

## **Title 5**

### **BUSINESS TAXES, LICENSES AND REGULATIONS**

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## Chapter 5.02

### BUSINESS LICENSES

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**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. (Ord. No. 09-976 § 2, 2010)

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.

11. “Laundries” includes places where washing, drying or ironing are done as a business either by means of steam, machinery or other power.

12. “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. 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. 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. (Ord. 11-997 § 2 and § 8, 2011).

15. “Peddler” means one who travels about and sells small wares at retail. Peddler also means a transient merchant.

16. “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. “Solicitor” means one who solicits, seeks funds or whose business it is to solicit orders or trade.

18. “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. “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.

20. “Taxicab” means transportation for hire in a vehicle designed to transport eight passengers or less.

21. “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. “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. (Ord. 577 § 1, 1990; Ord. 574 §2, 1990)

23. “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. “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. No. 09-959 §1, 2009).

#### **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 aforementioned 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;

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; (Ord. No. 09-976 § 3, 2010).

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. (Ord. 574 § 3, 1990)

9. A special enterprise is required to obtain a special event permit. (Ord. No. 09-959 §2, 2009).

#### **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.

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

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. 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:

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. 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 Section 5.02.020(G). Regardless of whether the Fair, Festival or Swap Meet is exempt under section 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. Massage Therapist. \$75.00 (yearly)
- 8. Medical Marijuana Dispensary \$1,000 (yearly).
- 9. Medical Marijuana Off-Site Cultivation Location \$1,000 (yearly). (Ord. 11-997 § 2 and § 8, 2011).
- Peddler, transient merchants and auctions. \$15.00 (per day)
- 10. Solicitor, canvasser, demonstrator and salesman. \$ 200.00 (per year) (ord. 18-1087 §1, 2018)
- 11. Taxicab: Per vehicle per year. 100.00
- 12. Transportation for hire in vehicles designed to hold more than eight passengers: Per vehicle per year. 150.00
- 13. Yard sales: Per day, not to exceed six per year. 5.00
- 14. 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. Fairs, Festivals, Swap Meets, Trade, games, amusements, callings, professions, occupations, dealers and all other businesses

not classified, unless exempt under section 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. 577 § 2, 1990; Ord. 574 § 5, 1990; Ord. No. 09-959 § 4, 2009) (Ord. No. 976 § 5, 2010).

**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)

**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)



**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).

**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) not to exceed Five Hundred Twenty Five Dollars (\$525) 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).

**Chapter 5.04****TAX CODE ADOPTED****Sections:**

- 5.04.010      Adoption.**  
**5.04.020      Violation—Penalty.**

**5.04.010      Adoption.**

That certain document known as “The City Tax Code of the City of Douglas, Arizona,” three copies of which are on file in the office of the city clerk of the city, which document is made a public record of the city, is referred to, adopted and made a part of this code as if fully set out in the ordinance codified in this chapter, the provisions thereof to become effective on July 1, 1987. (Ord. 525 § 1, 1987)

**5.04.020      Violation—Penalty.**

Any person found guilty of violating any of the provisions of the tax code referred to in Section 5.04.010 or subsequent amendments thereto shall be guilty of a Class I misdemeanor. Each day that a violation continues shall be a separate offense punishable as described in this chapter. (Ord. 831 § 3, 2003; Ord. 648 § 3, 1994; Ord. 525 § 2, 1987)(Ord. 14-1040 §3, 2014).

**Chapter 5.08**

**ALCOHOLIC BEVERAGES**

**Sections:**

**5.08.010      Liquor            license—Tax imposed—Rates.**

**5.08.020      Applications—Statutory authority.**

**5.08.030      Liquor license—Application fee.**

**5.08.040      Application—Posting fee.**

**5.08.010      Liquor            license—Tax imposed—Rates.**

A nonrefundable quarterly tax shall be paid by liquor licenses according to the licenses referred to below and in the sums stated, quarterly, on or before March 31st, June 30th, September 30th, and December 31st. Payment shall be made to the city and shall be for the privilege of engaging or continuing in the business of selling spirituous liquor at retail within the Douglas corporate limits and to impose a permit tax. The tax referred to in subsection H (Special event) shall be for each licensed day.

