

Title 5 BUSINESS LICENSES AND REGULATIONS

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Chapter 5.04 BUSINESS AND OCCUPATION LICENSES

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5.04.010 Definitions.

As used in this chapter:

"Business" means professions, trades, occupations, shops, and all and every kind of calling carried on for profit or livelihood.

"Hawker" means any person who, for himself or herself, or as agent of another, carries for sale and offers or exposes for sale any goods, wares, merchandise, produce, or any article or thing for which a price is asked in or on the streets, or who offers or exposes for sale any such commodity from a doorway, recess, alleyway, vacant lot, or other place facing on a street, whether making outcry or not.

"Peddler" or "peddling" means any sale, or offering for sale, or exposing for sale of any goods, wares, merchandise, produce, or any article or thing for which a price is asked by a peddler in pursuance of his or her occupation as a peddler.

"Solicitor" means any person who goes from house to house or from place to place in the city, selling or taking orders for, or offering to sell or take orders for goods, wares, merchandise, or any other article for future delivery, for services to be performed in the future, or for the making, manufacturing or repairing of any article or thing whatsoever for future delivery, excepting interstate commerce.

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(Prior code § 8.000)

5.04.020 Purpose of occupational tax.

- A. It is necessary that an occupational tax be levied and fixed for the purpose of securing revenues to assist in regulating and defraying the cost of police and fire protection and cost of other necessary municipal services.
- B. The occupational tax required by this chapter shall be in addition to general ad valorem taxes now or hereafter levied pursuant to law, and shall be in addition to license fees prescribed in other parts of this code.
- C. Nothing in this chapter shall be construed to apply to any person transacting and carrying on any business within the city which is exempt from taxation or regulation by the city by virtue of the constitution of the United States, the state of Oregon, or applicable statutes of the United States or the state of Oregon.
- D. The levy or collection of an occupational tax upon any business shall not be construed to be a license or permit of the city to the person to engage therein in the event such business shall be unlawful, illegal, or prohibited by the laws of the state of Oregon, the United States, or other provisions of this code. All businesses shall conform to all federal, state, and local laws and regulations with the exception of the federal Controlled Substances Act as it pertains to marijuana legal under the laws of the state of Oregon.

(Prior code § 8.005)

(Ord. No. 2016-001, § 1, 1-25-2016)

5.04.030 Occupational tax.

- A. No person may transact and carry on any such business in the city without first having obtained a certificate of occupation therefor for the current calendar year as herein provided or without complying with any and all applicable provisions of this chapter.
- B. A tax year for the purposes of this chapter shall commence January 1st of each year and terminate at midnight December 31st of the same year. The occupational tax required shall be due and payable on the first day of January of each year for the calendar year following and shall be delinquent on and after the following first day of February. The occupational tax for persons engaged in any trade, shop, business, occupation, profession, or calling after January 1st any year shall be prorated to the closest quarter of such year and shall be delinquent if not paid within thirty (30) days after the commencement of such occupation.
- C. Each branch establishment of business or location of a business conducted by any person shall, for the purposes hereof, be a separate business and subject to the tax provided in Section 5.04.040, but warehouses used solely incidental in connection with a business license pursuant to the provisions of this code and operated by the person conducting such business shall not be separate places of business or branch establishments.
- D. No person whose income is based solely on an hourly, daily, weekly, monthly, or annual wage or salary shall, for the purpose of this chapter, be deemed a person transacting and carrying on any business in the city.
- E. The agent or agents of a nonresident proprietor engaged in any business for which a tax is required by this chapter shall be liable for the payment of the fee provided in Section 5.04.040 and for the penalties for failure to pay the same or to comply with the provisions of this chapter to the extent and with like effect as if such agent or agents were themselves proprietors.

