city.

Nothing herein contained shall be taken or construed as vesting any right in any license 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 or decreased, at any time by the common council. No person having paid the fee required, and having made application for a business license, shall be entitled to any refund.

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

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

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

(c) Display a business license upon request to any person with whom he/she is dealing as part of the licensed activity or to an officer or employee of the city. [Ord. 656 § 10, 1988]

**5.05.110 Specific requirements.**

(1) Businesses dealing in the purchase or trade of secondhand goods, such as, but not limited to, precious metals and jewelry, guns or electronic equipment, shall keep a record of the sales for inspection by the chief of police. Such a record shall 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 shall agree to a complete background check by the chief of police 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 shall be issued only upon the police chief'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 shall agree to a complete background check by the chief of police to determine the qualifications and reliability of the individual. The city may require a bond and such insurance as may be deemed proper.

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The license shall be issued only upon the police chief's approval of each person involved, such approval to be based on the complete background check.

### (4) Nonprofit Organizations.

(a) A nonprofit organization which will conduct any type of business within the city on a continuous basis throughout the year shall make application to the city clerk upon suitable blanks, 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 shall submit the application to the common 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 by 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.

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

(5) In the event a licensed business contracts to sponsor an outside activity, i.e., rodeo, circus, carnival, etc., a regular city business license must be obtained for that specific activity and the usual business license fee must be paid. [Ord. 656 § 11, 1988]

### **5.05.120 Violations and penalties.**

(1) Any person convicted of violating any of the provisions of this chapter shall be punished by a fine not to exceed \$500.00 for any one offense, each day constituting a separate offense, 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.

(2) 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 for, or revocation of a license under any of the procedures prescribed in this chapter, officials responsible for 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, provided they do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant unless under authority of a lawful warrant.

(3) Abatement. Any business which is established, operated, moved, altered, enlarged or maintained contrary to the licensing requirements shall be, and is hereby declared to be, unlawful and a public nuisance, and may be abated as such.

(4) Legal Proceedings by City Attorney. In addition to the enforcement provisions of this chapter, upon request by the common council, the city attorney may institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this chapter. [Ord. 656 § 12, 1988]

### **5.05.130 Forms.**

License applications in a form approved by motion or resolution of the council shall be used by all applicants for licensure or renewal. [Ord. 656 § 15, 1988]

**Chapter 5.10  
CARDROOMS**

**Sections:**

- 5.10.010 License required.**
- 5.10.020 Definition.**
- 5.10.030 Change in ownership or location.**
- 5.10.040 Minors prohibited.**
- 5.10.050 Employment requirements.**
- 5.10.060 Violation – License forfeiture.**
- 5.10.070 Scope of regulations.**
- 5.10.080 Activities not authorized.**
- 5.10.090 License – Issuance.**
- 5.10.100 License – Application.**
- 5.10.110 Investigation of applicant.**
- 5.10.120 Conditions of licensing.**
- 5.10.130 Violation – Penalty.**

**5.10.010 License required.**

It shall be unlawful for any person to maintain or operate any cardroom or allow playing of social games within the city of Burns without first making a written application and obtaining a license from the city therefor. Any person desiring to obtain a cardroom license shall make a written application directed to the common council and file the same with the city clerk, which application shall be signed by the applicant and shall definitely describe the premises wherein such business is proposed to be conducted. Said applicant shall likewise state the kind of business, if any, to be connected with any such cardroom and shall state the names of all persons interested in the ownership of such cardroom. Any person now owning or operating any cardroom under license of the city of Burns shall not be required to file for the written application herein provided for until the expiration of the license now in force. As used in this chapter, cardroom includes a place where social games are played; person includes any legal entity in addition to a natural person. [Ord. 657 § 1, 1988]

**5.10.020 Definition.**

A cardroom shall be taken to mean any place where one or more tables are maintained, whether or not a charge is made for the use of such table or tables, except private homes where the general public is not permitted the use of such tables, and charitable organizations including churches. [Ord. 657 § 2, 1988]

**5.10.030 Change in ownership or location.**

Any change made either in the ownership or location of any such cardroom without the consent of the common council after the license therefor shall have been granted shall render such license void and of no effect. [Ord. 657 § 3, 1988]