A. Bar license to sell all spirituous liquors, one hundred dollars;

B. Beer and wine bar license, fifty dollars;

C. Liquor store license, seventy-five dollars;

D. Beer and wine store license, fifty dollars;

E. Hotel-motel license, one hundred dollars;

F. Restaurant license, one hundred dollars;

G. Club license, seventy-five dollars;

H. Special event, ten dollars. (Ord. 571 § 1, 1990)

**5.08.020      Applications—Statutory authority.**

Applications referred to in this chapter are those required by Title 4, Arizona Revised Statutes, or Liquor Department regulations. (Ord. 571 § 4, 1990)

**5.08.030      Liquor license—Application fee.**

For all liquor licenses described in Section 5.08.010, an application for an original license or transfer of a license shall be accompanied by a nonrefundable application fee of twenty-five dollars, in addition to the fees prescribed in Section 5.08.010. (Ord. 571 § 2, 1990)

**5.08.040      Application—Posting fee.**

A nonrefundable posting fee shall accompany an application for an original license or transfer of a license with regard to all liquor license applications described in Section 5.08.030, wherein the city or its agents are required by law to post property with notices concerning the application, in the sum of twenty-five dollars. (Ord. 571 § 3, 1990).

**Chapter 5.12**

**CABLE COMMUNICATION CODE**

**Sections:**

**5.12.010 Adoption—Copies on file—Contents.**

**5.12.020 Violation—Penalty.**

**5.12.030 Substantive rights not affected.**

**5.12.010 Adoption—Copies on file—Contents.**

A. From and after December 28, 1990, there shall be adopted the “City of Douglas cable communications code.”

B. At least three copies of the code shall at all times be filed in the office of the clerk of the city and there kept available for public use and inspection.

C. The general subject matter contained in the code is the following: definitions, purpose, license agreement, policy of innovation, time of the essence, license required, grant of authority, local regulatory framework, regulations costs, geographic coverage of the system, interconnection and compatibility, conditions of street occupancy, use rental or lease of utility poles and facilities, system design, institutional network, construction and technical standards, customer service standards, rates, reports, performance evaluation sessions, renewal and termination, continuity of service, purchase of system by city, foreclosure and receivership, transfer and assignments, other business activities, indemnification, insurance, bonding, security fund, license fee, rights reserved to the city, nondiscrimination and equal employment opportunity, selection of licensee, costs of consultant, theft of service,

and tampering, damages and severability. (Ord. 564 § 2, 1990)

**5.12.020 Violation—Penalty.**

The penalties imposed under this chapter include:

A. Whether this chapter provides alternative penalties or remedies, they shall be cumulative; and the imposition of one penalty or remedy shall not prevent the imposition of any other penalty or remedy provided for.

B. Any person convicted of violating the provisions of this chapter or any rule or regulation promulgated hereunder shall, upon conviction, be fined not less than one hundred dollars nor more than one thousand dollars and costs for each offense or may be imprisoned for not more than six months, or both. Each day of a continuing violation shall constitute a separate and distinct offense. (Ord. 564 § 3, 1990)

**5.12.030 Substantive rights not affected.**

The adoption of this chapter and the repeal of ordinances referred to in Section 1 of the ordinance codified in this chapter shall not affect the substantive rights of a licensee as may be in force at the effective date of the ordinance codified in this chapter and as previously established by ordinance or resolution. However, upon the expiration of the term of any license which is not affected by the retroactive application of this chapter, this chapter shall apply. This chapter shall also apply to any licenses or agreements granted or entered into subsequent to the effective date of the ordinance codified in this chapter. (Ord. 564 § 4, 1990).