(Ord. 2002-1 § 1 (part); prior code § 8.010)

5.04.040 Amount of occupational license fee.

- A. Each business or trade operating from a regular place of business in the city shall pay an occupational license fee, as set by resolution of the council, to the city.
- B. Each business or trade not operating from a regular place of business in the city shall pay an occupational license fee, as set by resolution of the council.
- C. Nonprofit service organizations shall not be subject to the occupational license fee prescribed herein, provided their statement of nonprofit is on file with the city.

(Ord. 2002-1 § 1 (part); prior code § 8.015(1), (3)—(5))

5.04.050 Occupational certificate.

- A. A certificate of occupation shall be issued by the recorder upon written application.
- B. The application for such certificate shall contain, but not limited to, the following information.
 - 1. A description of the type of business;
 - 2. The name of the applicant;
 - 3. The physical location of the business;
 - 4. Date of application;
 - 5. Annual license fee;
 - 6. Signature of applicant.

(Prior code § 8.020)

5.04.060 Misleading statements, nonpayment and reclassification.

- A. No person may wilfully make any false or misleading statement to the recorder for the purpose of determining the amount of any occupational tax herein provided to be paid by any such person, or to fail or refuse to comply with any of the provisions of this chapter to be complied with or observed by such person, or to fail or refuse to pay before the same shall be delinquent any occupational tax or penalty hereby required to be paid by any such person.
- B. In the event any person hereby required to pay an occupational tax shall fail or neglect to obtain the same before it shall become delinquent, the recorder shall collect upon the payment therefor and in addition thereto a penalty of five percent of the tax therefor for each calendar month or fraction thereof the same shall be delinquent.
- C. Nothing herein contained shall be taken or construed as vesting any right in any tax payer as a contract obligation on the part of the city as to the amount of the tax hereunder. Other or additional taxes or fees and the tax herein provided for may be increased or decreased and additional or other taxes provided for and levied in any and all instances at any time by the city, and any business may be reclassified or subclassified at any time and other or additional taxes levied upon any thereof or parts thereto.

(Prior code § 8.025)

5.04.070 Additional remedies.

The conviction of any person for violation of any of the provisions of this chapter shall not operate to relieve such person from paying any tax or penalty thereupon for which such person may be liable, nor shall the payment of any tax be a bar or prevent any prosecution in the municipal court of any complaint for the violation of the provisions of Sections 5.04.010 to 5.04.060.

(Prior code § 8.030)

5.04.080 Notice of objection.

- A. Any person who deems himself or herself to be aggrieved by the classification or imposition of the tax under the terms of Sections 5.04.010 to 5.04.060 shall have the right, within ten (10) days after notice of his or her classification and the amount of his or her taxes, to file a notice of objection to such classification or tax with the recorder. Such notice of objection must be in writing, signed by the person so objecting. Upon the filing of an objection with the recorder, the recorder shall notify the mayor, and the mayor shall appoint a board of appeal to hear such objection. The board of appeal shall consist of three members of the council and three persons subject to tax under the terms of Sections 5.04.010 to 5.04.060, two of whom must be residents of the city. Within thirty (30) days after filing of such objection, the board of appeals shall meet and hear the objections so presented. The same board of appeal may be appointed by the mayor to hear several appeals if the mayor deems such a procedure to be expedient. Several hearings may be set for the same session of the board of appeal.
- B. After the hearing on any objection, the board may forthwith render its decision pursuant to the powers hereinafter set forth and notify the objecting party and note the same in the minutes of the board. The board may, at its option, take such objection under advisement for a period to not exceed ten (10) days and shall, under such circumstances, mail to the objecting party notice of its decision at such address as may be designated by the objecting party, such mailing to be within ten (10) days following the hearing. Failure of the board to act upon any objection within ten (10) days following the hearing shall be deemed to be an automatic allowance of the objection made.
- C. The board shall choose one of its members to act as secretary and one of its members to act as chairperson, and shall conduct its proceedings in an orderly manner and make such rules as may be necessary for the conduct of the proceedings. Upon the completion and decision of all matters pending before any board of appeal appointed at any time, the board shall be automatically dissolved.
- D. The board of appeal, in rendering its decision with regard to any such objection, may change the classification of objecting individuals or firms to such classification as the board may deem proper. The board of appeal may reduce the amount of tax assessed against any individual or firm when it appears to the board that the business is only a part-time business or there is other compelling reason why the full amount of tax as specified in this code would be unreasonable, inequitable or unjust. A decision by the board disallowing the objection shall be deemed to be a decision that the classification and amount of tax are both reasonable, equitable and just. Decisions of the board as to all matters of objections brought before it shall be final, and no facts examined and found by the board shall be reexamined and found by the council or any other governmental unit or body.