**5.10.040 Minors prohibited.**

It shall be unlawful for any owner or person in charge of any cardroom to permit, suffer or allow any minor to go into, visit or to remain in any such room, and he shall have and keep posted at the entrance to any such room a sign reading “No Minors Allowed.” It shall be unlawful for any minor to go into or be or remain in or about any such cardroom. [Ord. 657 § 4, 1988]

**5.10.050 Employment requirements.**

It shall be unlawful for any person, persons, firm or club who is licensed as a cardroom by the common council to knowingly employ in or about such licensed premises any person who has been convicted of a felony. [Ord. 657 § 5, 1988]

**5.10.060 Violation – License forfeiture.**

A conviction in any court having jurisdiction of such offense of the owner, operator or person in charge of any cardroom of any violation of the provisions of this chapter shall work an immediate forfeiture of the license held by such owner. Thereafter, such owner, operator or person in charge shall not maintain or operate such place unless and until the consent of the common council is obtained and a renewal of such license granted. [Ord. 657 § 6, 1988]

**5.10.070 Scope of regulations.**

As authorized by ORS 167.121, this chapter provides for and authorizes the playing or conducting of a social game in a private business, private club or in places of public accommodation, and provides for the regulation and licensing of the same. Nothing in this chapter shall be construed to prohibit the playing of a social game as defined by law in a private home where no house player, house bank or house odds exist and there is no house income from the operation of said social game. Playing of social games in a private home as described herein shall not be regulated or licensed. [Ord. 657 § 7, 1988]

**5.10.080 Activities not authorized.**

Neither this chapter nor anything herein shall authorize bookmaking, gambling, gambling devices or paraphernalia, promotion of gambling or other gambling activities otherwise prohibited by federal, state or local law. [Ord. 657 § 8, 1988]

**5.10.090 License – Issuance.**

Licenses for cardrooms and social games shall be issued at the times and in the manner for issuing general occupation licenses as provided by Chapter 5.05 BMC, except as herein otherwise expressly provided. At the time of the issuance of any license under this chapter, there shall be paid by the applicant for such license to the clerk the license fee therefor, which shall be the sum of \$210.00 for each six months' period or fraction thereof. No such activity shall be conducted or allowed in any such place until such license fee shall have been paid. [Ord. 657 § 9, 1988]

**5.10.100 License – Application.**

Applications for cardrooms and social games licenses hereunder shall be made upon blank forms prepared by the city clerk and shall state:

(1) The full name, age, residence, present and previous occupations of all persons financially interested in the game, business or place in which the game will be operated.

(2) The past criminal record, if any, of all persons who may have an interest in the business and licensed activity.

(3) A specific description of the location of the principal place of business of the applicant, and of the location of the social game when in operation.

(4) Information concerning the type or types of social game or games to be played, number of card or game tables to be used, maximum betting of each game and sworn statement from the applicant that there will be no house player, house banker, house odds or house income directly from the operation of the social games.

(5) Such other information as the city shall find reasonably necessary to effectuate the general purpose of this chapter and to make a fair determination of whether the terms hereof have been complied with. [Ord. 657 § 10, 1988]

**5.10.110 Investigation of applicant.**

Upon the filing of an application for a cardroom or social games license, the chief of police shall investigate and determine if the character and integrity of the applicant are such as to command the confidence of the public, and if the applicant has ever been convicted of any felony or misdemeanor involving moral turpitude. Upon the completion of the investigation, the chief of police shall report his findings upon the applicant to the common council, which shall then act upon the application at a regular or special meeting of the common council. Licenses under this chapter shall be granted only to persons of

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ascertained good moral character and upon approval of the common council. [Ord. 657 § 11, 1988]

### **5.10.120 Conditions of licensing.**

(1) Revocation and Suspension. Licenses issued hereunder shall be subject to revocation or suspension by the common council for good cause shown.

(2) Renewal. No renewal of a license issued under this chapter shall be issued without the approval of the common council.