## Chapter 5.16

### POOL AND BILLIARD ROOMS

#### Sections:

- 5.16.010 Hours of operation.**
- 5.16.020 Minors to be excluded without parental consent.**
- 5.16.030 False representation by minors.**
- 5.16.040 Enforcement duties of police.**
- 5.16.050 Police failure to enforce chapter.**
- 5.16.060 Declaring place of business to be disorderly.**

#### **5.16.010 Hours of operation.**

It is unlawful for any poolroom or billiard room in the city to be open or for any person to be admitted thereto or allowed to remain therein for the purpose of business, between the hours of one o'clock a.m. and seven o'clock a.m. (Prior code § 20.1)

#### **5.16.020 Minors to be excluded without parental consent.**

It is unlawful for any person engaged in the business of running billiard or pool tables for hire to permit any minor under the age of eighteen to loiter in or around such place of business or to play at any game of billiards or pool therein, or at any other game played upon a billiard or pool table, without the written consent of the parent or guardian of the minor. (Prior code § 20.2)

#### **5.16.030 False representation by minors.**

Any minor under the age of eighteen who falsely represents his age and by virtue of such false representation shall be permitted to play at games of pool or billiards in violation of Section 5.16.020 shall be deemed guilty of a misdemeanor. (Prior code § 20.3)

#### **5.16.040 Enforcement duties of police.**

Every police officer or patrolman is especially charged to see that the provisions of this chapter are enforced and that every person violating the provisions of this chapter is arrested and brought to trial. (Prior code § 20.5)

#### **5.16.050 Police failure to enforce chapter.**

Every police officer or patrolman who, knowing that any of the provisions of this chapter have been violated or who by the use of ordinary diligence could have learned of the violation of this chapter, and who fails to arrest the offender and charge him with a violation thereof, shall also be deemed guilty of a violation of the provisions of this chapter and shall be punished accordingly. (Prior code § 20.6)

#### **5.16.060 Declaring place of business to be disorderly.**

In addition to the other penalties prescribed for the violation of this chapter, the mayor and council may at any time for good cause shown declare any place of business affected by the terms and provisions of this chapter a disorderly place and shall thereupon immediately revoke the license under which the same is being conducted and shall not thereafter grant a new license to the same

person to conduct a similar business within the city. (Prior code § 20.7).

## Chapter 5.20

### MOBILE VENDORS

**Sections:**

- 5.20.010**     **Definitions.**
- 5.20.020**     **License            application—  
Information to be provided.**
- 5.20.025**     **Peddler            operating  
temporary or fixed kiosk,  
apparatus or conveyance.**
- 5.20.027**     **Regulation of Activities**
- 5.20.029**     **Setback requirements**
- 5.20.030**     **Restrictions on time and  
location of mobile vending.**
- 5.20.040**     **Bond required.**
- 5.20.050**     **Unlawful acts.**
- 5.20.060**     **Violation—Penalty.**

**5.20.010**     **Definitions.**

For the purposes of this chapter, the following definitions apply unless the context requires otherwise:

“City” means the city of Douglas, Arizona.

“City property” means all real property owned by the city, except the right-of-way.”

“Conveyance” includes any public or privately owned vehicle or device capable of transporting people or goods, whether or not motorized or mounted on wheels. By way of example, but not of limitation, conveyance includes automobiles, bicycles, handcarts, pushcarts and lunch wagons.

“Door-to-door solicitor” means canvassers, demonstrators, peddlers, salesmen and any other person taking orders for any goods, wares or merchandise for future delivery who does not have a regular established place of business in the city or is not an agent or representative of a regular established place of business in the city.

“Mobile merchant” means one who carries on a trade or business within the city on a permanent basis through the use of a vehicle or other conveyance, and who generally has a regular route of business but no fixed or permanent place of business; for example, a mobile lunch wagon or ice cream truck.

“Peddler” means one who travels about from place to place, by foot, wagon, vehicle or other temporary or fixed kiosk, apparatus or conveyance, conducting entertainment or games, or selling or offering for sale food, clothing, or other goods at retail, and who is not licensed as a mobile merchant.

“Person” includes an individual, firm, corporation, partnership, association, joint venture, company, organization or other entity.

“Street ballyhoos” or “street advertising” means advertising by means of any vehicle containing amplifiers, phonograph, loud-speaker, music rolls, microphones, broadcasting, radio, public address system or music of any description, operating upon the public streets or public grounds of the city.