(Prior code § 8.035)

Chapter 5.08 ALCOHOLIC BEVERAGES

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5.08.010 Occupational fee.

In addition to the provisions set out in Section 5.04.040, alcoholic beverage distributors and dispensers shall pay an alcoholic beverage occupational fee as set by resolution of the council.

(Prior code § 8.015(2))

Chapter 5.12 AMUSEMENT DEVICES

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5.12.010 Amusement device tax act.

This chapter shall be known as the "amusement device tax act."

(Prior code § 8.100)

5.12.020 License tax.

A license tax for revenue purposes only is imposed on amusement devices. The tax shall be in the annual sum of fifty dollars (\$50.00) on each amusement device displayed or operated within the city; provided, however, if any business shall have on display more than five but less than sixteen (16) such amusement devices, the amusement tax shall be the sum of two hundred fifty dollars (\$250.00). If any business shall have on display sixteen (16) or more such devices, the tax shall be in the annual sum of two hundred fifty dollars (\$250.00) plus twenty-five dollars (\$25.00) for each such device over fifteen (15) in number. If an amusement device is first displayed or operated after the commencement of the calendar year, the amount of the tax on such device shall be reduced by one-twelfth for each month of the calendar year which shall have expired prior to the date the amusement device was first displayed or operated.

(Prior code § 8.105)

5.12.030 Definitions.

For the purpose of the amusement device tax act, the following definitions shall apply:

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"Amusement device" means any coin or token-operated device which is designed for amusement. Amusement devices shall include, but not be limited to, coin-operated devices for the production of music, visual displays, games of skill or chance or tests of strength. Amusement devices shall include, but not be limited to, devices commonly referred to as "jukeboxes," "video games," "pinball machines," "shuffle boards," "pool tables," and "bowling machines." Amusement devices shall not include coin-operated devices used exclusively for the purpose of dispensing goods or services or for coin-operated machines used to regulate or to permit the use of or access to any public or private place, such as a coin-operated gate, turnstile or meter.

"To display" means the placement of an amusement device in any place for the use by the public, including placement in any private club, lodge, fraternal society, church or other like organization whose membership is limited to a portion of the public.

(Prior code § 8.110)

5.12.040 Amusement tax device tax certificate.

Upon payment of the amusement device tax the recorder shall issue to the person paying such tax an amusement device tax certificate which shall specify the year for which the tax has been paid, the total number of devices for which the tax has been paid, and shall describe the devices on which the tax has been paid, and the premises on which the devices are to be displayed. In the event that the person paying the amusement device tax wishes to replace or relocate within the city an amusement device, the clerk shall, upon payment of the sum of five dollars (\$5.00), issue an amended certificate.

(Prior code § 8.115)

5.12.050 Display of amusement device tax certificate.

It is unlawful for any person to display an amusement device unless there is posted in a prominent place on the premises where the amusement devices is displayed an amusement device tax certificate describing the amusement device displayed, and evidencing the payment of the amusement device tax on such device for the year in which the device is displayed.

(Prior code § 8.120)

5.12.060 Violation.

In addition to any other penalty which may be imposed for violation of the amusement device tax act, any amusement device which is displayed in violation of the amusement device tax act may be confiscated by the city and destroyed as contraband.

