

MILLVILLE CITY CODE
TITLE 5 - BUSINESS LICENSES AND REGULATIONS
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5.04.010: DEFINITIONS

As used in this title:

BUSINESS: Means and includes all activities engaged in within this municipality carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically provided.

EACH SEPARATE PLACE OF BUSINESS: Each separate establishment or place of operation, whether or not operating under the same name, within the municipality, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible personal property at either retail or wholesale, or both, in the municipality.

EMPLOYEE: The operator, owner or manager of a place of business and any persons employed by such person in the operation of such place of business in any capacity and also any salesperson, agent or independent contractor engaged in the operation of the place of business in any capacity.

ENGAGING IN BUSINESS: Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his or her employer under any contract of personal employment.

PLACE OF BUSINESS: Each separate location maintained or operated by the licensee within this municipality from which business activity is conducted or transacted.

WHOLESALE: A sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.

WHOLESALE: A person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale. (Prior code § 9-111)

5.04.020: BUSINESS LICENSE REQUIRED

It shall be a class B misdemeanor for any person to transact, engage in or carry on any business, trade, profession, calling or to operate a vending, pinball or coin operated machine without first receiving the class or type of license required by the municipality. (Prior code § 9-112)

5.04.030: LICENSE ASSESSOR AND COLLECTOR

The recorder is designated and appointed as ex officio assessor of license fees for this municipality. On receipt of any application for a license, the recorder shall assess the amount due thereon and shall collect all license fees based upon the rate established by resolution. He or she shall enforce all provisions of this title, and shall cause to be filed complaints against all persons violating any of the provisions of this title. All new business license applications will be reviewed and accepted or rejected by the city council in a regularly scheduled council meeting (Ord. 2018-4, 2003-1, 2003)

5.04.040: PAYMENT DATES

All license fees shall be due and payable as follows, except as may be otherwise provided in the applicable ordinance:

- A. Annual fees shall be payable before each calendar year in advance. The annual license shall date from January 1 of each year and shall expire on December 31 of each year.
- B. Annual fees shall be due on the first day of each calendar year and shall become delinquent and subject to the late penalty if not paid by February 1 each year.
- C. One-half ($\frac{1}{2}$) of annual fee shall be payable for all licenses issued by the municipality pursuant to applications made after July 1 of each year, and licenses issued after July 1 shall expire on the following January 1. Payment shall be due upon the date of application approval. (Ord. 2018-4; Prior code § 9-114)

5.04.050: PENALTY FOR LATE PAYMENT

If any license fee is not paid by February 1, a penalty of fifty percent (50%) of the amount of such license fee shall be added to the original amount thereof. If a license fee is not paid by the last day of February, the total license fees due shall be doubled. If any license fee is not paid by March 31, a new application must be filed with the application fee and any and all late fees. The business license will be subject to all city, state, and/or federal codes and any other applicable rules and regulations in effect as of the date the new application is filed. (Ord. 2018-4; Prior code § 9-115)

5.04.060: APPLICATIONS FOR LICENSE

- A. All applications for license shall include:
1. The name of the person desiring a license;
 2. The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on;
 3. The class of license desired, if such licenses are divided into classes;
 4. The place where such business, calling, trade or profession is to be carried on, giving the street number if the business, calling, trade or profession is to be carried on in any building or enclosure having such number;
 5. The period of time for which such license is desired to be issued.
- B. In the event that the license application relates to a coin operated machine or device, the application shall identify the machine or device to which it applies and the location thereof. (Prior code § 9-116)

5.04.070: CERTIFICATE

All certificates of license shall be signed by the licensing official and shall contain the following information:

- A. The name of the person to whom such certificate has been issued;
- B. The business name;
- C. A unique business license number;
- D. The term of the license with the commencing date and the date of its expiration;
- E. The place where such business, calling, trade or profession is to be conducted. (Ord. 2018-4; Prior code § 9-117)

5.04.080: DISPLAY

- A. Every certificate of license issued under this title shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his or her person ready to be shown on request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.
- B. In the event the license is for a coin operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued. (Prior code § 9-118)

5.04.090: TRANSFER OF LICENSE PROHIBITED

No license granted or issued under any ordinance of this municipality shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than therein named to do business or to authorize any other business, calling, trade or profession than is therein named unless by permission of the governing body. (Prior code § 9-119)

5.04.100: REVOCATION OR DENIAL OF BUSINESS LICENSE

- A. Any license issued pursuant to the provisions of this code or of any ordinance of this municipality may be revoked and any application denied by the governing body because of:
 - 1. The failure of the licensee or applicant to comply with the conditions and requirements of this code or any ordinance of the municipality.
 - 2. Unlawful activities conducted or permitted on the premises where the business is conducted.