“Transact” or “transaction” means to commence, practice, transact, or carry on a business.

“Transient merchant” means a person who travels to sell merchandise or other items at retail and who is in this area only for temporary periods that never exceed six weeks. (Ord. 719 § 1, 1998, Ord. 17-1068 §1, 2017)

**5.20.020**     **License application—  
Information to be provided.**

When applying for a license to transact business within the city, in addition to providing the information generally required for a business license under Chapter 5.02, any person seeking to do business as a mobile



merchant, peddler or transient merchant or door-to-door solicitor shall provide:

A. The age, make, model, description and license number of all vehicles or other conveyances used in the business;

B. A statement of whether, within the last three years, the person has been convicted or has pled nolo contendere to a crime involving larceny, embezzlement, fraud, misrepresentation, false pretenses, perjury, deceit or dishonesty; and

C. A recent photograph of the licensee which is not more than three nor less than two inches square, and which shows the applicant's face and head in a clear and distinguishing manner. (Ord. 719 § 2, 1998)

D. If the applicant intends on Conducting business on private property, notarized authorization from the owner or the owner's agent giving the applicant permission to conduct business at each location. Such authorization shall be on a form provided by Finance. If the applicant is applying for a license for a site on an improved lot that does not show compliance with parking requirements, but is seeking approval of the site pursuant to section F, the authorization form must indicate the hours of operation of all established businesses on the site. Such form must be updated by the applicant due to any change in the hours of operation of any such business.

E. If the applicant intends on conducting business on an unimproved lot, a site plan approved by Planning and Zoning showing conformance with the requirements of this article. The plan need not be professionally prepared but shall be drawn showing the dimensions of the site, available parking, location of entrances and exits, and where the mobile vendor's vehicle will be parked. If there are any subsequent changes, a new plan

shall be submitted to Finance after being approved by Planning and Zoning.

F. If the applicant intends on conducting business on an improved lot, an amendment to the site plan approved by Planning and Zoning showing conformance with the requirements of this section. Such amendment need not be professionally prepared. The plan must show the dimensions of the site, available parking, location of entrances and exits, and where the mobile vendor's vehicle will be parked. An applicant who otherwise meets the requirements of this paragraph may be approved by Planning and Zoning for operation if the proposed site does not meet parking requirements, but only after all established businesses on the site are closed for business. The license shall be valid only for the times that such businesses are closed. If there are any subsequent changes, a new plan shall be submitted to Planning and Zoning.

G. If the applicant intends on conducting business in the right-of-way pursuant to section 5.20.030, written authorization from Finance and Planning and Zoning. (Ord. 14-1041 §1, 2014)

#### **5.20.025 Peddler operating temporary or fixed kiosk, apparatus or conveyance,**

A. Peddlers must meet all application requirements as set forth in Chapter 5.02 herein, and may operate in areas designated by the peddler on the required and approved site plan area in which the peddler will conduct business. Unless such area is physically demarcated at the site, it shall be assumed that, for purposes of measuring the distance between the operation and the nearest residential property, other peddler operation, or right-of-way, the boundary of the operation is the outer edge of the property being

- B. occupied by the peddler's personal property or customers' vehicles.
- C. If the applicant intends on conducting business on city property a site plan shall be submitted and written authorization from the director of the department having control over such property shall be required.
- D. If the applicant intends on conducting business on an unimproved lot, a site plan approved by the director showing conformance with the requirements of this article. The plan need not be professionally prepared but shall be drawn showing the dimensions of the site, available parking, location of entrances and exits, and where the peddler's apparatus will be stationed. If there are any subsequent changes, a new plan shall be submitted to the director after being approved by the director.
- E. If the applicant intends on conducting business on an improved lot, an amendment to the site plan approved by the director showing conformance with the requirements of this article and the Land Use Code. Such amendment need not be professionally prepared unless otherwise required by the Land Use Code or other applicable city law. The plan must show the dimensions of the site, available parking, location of entrances and exits, and where the peddler's apparatus will be stationed. An applicant who otherwise meets the requirements of this paragraph may be approved by the director if the proposed site does not meet parking requirements.
- F. If the applicant intends on conducting business in the right-of-way, written authorization from the director of the

department of transportation shall be required.