(Prior code § 8.125)

Chapter 5.16 SECURITY PATROL SERVICES

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5.16.010 Definitions.

As used in this chapter:

"Employee" does not include an independent contractor.

"Person" means any individual, association, firm, business or corporation.

"Security patrol service" means the furnishing of any service designed to protect the person or property of another from loss due to unlawful acts, fire or other calamity performed by a person for compensation; except that a watchman or guard hired by, and an employee of, the possessor of any real property, to protect the possessor's real property and the personal property or persons of individuals thereon, shall not be deemed to be engaging in a security patrol service.

(Prior code § 8.300)

5.16.020 Security patrol service license required.

No person shall operate or offer to operate a security patrol service without first obtaining a security patrol service license.

(Prior code § 8.305)

5.16.030 Employment permit required.

No employee of a security patrol service shall perform any act within the city in the furtherance of his or her employer's business as a security patrol service without first obtaining a security patrol service employee permit.

(Prior code § 8.310)

5.16.040 Application for license or permit.

Application for security patrol service licenses and security patrol service employee permits shall be made in writing to the city administrator on forms provided by the city administrator. No application will be accepted unless it is accompanied by the proper application fee. Application fees are nonrefundable.

(Prior code § 8.315)

5.16.050 Investigation and issuance of license.

The city manager upon receipt of an application required by Section 5.16.040 shall review the application and make an investigation of the applicant within fourteen (14) days from receipt of the application and shall make investigative findings approving or rejecting the application. The city manager shall reject the application if he or she finds that the applicant or any agent or employee of the applicant has:

- A. Knowingly and wilfully given any false information in connection with the application;
- B. Been convicted of a felony or any misdemeanor involving a breach of trust or moral turpitude or for any violation of any law concerning the possession or use of firearms;
- C. Been declared by any court of competent jurisdiction incompetent by reason of mental disease or defect and has not been restored;
- D. Had a security patrol license or permit revoked by this or any other jurisdiction.

(Ord. 2000-23 § 1: prior code § 8.320)

5.16.060 Bonded insurance required.

Prior to the issuance of a security patrol service license, the applicant shall furnish the city a surety bond and a certificate evidencing liability insurance. The surety bond shall be in the sum of fifty thousand dollars (\$50,000.00) with surety satisfactory to the city conditioned that the applicant shall well and faithfully observe and comply with the terms and conditions of the license granted. The certificate of insurance shall certify that the applicant has obtained a policy of liability insurance insuring the applicant against liability for property damage up to one hundred thousand dollars (\$100,000.00) liability, for bodily injury or death up to five hundred thousand dollars (\$500,000.00) per person and one million dollars (\$1,000,000.00) per occurrence arising out of the negligent acts or omissions of the applicant, his or her agents or employees in the conduct of the security patrol service. The certificate shall evidence that the policy contains a provision requiring the insurer to notify the city prior to the termination of the insurance coverage.

(Ord. 2000-23 § 2: prior code § 8.325)

5.16.070 Terms and conditions of licenses and permits.

Security patrol licenses and security patrol service permits shall be issued upon the following terms and conditions:

- A. Uniforms and vehicles used by the licensee or permittee shall not be the same as or deceptively similar to those used by any public law enforcement agency in the geographical area. All uniform and vehicle designs and identifying marks shall be approved by the city manager prior to use.
- B. Security patrol services and their employees shall comply with all applicable laws and regulations of the United States, the state of Oregon, and Clackamas County concerning security patrol, guard agencies, and the use and possession of firearms.
- C. No person employed by a security patrol service shall be under the influence of any intoxicant or shall consume any alcoholic beverage or unlawful drug while on duty.
- D. The licensee shall furnish the city manager with the names and addresses of all new accounts and notification of the loss of previous accounts within ten (10) days of the acquisition or loss of any account.

