

Article 8-7

BUSINESS REGISTRATION PERMITS LICENSES

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§ 8-7-1 Definitions.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. All activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit, or advantage, either direct or indirect, or owners/operators of more than one residential rental unit, but not casual activities or sales. The term BUSINESS shall include any trade, business, game, amusement, calling, profession or occupation. BUSINESS does not include schools, churches, athletic groups or nonprofit organizations as deemed by the IRS. For purposes of this chapter, BUSINESS shall not include peddlers (Ch. 8-1 et seq.), special events, or park and swap operation (Ch. 8-3 et seq.).

CASUAL ACTIVITY OR SALE. A transaction of an isolated nature made by a person who neither represents himself themselves to be, nor is engaged in, a business that is subject to a registration ~~permit~~ business license imposed by this chapter. Casual Activity or Sale includes but is not limited to: (i) sales which are infrequent, singular and private in nature, such as selling a personal automobile, handmade good or personally owned item; and (ii) an ongoing sales event of an isolated nature, such as a garage sale, when such person is not regularly engaged in the business of selling the items sold, the sales event is two (2) days or less in length, and the total gross revenue of such person from all such sales events conducted within the city in a calendar year is less than \$5,000.

HOME OCCUPATIONS. A business operated in a residential zoning district that does not interfere with the peace, quiet, and dignity of the property owners or neighbors. The business conducted must be (i) an ancillary use that is incidental and subordinate to the use of the residence for

residential purposes (ii) not have a nonresident employee working at the site (iii) there is no commercial storage, (iv) the site is not used for long term parking of non-resident vehicles or clients, (v) all client parking is provided on the residential property or directly in front of the property, (vi) there is no exterior indication of non-resident use, (vii) patrons or clients are received only between the hours of 8:00 a.m. and 8:00 p.m, and (viii) the business does not produce offensive noise, vibration, smoke, dust, odors, heat or other nuisances discernable beyond the property lines. Examples of uses, which would be acceptable as home occupations, provided they comply with the above regulations are consulting services (accountant, attorney, insurance or real estate), art studio (pottery, painting), craft making and other services (tailoring, sales). Excludes all on-site exchange of sold or bartered goods (except those considered casual activity or sale), on-site vehicle repair as a commercial use, commercial warehousing or storage that is either indoor or outdoor, those with non-resident employees working at the home or residence, hotels, motels, fraternity and sorority housing or manufacturing of products using hazardous materials or equipment not typically found in household settings.

PERSON. Any individual, organization, partnership, company, sole proprietor, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, or broker.

§ 8-7-2 Business registration permit license required.

(A) It is unlawful for any person to practice, transact or carry on any business within the municipal limits of the city without first having procured a license from the city to do so. Any person engaged in business within the City is required to first obtain a business registration permit license, unless they are exempt under this article. This includes businesses subject to a transaction privilege tax or a use tax, as well as businesses not subject to a transaction privilege tax or use tax, but which has have a physical presence within the City. A license will be issued in the legal name of the licensee. Issuance of a license will in no way be construed as permission to operate a business in violation of any applicable law, rule, or regulation.

(B) All permits licenses shall be issued for a period of up to one year and shall run January 1 be valid from the date issued through December 31. Registration permits Licenses issued shall not be transferable.

(C) Every person seeking a business license must fill out an application and furnish the information requested by the city. The city reserves the right to request any information deemed necessary to ensure public safety, the collectability of license fees, and reporting. Refusal to provide any requested information is grounds for denial of license. Certain businesses may be subject to paying a license fee as established by the city council from time to time by resolution.

§ 8-7-3 General requirements.

(A) Every person conducting business within the City must obtain a ~~permit~~license, whether you have a fixed location within the City or not.

(B) A separate ~~permit~~license must be obtained for each physical location within the City in which any business is conducted.

(C) When more than one business is carried on, transacted or practiced in the same location by the same person, only one ~~permit~~license shall be required.