- G. Proof of insurance complying with Section 5.02.040 if operating in the right-of-way pursuant or on city property shall be required. (Ord. 17-1068 §3, 2017).

#### **5.20.027. Regulation of Activities**

- A. In general. It shall be unlawful for a peddler:
- B. To fail to maintain the site in a clean manner or provide a trash receptacle; To place advertising signs any place other than on the peddler's temporary or fixed kiosk, apparatus or conveyance;
- C. Or the peddler's employee to fail to be present at the site during operating hours;
- D. To operate between the hours of 11:00 p.m. and 6:00 a.m.;
- E. To fail to remove the vehicle, all equipment, and other personal property from the site after closing;
- F. To fail to display a current, valid peddler's license in a conspicuous location;
- G. To operate a generator that violates applicable regulations relating to noise or exhaust mufflers;
- H. To operate outside the boundaries of the peddler's operation; or
- I. Except as provided in Section 5.20.025 (e), to operate in the right-of-way.
- J. With approval of the director of the department of transportation, a peddler may operate in the right-of-way in the Downtown area. (Ord. 17-1068 §4, 2017)

#### **5.20.029 Setback requirements.**

- A. Peddler(s) may not operate or have peddler operation in violation of the setback

- B. requirements specified in subsections (B) though (E) and compliance with such requirements shall be shown on the site plans required by sections below.
- C. Within one hundred (100) feet of a residentially zoned property;
- D. Within one hundred (100) feet of another peddler operation located on the same site, which for private property means the same tax parcel;
- E. Within one hundred (100) feet of another peddler operation located on city property or right-of-way; or
- F. In the Downtown area, a peddler operation shall not locate within four (4) feet of a curb or right-of-way pavement, within twenty (20) feet of a curb or right-of-way pavement. (Ord. 17-1068 §5, 2017).

**5.20.030 Restrictions on time and location of mobile vending.**

These restrictions shall not apply to peddler operations with temporary or fixed kiosk, apparatus or conveyance. In order to keep major traffic arteries free from congestion, prevent accidents, promote public safety and preserve and protect the public welfare, it is unlawful for a mobile merchant or peddler, or a transient merchant doing business in the manner of a mobile merchant or peddler, to do the following: (Ord. 17-1068 §2, 2017).

A. Transact business in a manner that: unduly obstructs traffic flow; conceals or obstruct traffic signals or signs; uses any street ballyhoos or advertising; restricts or interferes with ingress or egress to property; creates a nuisance; increases traffic congestion; obstructs adequate access to emergency or sanitation

vehicles; or constitutes a hazard to traffic, life or property.

B. Do business by stopping or parking on the following streets and avenues:

1. A Avenue;
2. F Avenue;
3. Tenth Street, from Pan American Avenue to San Antonio Drive;
4. Ninth Street, from Pan American Avenue to San Antonio Drive; and
5. Eighth Street, from Pan American Avenue to San Antonio Drive.

C. Operate between the hours of 10:00 P.M. and 6:00 A.M.

D. Fail to remove the vehicle, all equipment, and other personal property from the site after closing.

E. Fail to maintain the site in a clean manner or provide a trash receptacle.

F. Place advertising signs any place other than on the mobile vendor's vehicle.

G. Do business by stopping or parking within fifty feet of an intersection of two streets.

H. Transact business on any city street within one hundred fifty feet of any city park while a park concession stand is operating. (Ord. 790 § 1, 2, 2001; Ord. 719 § 3 (part), 1998) (Ord. 14-1041 §2, 2014)