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- E. That all licensees and permittees report immediately to the Sandy Police Department all information obtained by any licensee or permittee relating to criminal or suspected criminal activity within the city.
- F. Upon the breach of any condition upon which a license or permit is issued or the occurrence of any circumstance which would justify the refusal to issue a license or permit, or a finding of a misrepresentation furnished in or with an application for a license or permit, the license or permit may be revoked or suspended by the city manager.

(Ord. 2000-23 § 3: prior code § 8.330)

(Ord. No. 2013-004, § 2, 11-25-2013)

5.16.080 Appeals.

A person who has been denied a security patrol service license or a security patrol service employee permit, or who has had a license or permit suspended or revoked, may appeal such action to the city council. The appeal shall be made in writing and shall be presented to the city administrator within fifteen (15) days of the date of receipt of notice of the action appealed from. If such appeal is timely filed, the city council shall hold a public hearing on the appeal within forty-five (45) days from the date of filing of the notice of appeal. The council may affirm, reverse or modify the action of the city administrator.

(Prior code § 8.335)

5.16.090 Period of license.

Security patrol service licenses and employee permits shall create no vested rights. Licenses and permits shall be issued on a calendar year basis and shall expire on December 31st of the year in which they are issued; provided, however, that, if the initial license or permit is issued on or after November 1st, it shall be valid for the next following calendar year.

(Prior code § 8.340)

5.16.100 Renewal of license and permits.

At least thirty (30) days prior to the expiration of any security patrol service license or security patrol service employee permit, and upon any change in the officers, managing employees, stockholders or partners of a security patrol service, the licensee or permittee shall apply for renewal thereof. The application for renewal shall contain the same information as required for an initial application or, in the alternative, a statement of the particulars in which the information furnished with the initial application has changed. Upon such investigation as the chief of police deems proper, the license or permit shall be renewed if the city administrator finds that the applicant remains qualified as in the case of an original application.

(Prior code § 8.345)

5.16.110 Fees.

- A. The application fees for security patrol service employee permits shall be:
 - 1. One hundred dollars (\$100.00) for a new security patrol service license;

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2. Twenty-five dollars (\$25.00) for the renewal of a security patrol service license;
3. Fifty dollars (\$50.00) for a new security patrol service employee permit;
4. Twenty-five dollars (\$25.00) for the renewal of a security patrol service employee permit.

B. The license fees provided herein shall be in lieu of all other license fees provided for in this code.

(Ord. 2000-23 § 4: prior code § 8.350)

Chapter 5.20 SIDEWALK RESTAURANT SERVICE

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5.20.010 Permit required.

No person shall conduct a business as defined in Section 5.20.020 without first obtaining a permit from the city. It is unlawful for any person to provide sidewalk restaurant service on any sidewalk within the city except as provided by this code.

(Prior code § 8.570)

5.20.020 Definitions.

As used in this chapter:

"Commercial zone" means property which is zoned C1, C2 or D1 pursuant to this code, or any other zone which may be created as a successor zone to such existing commercial zones.

"Sidewalk" means that portion of the street, intended for use by pedestrians, which is between the curb lines or the lateral lines of a roadway and adjacent properties.

"Sidewalk restaurant service" means serving food or beverages from a cafe or restaurant located in a building on property directly adjacent to the sidewalk, to patrons seated at tables located within the sidewalk area directly adjacent to the cafe or restaurant.

(Prior code § 8.572)

(Ord. No. 2014-005, § 1, 8-11-2014; Ord. No. 2015-005, § 1, 6-8-2015)

5.20.030 Permit fee.

The fee for obtaining a sidewalk restaurant service permit, if any, shall be set by the council by resolution.