(D) When more than one business is carried on, transacted, or practiced in one location by a different persons, a separate ~~permit~~license shall be obtained for each person conducting the business at that location.

(E) Every person issued a license with a fixed location within the City shall have either the license applicant, owner, partner, manager, designated agent, controlling person or an employee at the fixed location during all hours of operation and/or when customers or patrons are present at the fixed location. Notwithstanding the above, a person issued a license shall not be required to have any owner, agent or employee at the fixed location during hours of operation or when customers or patrons are present for any license issued pursuant to Goodyear City Code 8-2-2 or if the operation and use of the facilities, services or amenities of the business are done entirely by customers and without requiring assistance or supervision from an owner, agent or employee of the business; this may include but is not limited to, self-serve car washes, laundromats, self-storage facilities, vending machines or ATM's.

§ 8-7-4 Business registration ~~permit~~ license.

(A) *Issuance of business ~~registration permits~~. license.*

(1) Applications for business ~~permits~~licenses or renewals of business ~~registration permits~~licenses shall be submitted to the Finance Department. Upon compliance with this article, it shall be the duty of the Finance Department to ~~issue~~approve or deny a business ~~registration permits~~license ~~within 30 days of submittal of a complete~~ application within a reasonable period of time, which allows the City to investigate the application and background of those submitting an application. Applications for a business license or renewal of a business license may be denied if (i) any person who submits an application for a business license pursuant to this article, gives false or misleading information in the application or in connection with the application process; (ii) any person, designated agent or manager knowingly operated the business during a period of time without a license or when the license was suspended; and (iii) any person who submits an application for a business license pursuant to this article was

convicted of a felony involving theft, forgery, a fraudulent or dishonest act, or a misdemeanor involving moral turpitude.

(2) The Finance Department shall provide copies of completed business registration permit. The City may receive and review the criminal history record information, including conviction and non-conviction data, of applicants for the purpose of evaluating the fitness of licensees, controlling persons and designated agents in connection with the issuance, renewal, suspension or revocation of a license or the addition or change of a controlling person or designated agent. Such information shall be used only for the purpose of such evaluation or for the purpose of supporting and defending a denial, non-renewal, suspension or revocation in any administrative or judicial review.

(3) The Finance Department shall provide copies of completed business license applications to the Community Development Services Department, Economic Development Department, Fire Department, and such other city departments as deemed advisable for review or inspection.

(34) Nothing herein, including the issuance of a permit license, shall be deemed to legalize any act which otherwise may be in violation of the law, including the violation of the City's zoning codes, or to exempt any person from any penalty for such violations.

(B) Payment of fees and renewal of business registration permit license.

(1) All fees may be set by resolution.

(2) All permits licenses will expire on December 31 of the year in which it is obtained. Renewal applications for business registration permits licenses must be received by the Finance Department no later than the date of expiration. Renewals not received by such date will be suspended and an administrative fee may be levied for late renewal.

(C) Suspension of License

(1) The City may suspend a license for a period of time not to exceed thirty days if the City determines that a licensee, has violated or is not in compliance with any provision of this code applicable to the business or activity.

(D) Revocation of License

(1) The City may revoke a license if it is determined that (i) any person who submitted an application for a business license pursuant to this article, gave false or misleading information in the application or in connection with the application process; (ii) any person, designated agent or manager knowingly operated the business during a period of time without a license or when the license was suspended; (iii) any person who submitted an application for a business license pursuant to this article is convicted of a felony involving theft, forgery, a fraudulent or dishonest

act, or a misdemeanor involving moral turpitude; (iv) a person has been issued three notices of suspension of license within a twenty-four month period.

(E) Appeals

(1) Any person that has their license suspended, revoked, or has their application for a license denied, may appeal that decision to the city manager or their designee. Such person must file a written statement requesting an appeal with the Finance Department within fourteen (14) days after they receive notice of suspension or revocation of the license or denial of application for issuance of a license. The city manager or designee will set a time and place for hearing the appeal and shall notify the person appealing of the time and location of the hearing at least ten (10) days prior to the scheduled hearing. The burden of proof at the hearing shall be on the applicant or licensee to establish, by a preponderance of the evidence, that he or she should be issued a license to operate a business. The city manager or designee shall issue a decision within ten (10) business days after the hearing is concluded. The decision of the city manager or designee shall be final except for any judicial proceedings available by law.