- B. Prior to the revocation of a license or denial of an application to renew business license, the licensee or applicant shall be given a notice which shall state in substance that the governing body intends to revoke the business license or deny the application to renew, together with the reason or reasons therefor, at a regular or special meeting of the governing body (which shall be at least 10 days and not more than 30 days from the date notice is sent) and that the licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against him or her, to cross examine witnesses and to present evidence as to why the license should not be revoked or the application denied.

- C. The preceding subsection shall not apply to applications for licenses for businesses which have not previously been licensed by the municipality, and such applicants need only be informed that their application has been denied. (Prior code § 9-120)

5.04.110: BRANCH ESTABLISHMENTS

A separate license must be obtained for each separate place of business in the municipality and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license, provided, that warehouses and distributing places used in connection with or incident to a business licensed under this part shall not be deemed to be separate places of business or branch establishments. (Prior code § 9-121)

5.04.120: JOINT LICENSE

Whenever any person is engaged in two (2) or more businesses at the same location within the municipality, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license which shall specify on its face all such businesses. The license tax to be paid shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license tax for such business. (Prior code § 9-122)

5.04.130: RECIPROCAL RECOGNITION OF LICENSES

- A. No license shall be required for operation of any vehicle or equipment in this municipality when:
 - 1. Such vehicle is merely passing through the municipality;
 - 2. Such vehicle is used exclusively in intercity or interstate commerce.

- B. No license shall be required by section 5.04.160 of this chapter of any person whose only business activity in this municipality is the mere delivery in the municipality of property sold by him or her at a regular place of business maintained by him or her outside the municipality where:
 - 1. Such person's business is at the time of such delivery licensed by the Utah municipality or county in which such place of business is situated; and
 - 2. The authority licensing such business grants to licensees of this municipality making deliveries within its jurisdiction the same privileges, upon substantially the same terms as are granted by this section; and
 - 3. Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of this municipality for compliance with health or sanitary standards prescribed by this municipality; and
 - 4. The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.

- C. The recorder shall at the request of any person certify a copy of this section to any municipality or county of the state of Utah to which a copy has not previously been certified. (Prior code § 9-123)

5.04.140: EXEMPTIONS TO LICENSE

- A. No license fee shall be imposed on any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly nonprofit purpose which is tax exempt in such activities under the laws of the United States and the state of Utah, nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state of Utah; nor shall any license fee be imposed upon any person not maintaining a place of business

within this municipality who has paid alike or similar license tax or fee to some other taxing unit within the state of Utah and which taxing unit exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in the city and doing business in such taxing unit.

- B. The license assessor and collector may, with approval of the governing body, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper in effecting the exemption provided for in subsection A of this section.
- C. No license fee shall be imposed for a home-based business unless the combined offsite impact of the home-based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone. To be eligible for fee exemption, the home-based business must meet the following requirements:
 - 1. No customers or clients will go to the home.
 - 2. No large equipment, including trailers, will be stored at the home.
 - 3. Business operations will not impact the neighbors through loud noise, odors, traffic or other unusual activity.

Exempt home-based businesses are required to complete the business license application and renewal processes and are required to have an active business license certificate. Late fees equal to the amounts required of non-exempt businesses to cover clerical costs shall be applied to exempt home-based businesses following the schedule and amounts from section 5.04.050 of this chapter. (Ord. 2018-4)

- D. A business license shall not be required for a business that is operated only occasionally and by an individual who is under eighteen (18) years of age. The City Council will evaluate the size, frequency, duration, visibility and seasonality of the proposed business to determine whether the proposed business is considered occasional. (Ord. 2017-7, 2017; Prior code § 9-124)

5.04.150: FEE NOT TO CONSTITUTE UNDUE BURDEN ON INTERSTATE COMMERCE

None of the license taxes provided for by section 5.04.160 of this chapter shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license tax is believed by a licensee or applicant for license to place an undue burden upon such commerce, he or she may apply to the license assessor and collector for an adjustment of the tax so that it shall not

be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony, show information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The license assessor and collector shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of facts from which he or she shall determine whether the tax fixed by section 5.04.160 of this chapter is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the governing body a license tax for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the governing body is satisfied that such license tax is the amount that the applicant should pay, it shall fix the license tax in such amount. If the regular license tax has already been paid, the governing body shall order a refund of the amount over and above the tax fixed by the governing body. In fixing the fee to be charged, the license assessor and collector shall have the power to base the fee upon any method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature. (Prior code § 9-125)

5.04.160: ANNUAL FEE SCHEDULE

The business, location, trade, calling or profession of every person engaged in a business in this municipality shall pay an annual license fee as set by resolution. (Prior code § 9-211)