(3) Areas within licensed premises used for cardrooms and social games shall be accessible for police inspection upon police request. [Ord. 657 § 12, 1988]

### **5.10.130 Violation – Penalty.**

Any person or entity violating any of the provisions of this chapter shall be deemed guilty of a violation, and upon conviction thereof, shall be punished by a fine of not less than \$250.00 nor more than \$500.00. [Ord. 657 § 13, 1988]

**Chapter 5.15  
SECONDHAND DEALERS**

**Sections:**

**5.15.010       Records – Required.**

**5.15.020       Records – Availability to inspection.**

**5.15.030       Penalty.**

**5.15.010       Records – Required.**

All persons, firms, or corporations buying, selling or in any manner dealing in secondhand goods in the city of Burns be, and they are hereby are, required to keep a record of all purchases made by them, with a sufficient description thereof and the name of the person from whom purchased. [Ord. 592 § 1, 1979]

**5.15.020       Records – Availability to inspection.**

Said record shall be kept in the regular place of dealing and shall be open to inspection at all times by the proper officers of the city of Burns. [Ord. 592 § 2, 1979]

**5.15.030       Penalty.**

Violation of this chapter is punishable by a fine not to exceed \$500.00. [Ord. 648, 1987; Ord. 592 § 3, 1979]

**Chapter 5.20**  
**SOLICITORS, PEDDLERS AND ITINERANT MERCHANTS**

**Sections:**

- 5.20.010 Nuisance declared.**
- 5.20.020 Exemptions.**
- 5.20.030 Issuance of license.**
- 5.20.040 Regulations.**
- 5.20.050 Revocation of license.**
- 5.20.060 Revocation procedure.**
- 5.20.070 Appeal.**
- 5.20.080 Penalty.**

**5.20.010 Nuisance declared.**

The practice of going in and upon private property in the city by solicitors, peddlers and itinerant merchants for the purpose of soliciting orders for the sale of goods or services, peddling goods or services, or soliciting orders for photographs is prohibited and declared to be a nuisance. [Ord. 646 § 1, 1987]

**5.20.020 Exemptions.**

This chapter shall not apply to:

- (1) Solicitors, peddlers or itinerant merchants invited to visit particular residences.
- (2) Solicitations by nonprofit organizations that comply with BMC 5.20.030 and 5.20.040. [Ord. 646 § 2, 1987]

**5.20.030 Issuance of license.**

Upon satisfactory proof that the organization desiring to solicit or have solicitations made in its name is a nonprofit organization, the city shall issue a license, without charge, to the organization to solicit. For purposes of this chapter, a U.S. Internal Revenue Service or State Department of Revenue tax-exempt classification is conclusive of nonprofit status. Nonprofit organizations shall provide the city with an address to which city notices may be sent. Notice of issuance, denial or revocation of a license shall be sent to this address. [Ord. 646 § 3, 1987]

**5.20.040 Regulations.**

Nonprofit organizations licensed under this chapter shall abide by state law and city ordinances while soliciting. [Ord. 646 § 4, 1987]

**5.20.050 Revocation of license.**

Failure by a nonprofit organization to abide by the provisions of this chapter is grounds for solicitation license revocation. [Ord. 646 § 5, 1987]

**5.20.060 Revocation procedure.**

The city clerk may revoke the license upon 10 days' notice in writing to the licensee, with the notice delivered to the licensee's address. The notice shall state the reasons for the revocation. [Ord. 646 § 6, 1987]

**5.20.070 Appeal.**

(1) A nonprofit organization whose application for a license has been denied, or a licensee whose license has been revoked, may, within 10 days after the notice of denial or revocation is mailed, appeal in writing to the council. The appeal shall state:

- (a) The name and address of the appellant.

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- (b) The nature of the determination being appealed.
- (c) The reason the determination is incorrect.
- (d) What the correct determination of the appeal should be.

(2) An appellant who fails to file a statement within the time permitted waives all objections, and relinquishes all rights to appeal. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. At the hearing, the appellant may present testimony and oral argument. The decision of the council is final. [Ord. 646 § 7, 1987]

### **5.20.080 Penalty.**

Violation of a provision of this chapter is subject to a fine not to exceed \$100.00. [Ord. 646 § 8, 1987]

**Chapter 5.25  
TAXICABS**

**Sections:**

**5.25.010      Limitation of number.**

**5.25.020      Revocation of license.**

**5.25.010      Limitation of number.**

The number of taxicabs which may hereafter be licensed and allowed to operate within the city of Burns shall be limited in number to one taxicab per every 1,000 population of the city according to the last official federal census. [Ord. 360 § 1, 1951]

**5.25.020      Revocation of license.**

The common council of the city of Burns shall have discretion to revoke or to prevent renewal of the license of any taxicab operator at any time hereafter if, in the opinion of the common council, such operator is not giving proper or satisfactory service to the city and the surrounding area. [Ord. 360 § 2, 1951]