§ 8-7-5 [Reserved]-Exemptions.

(A) The following are exempted from obtaining a business license under this article:

- (1) An individual engaging in a casual activity or sale as defined by this article;
- (2) Home Occupations, as defined by this article, that do not receive customers clients or patrons at any time.
- (3) The practice, transaction or carrying on of any business conducted by the federal, state, or local government;
- (4) Religious institutions engaged solely as a place of worship;
- (5) Nonprofit organizations that have obtained 501(c) status, however this section shall not apply to persons or non profit organizations operating residential treatment or care facilities that are required to be licensed by the State of Arizona;
- (6) Public schools;
- (7) School aged children enrolled in a public or private school engaging in school authorized or school sponsored fund-raising activities;
- (8) Employees of any business either possessing a license or that are exempt from having to possess a license;
- (9) An independent contractor and/or sales representative who is not registered as a separate legal entity and only offers products or services on behalf of a parent organization such as the sale of health and beauty products, kitchen utensils, jewelry, beautician services or other services or products;
- (10) Any person engaging in business within a residence or residential district that solely provides educational lessons or tutoring including, but not limited to, lessons or tutoring

concerning areas such as music, language, cooking, or swimming on an individual basis;

- (11) A real estate licensee engaged in the sale or resale of real property; provided the office or branch of the agency, company, or business under which that person works or is contracted either possesses a city license to do business in the city or town in which the branch or agency's primary place of business is located or the person is licensed pursuant to A.R.S. title 32, chapter 20, article 2;
- (12) A person who provides solely caregiving, childcare, or babysitting services and who is not required to be licensed by the State of Arizona pursuant to A.R.S. Title 36;
- (13) Special event vendors, any person conducting business solely at a special event, or a promoter/sponsor of a "special event" as defined by Goodyear City Code;
- (14) Any person who engages in the leasing or renting of residential property located within the city and exempt per A.R.S. §9-1304;
- (15) A business with purchasers located in the city if the person is required to pay tax in this state only because the person's business exceeds the threshold provided in section A.R.S. §42-5043;
- (16) Captive insurers as defined by A.R.S. § 20-1098(10), and in accordance with A.R.S. § 20-1098.17(A);
- (17) Businesses with city franchise agreements or city telecommunications license agreements; and
- (18) Any other person or profession exempted by Arizona state law from business licensing requirements.

(B) Notwithstanding the above any person exempted from obtaining a license from the city shall be required to ensure that the city's zoning regulations, city codes, state licensing requirements and state statutes are complied with. Exemption from any city license requirements shall not be deemed to validate the conduct of any business, activity, calling, vocation, profession, or trade at the address or location.

§ 8-7-6 Display or posting of permit license.

(A) Every person engaged in business at a fixed location within the City shall display a business ~~registration permit~~ license issued hereunder in some conspicuous part of the place of business.

(B) Every person engaged in business within the City but that does not have a fixed place of business shall carry a business ~~registration permit~~ license with him or her at all times while carrying on the business or other activity for which the ~~permit~~ license or any renewal thereof was granted, provided that persons who are engaged in the business of leasing or renting buildings or other structures used for commercial or business purposes are not required to display a ~~permit~~ license at such premises or to carry such ~~permits~~ licenses with them. ~~Other structures used for commercial or~~

~~business purposes are not required to display a permit at such premises or to carry such permits with them.~~

(C) Every person having a business ~~registration permit~~ license under the provisions of this article shall produce and exhibit a business ~~registration permit~~ license whenever requested to do so by any police officer, code compliance officer, or by any other authorized person.

§ 8-7-7 Inspection of ~~permit~~ license.

