

CHAPTER 2

GENERAL LICENSING PROVISIONS

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4-2- 1: **STATUTORY AUTHORITY; PURPOSE:** The licensing of all wholesale and retail businesses within the city and the establishment of a license fee, uniform to all classes created herein, pursuant to the statutory authority vested in the city by Idaho Code, Section 50-307, is hereby declared to be justified and necessary for the purpose of protecting and providing services to residents of the city and the businesses and occupations doing business therein.

4-2-2: **DEFINITIONS:** For the purposes of this chapter, the following words shall have the meanings indicated, unless the context clearly requires otherwise:

**BUSINESS OR
OCCUPATION:**

All activities, occupations, callings, trades, pursuits or professions located or engaged within the city with the object of gain, profit, benefit or advantage. Each business location shall be deemed a separate business, unless it is a specific annex to the main location of the business. This chapter is intended to regulate the safety of the premises which a business occupies and compliance with the city's land use and public health and safety ordinances. It is not intended to regulate the practice of certain professions which are otherwise regulated by state or federal authorities. Examples of such professions are medicine, architecture, dentistry, etc.

**ENGAGING IN
BUSINESS:**

Commencing, conducting or continuing in any business or occupation, the exercise of corporate and franchise powers and the liquidating of a business where the liquidators hold themselves out to the public as conducting such business. Any person shall be deemed to be engaged in doing business when he does one act of:

- A. Selling any goods or performing any services for compensation;
- B. Soliciting business or offering or holding out goods or services for sale or hire;
- C. Acquiring any premises, or using any vehicle for the purpose of delivery of any goods, either at wholesale or retail unless licensed under another section of this code. "Premises" means all lands, structures, places and equipment and appurtenances connected or used therewith in any business or occupation, and also any personal property, including any vehicle, which is either affixed to or is otherwise used in connection with any such business conducted on said premises.

YEAR: A calendar year.

4-2-3 **FEE AMOUNT ESTABLISHED:** There is hereby established upon and shall be collected from every person engaged in any business or occupation within the city regulated hereby a license fee for the privilege of engaging in business. The initial license fee shall be twenty five dollars (\$25.00) per business for the first calendar year. The initial license fee for less than six (6) months of the first calendar year shall be fifteen dollars (\$15.00) per business. For each subsequent year, the fee to renew the business license shall be five (\$5.00) per year.

4-2-4 **EXEMPTIONS:** The provisions of this chapter shall not apply to:

- A. Persons qualifying as nonprofit or charitable businesses or occupations, including charitable activities, within the meaning of the United States internal revenue code. Possession of a certificate of tax exempt status from the Internal Revenue Service shall be required to qualify for this exemption, except that the City Council may waive the license fee for bona fide charitable or civic groups within the city, including, but not necessarily limited to, private schools, churches, fraternal organizations and fraternal clubs or lodges, with respect to their educational, religious, or fraternal activities, but this exemption shall not apply to any noncharitable business activity for profit engaged in by such otherwise exempt organizations.
- B. Any agency of the United States government, any state of the United States, any political subdivision of the state of Idaho, including, but not necessarily limited to, counties, school districts, irrigation or sewer districts, or fire districts.

4-2-5 **ENGAGING IN BUSINESS WITHOUT LICENSE PROHIBITED; EXPIRATION:** No person shall engage in any business or activity in the city for which a license fee is established by this chapter without first obtaining and being a holder of a valid business and occupation license issued under the provisions of this chapter. No license required hereby shall be deemed valid without paying the license fee imposed by this chapter, which license fee shall accompany the application for the license. Licenses issued under this chapter shall expire at the end of the calendar year in which they are issued.

4-2-6 **APPLICATION FOR LICENSE; CONTENTS; FEE TO ACCOMPANY APPLICATION:** The application for a license shall be made to the city clerk on a form provided by the city. The application shall set forth the name of the applicant, his residence, place of business, the nature of the business, consent to a background check on all individual applicants and the principals of any entity applicant, and the amount of the license fee prescribed by this chapter and shall be accompanied by a deposit of the license fee by the applicant. Every application shall be personally signed by the applicant or his legally authorized agent.

4-2-7 **INVESTIGATION OF APPLICATIONS; RECOMMENDATIONS, AND DISCLAIMER:** The city may cause any applicant for a new business and occupation license to be investigated for a general background check and compliance with the laws of the state and of the city. The aforesaid investigation may be conducted by the chief of police, fire marshal, the building official, or their respective designee(s). If it appears that all conditions requisite to the issuance of a license have been substantially met and that no public safety hazards exist from the applicant or at the premises, the city clerk shall issue a license to the applicant. The clerk in her discretion may issue a conditional license until such time that the applicant is in total compliance with the applicable laws, including building, fire, and public health safety codes. If the licensee fails to comply with applicable laws within sixty (60) days after the conditional license is issued, the city may revoke the license and shall notify the applicant of such decision.

The city shall approve, conditionally approve, or deny any application for a license within ten (10) business days of receipt of the application.