**5.20.040 Bond required.**

Before any business license is issued to a transient merchant or door-to-door solicitor, the applicant shall file with the finance director a good and sufficient bond in the sum of five hundred dollars, payable to the city, executed by two or more good and sufficient sureties or by a reputable and authorized surety company or, in lieu thereof, the applicant shall file a cash deposit of five hundred dollars. The bond or cash deposit shall be conditioned that the whole or any part of such sum shall be paid to any

person failing to receive a delivery of goods ordered or services performed in accordance with the terms of any order given, for the amount such person has advanced as payment on such order, and such bond or cash deposit shall be conditioned further than any person aggrieved by the action of the merchant shall have a right of action against the bond for the recovery of money or damages or both. Such bond shall be retained by the city for a period of ninety days after the expiration of the business license granted at the time of filing the bond or cash deposit. (Ord. 719 § 3 (part), 1998)

**5.20.050 Unlawful acts.**

A. It is unlawful for any door-to-door solicitor, transient merchant or other person engaged in the transaction of a licensed business to do any of the following:

1. Ring a doorbell or knock at any building whereon a sign bearing words such as “No peddlers, salesman or solicitors” is exposed to public view.
2. Enter a private residence in the city unless requested or invited to do so by the owner or occupant of the residence.
3. Ring a doorbell or knock at any building before nine a.m. or after dark, unless doing so by prior appointment with the owner or occupant of the residence.

B. It is unlawful for any person to: engage in fraud, misrepresentation, false statement or any other crime in the transaction of any business; conduct a business in such a manner as to constitute a breach of peace, a nuisance or a menace to the public health and safety; or conduct or transact a business in violation of this chapter or any other city ordinance or in

violation of any state or federal law. (Ord. 719 § 5, 1998)

**5.20.060 Violation—Penalty.**

Any person who violates any of the provisions of this chapter shall be deemed guilty of a Class 3 misdemeanor and shall upon conviction, be punished by a fine of up to three hundred dollars for an individual and two thousand dollars for a corporation or similar enterprise. (Ord. 719 § 6, 1998).

**Chapter 5.24****TRANSIENT LODGING TAX****Sections:****5.24.020 Tax levied.****5.24.040 Purpose.****5.24.020 Tax levied.**

From and after the effective date of the ordinance codified in this chapter, there is levied and shall be collected by the city a levy or tax at an amount equal to two percent of the gross rent of any hotel or motel occupied by any transient person. (Ord. 484 § 2, 1984) Tax is applicable in accordance to the City Tax Code. (Ord. 14-1041 § 4, 2014).

**5.24.040 Purpose.**

Ten percent of the revenues collected shall be kept and maintained by the city and placed into its general fund for its costs in administering this chapter. The balance of all revenues collected shall be used by the city or by a party or entity with which the city contracts in writing, for the purpose of promoting tourism in the city and for the further purpose of advertising the amenities of said city. (Ord. 547 § 1, 1988: Ord. 484 § 4, 1984).

## Chapter 5.32

### GOING OUT OF BUSINESS SALES

#### Sections:

<b>5.32.010</b>	<b>Definitions.</b>
<b>5.32.020</b>	<b>Exemptions.</b>
<b>5.32.030</b>	<b>Permit—Required.</b>
<b>5.32.040</b>	<b>Permit—Application— Fee.</b>
<b>5.32.050</b>	<b>Permit—Issuance— Renewal.</b>
<b>5.32.060</b>	<b>Permit—Revocation.</b>
<b>5.32.070</b>	<b>Rules and regulations governing sale.</b>
<b>5.32.080</b>	<b>Violation—Penalty.</b>

#### **5.32.010 Definitions.**

When used in this chapter, the following words and phrases shall be defined as follows:

“Fire sale” means any sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.

“Going out of business sale” means any sale held out in such a manner as to reasonably cause the public to believe that upon disposal of the stock of goods on hand, the business will cease and be discontinued. Such sales include, but are not limited to sales denominated: adjuster’s; adjustment; alteration; assignees’; bankruptcy; benefit-of-creditors; benefit-of-administrator; benefit-of-trustees; building-coming-down; closing; creditors’ committee; creditors’; executor’s; final days; forced out; forced-out-of-business; going-out-of-business; insolvent’s; last days; lease expires; liquidation; loss of lease; mortgage sale; quitting business; receiver’s; trustee’s; or other terminology of similar import.