The City's code compliance officers, the Chief of Police or any other duly authorized law enforcement official have the authority to:

(A) Enter, free of charge and at any reasonable time, any place of business open to the public for which a business ~~registration permit~~ license is required by this article;

(B) To request exhibition of the business ~~registration permit~~ license for the current period of time from any person engaged or employed in carrying on any business at the place of business; and

(C) If a business ~~registration permit~~ license is not produced pursuant to such request, to require the disclosure of any or all of the information requested in the City's business license ~~registration permit~~ application.

(D) City shall conduct annual inspections, in addition to any annual fire inspections completed by the City Fire Department, of a licensed business for the health and safety of citizens and customers of the business. Notwithstanding the above, Home Occupations shall only be inspected as needed.

§ 8-7-8 Location restrictions.

(A) No ~~permittee-licensee~~ hereunder shall have any exclusive right to any location in a public street, nor shall the ~~permittee-licensee~~ be permitted to operate in any congested area where their operations might impede or inconvenience the public. For the purpose of this article, the judgement of a police officer or code compliance officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public is impeded or inconvenienced.

(B) It shall be the responsibility of the ~~permittee-licensee~~ to ensure that the City's zoning regulations are complied with before applying for a business ~~registration permit~~ license and during the term of the ~~permit~~ license. The issuance of a ~~permit~~ license shall not be deemed to validate the conduct of any business, activity, calling, vocation, profession, or trade at the address.

§ 8-7-9 Penalty.

(A) A person who fails or refuses to apply for or renew a business ~~registration permit within 30 days of having received a written notice of demand from the Finance Department~~ license shall pay a penalty of \$250 except upon a demonstration that the failure to apply for or renew a business ~~registration permit~~ license was due to reasonable cause ~~and not due to willful neglect~~.

(B) A person who fails to comply with any request of any city code compliance officer, the Chief of Police or any other duly authorized law enforcement official pursuant to the authority granted hereunder shall pay a penalty of \$500.

(C) A first violation of operating a business without a license shall result in the imposition of not less than a \$300 fine; for a second or any subsequent offense the mandatory minimum fine is not less than \$1,000 and not more than \$2,500.

§ 8-7-10 Enforcement.

(A) ~~Violation of any section of this article is a civil violation, and Article 18-1 of this code governs the enforcement of the provisions of this article.~~ Except as otherwise provided, any person found to be operating a business without a license may be issued a notice of violation and provided 30 days in which to correct the violation. Every person who practices, transacts, or carries on any business within the city is civilly responsible for every violation of this article which exists with respect to such practice, transaction, or carrying on of any business within the city. Each person that violates any provision of this chapter shall constitute a separate violation of this chapter for each and every day that such business is practiced, transacted or carried on.

(B) Every person who has previously received two citations within the preceding twenty-four months for a violation of this article and intentionally, knowingly, willfully, recklessly, or negligently commits, causes, allows, or permits a violation of this article is guilty of a class 1 misdemeanor.

(C) A violation of any provision of this Chapter may be pursued civilly and/or criminally, and subject to all penalties, as provided in Article 1-8 and Chapter 18 of the Goodyear City Code.

(D) The penalties set forth in this article are non-exclusive and the City may seek any and all legal and equitable relief permitted by law.

(E) In the event any person or entity defaults on any obligation to pay a fee or fine under this chapter, the City may collect such unpaid amounts by any method provided by law including but not limited to attachment and foreclosure of a lien on the property listed in the application of the business.

(F) In any action brought under or arising out of any of the provisions of this article, the fact that the defendant engaged in any business for which a ~~permit~~ license is required by this article or that the

party exhibited a sign indicating the existence of a business shall be prima facie evidence that the person is engaged in business.

(G) If a person has previously received a citation or a summons and complaint for a violation of a section of this chapter, then, with respect to every subsequent violation of the same section, such person shall be presumed to act intentionally, knowingly, willfully, recklessly or negligently. The person may introduce evidence to rebut this presumption.