4-2-8 **APPEAL PROCEDURE:** Any applicant aggrieved by the conditional approval or denial of a license by the city may appeal such decision to the city council by filing a written notice of appeal with the city clerk within ten (10) days of such decision. The city clerk shall transmit said notice of appeal to the council and place the appeal on the agenda for hearing at the next scheduled council meeting. At such hearing, the applicant may appear and speak on his own behalf explaining why the City should remove any conditions placed on the license or should approve the license.

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The council shall proceed to determine said appeal. If the council decides in favor of the applicant, it shall pass a motion to that effect. If it decides against the applicant, it shall state its reasons therefore on the record. The council may defer action upon said appeal for not longer than two (2) regular meetings from the date of the appeal hearing.

4-2-9 **CONTENTS OF LICENSE:** Each license issued hereunder shall state upon its face the following:

- A. The name of the licensee and any other name under which business is to be conducted;
- B. Type of principal business;
- C. The name and address of each business so licensed;
- D. The amount of license fee therefor;
- E. The dates of issuance and expiration thereof; and
- F. Such other information as the city clerk shall deem reasonable.

4-2-10 **DISPLAY OF LICENSE; OPERATION AFTER EXPIRATION OF LICENSE PROHIBITED; TRANSFER PROHIBITED:**

Every licensee under this chapter shall display such license in a prominent location upon the licensed premises. No person shall operate a business or occupation on premises which should be licensed pursuant to this chapter after the issued license has expired or when it has been denied, suspended, or revoked, or for any other reason become ineffective. No licensee shall loan, sell, give, or assign to any other person or allow any other person to use or display, or to destroy, damage, or remove, or to have in his possession any license which has been issued to said licensee. No person shall operate a business or occupation which should be licensed pursuant to this chapter without first applying for and obtaining the license required hereby.

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4-2-11 **CHANGE IN LOCATION OR OWNER OF LICENSED BUSINESS:** Any change of owner(s) or location shall automatically void any existing license granted under this chapter and shall necessitate application for and issuance of a new license.

4-2-12 **MAILING OF APPLICATION FORMS; FAILURE TO FILE LICENSE APPLICATION:** The city may, but is not required, to mail license applications to persons; but failure of any person to receive any such application shall not excuse the person from making application for and securing the license required and payment of the license fee when and as due hereunder. If any person fails, neglects, or refuses to file an application and to pay any fee as and when required herein, the city will determine the amount of fee payable and notify such person by mail of the amount so determined. The amount so fixed shall thereupon be immediately due and payable, subject to the person's right to appear before the council and show cause why his enterprise should not be subject to this chapter.

4-2-13 **WHEN FEES DUE AND PAYABLE; PENALTY FOR LATE PAYMENT:** Each annual license fee herein provided shall become due and payable on January 1 of each calendar year as to any business which must be licensed hereby. Failure to pay any license fee within fifteen (15) days after the day upon which it is due and payable shall render the person subject to a penalty of ten dollars (\$10.00) per licensed premises, in addition to other charges or penalties as provided herein. Failure to pay any license fee within thirty (30) days after due shall render the person subject to a penalty of twenty-five dollars (\$25.00) per licensed premises, in addition to other charges or penalties as provided herein.

4-2-14 **LICENSE FEE; PENALTIES:** Any license fee, including penalties thereon, may be collected by inclusion with the utility charges submitted to the premises which should be licensed pursuant to this chapter. No civil action or judgment shall bar or prevent a criminal prosecution for violations of this chapter.

4-2-15 **USE OF FUNDS:** All funds received by the city under the terms of this chapter shall be paid into the general fund of the city to fund public safety and other activities related to the business community of the city.

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4-2-16 **OPERATION WITHOUT LICENSE; INJUNCTION:** The operation or conducting of business or occupation for which a license is required by this chapter without having a valid license as provided herein is hereby declared to be a criminal violation. In addition to any other remedy provided by this chapter or other applicable law, the city may bring a civil action in any court of competent jurisdiction to obtain an order enjoining any person from operating or conducting any business or occupation in violation of this chapter.

4-2-17 **REVOCATION:** Any license issued pursuant to this chapter may be revoked by the city council for violation of any law or regulation of the city, county, state, or United States, applicable to the business for which the license was issued. Such revocation must be preceded by at least seven (7) days advance notice in writing to the licensee from the city clerk, informing the licensee that the city council will consider revocation that the license should be revoked, stating the reasons therefor, and identifying the time and place of the council meeting at which the council will consider the revocation. If the notice of potential revocation is hand delivered, the notice is deemed given the day it is delivered. If the notice is mailed to the licensee, then the notice is deemed given two (2) business days from the day of mailing. The licensee may then appear before the council at the council meeting identified in the notice and show cause why the license should not be revoked. At such hearing, the licensee may be represented by counsel, may testify personally, and may present evidence. At the council meeting at which the revocation is considered or the next regularly scheduled council meeting, the council shall determine whether such license should be revoked. If the licensee or his agent is not present when the council makes this determination, the city clerk shall promptly notify the licensee of this determination.

4-2-18 **VIOLATION; PENALTY:** A person who violates any provision of this chapter or operates any business without having first obtained a license as herein provided shall be guilty of a misdemeanor. Each day that a violation of this chapter occurs shall be deemed a separate offence. This licensing provision may also be enforced by civil action initiated by the city in a court of competent jurisdiction.

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