“Goods” means any goods, wares, merchandise or other property capable of being the object of a sale regulated by this chapter. (Ord. 627 §1, 1993)

#### **5.32.020 Exemptions.**

The provisions of this chapter shall not affect or apply to:

A. Persons acting pursuant to an order or process of a court of competent jurisdiction; or

B. Persons acting in accordance with their powers and duties as public officers or officials. (Ord. 627 § 2, 1993)

#### **5.32.030 Permit—Required.**

Any person, before selling or offering to sell any goods at a “going out of business sale” or “fire sale,” shall first obtain a permit from the city manager (or designated representative). (Ord. 627 § 3, 1993)

#### **5.32.040 Permit—Application—Fee.**

A. Application. Any person desiring to conduct a “going out of business sale” or “fire sale” shall make a written application to the city manager’s office, no later than two weeks prior to the first day on which such sale or offer to sell, trade, or exchange is held or made, setting forth and containing the following information:

1. The true name and address of the owner or each of the owners of the goods to be the object of the sale;

2. A description of the place where such sale is to be held;

3. The true name and address of the individual or individuals who will be responsible for the conduct of the sale;

4. The nature of the location occupancy and the effective date of termination of such occupancy;

5. The dates of the period of time during which the sale is to be conducted;

6. A concise and clear statement of the reason or reasons for the urgent and expeditious disposal of the goods to be offered at such sale;

7. A statement that the business out of which the sale is to be held is to be terminated permanently or, if the business is to be removed to or continued at any place or places, an address or description of that place, the date upon which such new business shall commence, and the name and designation under which the new business will commence;

8. A statement that the applicant consents to entry by authorized representatives of the city upon the premises where the sale will be held, at any time during business hours, during the sale period;

9. A statement that the applicant has read and understands that a false statement contained in the application constitutes the crime of “unsworn falsification” in violation of A.R.S. Section 13-2704, a Class II misdemeanor.

**B. Fee.**

1. An application for a sale permit hereunder shall be accompanied by a fee of twenty-five dollars.

2. An application for a renewal permit hereunder shall be accompanied by a fee of twenty-five dollars. (Ord. 627 § 4, 1993)

**5.32.050 Permit—Issuance—Renewal.**

A. A sale permit issued hereunder shall authorize the sale described in the application

for a period not to exceed thirty consecutive days following the issuance of the permit.

B. The city manager may issue one renewal permit to extend a sale for a period not to exceed thirty consecutive days beyond the period authorized under the original permit upon receipt of a renewal fee and appropriate justification by the permittee.

C. Any sale or renewal permit issued herein shall not be assignable or transferable. (Ord. 627 § 5, 1993)

**5.32.060 Permit—Revocation.**

A. The city manager may revoke the permit of any person violating any of the provisions of this chapter. The city manager shall give the permittee ten days written notice, describing the alleged violations, before the revocation becomes effective. The permittee may request a hearing before the city manager within the ten day period. The city manager (or designated representative) shall conduct a hearing upon request to determine whether the permit should be revoked.

B. If no hearing is requested, the revocation shall become effective at the conclusion of the tenth day after notice was given. If a hearing is conducted, the revocation shall become effective upon the city manager’s (or representatives) written determination that the permittee violated the provisions of this chapter.

C. Any notice required by this section may be served by certified mail addressed to the permittee at the address shown on the permit application. (Ord. 627 § 7, 1993)

**5.32.070 Rules and regulations governing sale.**

A permittee hereunder shall:



A. State prominently the permit number and the exact closing date of any sale authorized hereunder in all advertisements, signs and statements regarding such sale.

B. Post a sign, containing the information required in subsection A of this section, near to and visible from each entrance to the premises for which the permit is issued. The posted sign shall measure twenty-four inches by twenty-four inches and all information printed on the sign shall be in one-half inch letters. (Ord. 627 § 6, 1993)

**5.32.080 Violation—Penalty.**

Any person selling or offering to sell any goods in violation of any provision of this chapter shall be guilty of a Class II misdemeanor. (Ord. 627 § 8, 1993).