(Prior code § 8.574)

5.20.040 Permit application.

Application for a sidewalk restaurant service permit shall be made on a form to be provided by the city. Such application shall include, but not be limited to, the following information:

- A. Name and address of the applicant;
- B. The expiration date of applicant's business license;
- C. A drawing showing the width of the applicant's cafe or restaurant facing the sidewalk area requested to be used, location of doorways, width of sidewalk (distance from curb to building face), location of trees, parking meters, bus shelters, sidewalk benches, tree or trash receptacles, or any other semi-permanent sidewalk obstruction;
- D. A drawing showing the area requested for use as a sidewalk cafe or restaurant with the table locations together with the area which will be occupied by the tables and accompanying chairs, and the location and size of any features used to delineate the area. This may be done in the same drawing required under subsection C of this section;
- E. If the applicant is not the property owner, a letter signed by the property owner, consenting to the providing of sidewalk restaurant service adjacent to the property on which the restaurant is located.

(Prior code § 8.576)

5.20.050 Location, rules and review.

- A. The area to be considered for sidewalk restaurant service must have sidewalks which are ten (10) feet in width or greater.
- B. Sidewalk restaurant service will be located such that there is a clear four-foot-wide passageway compliant with ADA standards.

(Prior code § 8.578)

(Ord. No. 2015-005, § 2, 6-8-2015)

5.20.060 Liability and insurance.

- A. Before a sidewalk restaurant service permit shall be issued, the permittee shall sign a statement that the permittee shall hold harmless the city, its officers, employees and agents, and shall indemnify the city, its officers, employees and agents for any claims for damages to property or injury to persons which may be occasioned by or arise out of any activity carried on under the terms of the permit.
- B. Before a sidewalk restaurant service permit shall be issued, the applicant shall furnish such public liability, food products liability, and property damages insurance as will protect permittee and the city, its officers, employees and agents, from all claims for damage to property of bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance

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shall provide liability coverage of not less than five hundred thousand dollars (\$500,000.00) Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insureds the city, its officers and employees, the property owner, and shall further provide that the policy shall not terminate or be cancelled without thirty (30) days' written notice to the city manager.

(Prior code § 8.580)

5.20.070 Form and conditions of permit.

The permit issued shall be in a form deemed suitable by the city manager. In addition to naming the permittee and other information deemed appropriate by the city manager, the permit shall contain the following conditions:

- A. Each permit issued shall terminate December 31st of the year in which it is issued.
- B. The permit issued shall be personal to the permittee only and is not transferable in any manner.
- C. The permit may be temporarily suspended by the city manager when the sidewalk restaurant service could interfere with public works operations, community events, parades, or other events.
- D. The permit shall be specifically limited to the area shown on the permittee's application.
- E. The permittee shall ensure that its use of the sidewalk in no way interferes with sidewalk users or limits their free and unobstructed passage.
- F. The sidewalk and all things placed thereon shall at all times be maintained in a clean and attractive condition; and at such times that the permittee is not utilizing the sidewalk as authorized, that all tables, chairs and other things shall be removed therefrom. If throw-away utensils, cups or plates are used, or if other trash will be generated by the use, trash containers shall be provided on site for use by the cafe or restaurant patrons.
- G. The permittee shall notify the city manager when sidewalk restaurant service begins.

(Prior code § 8.582)

5.20.080 Denial, revocation or suspension of permit.

- A. The city manager may deny, revoke or suspend the permit for any sidewalk restaurant service when:
 1. The permittee or operator of the facility has violated the provisions of this code;
 2. Any necessary health permit has been suspended, revoked or cancelled;
 3. The permittee does not have insurance as is required in this code.
- B. Upon denial or revocation, the city manager shall give notice of such action to the applicant or permittee in writing stating the action which has been taken and the reason therefor. If the action of the city manager is based upon subsection (A)(2) or (3) of this section, the action shall be effective upon giving such notice to the permittee. If otherwise, such notice shall become effective within ten (10) days unless appealed to the city council by filing a written notice of appeal with the city manager. Any revocation effective immediately may also be appealed to the council by such filing within ten (10) days.

(Prior code § 8.584)

5.20.090 Appeal.

The city manager shall place the appeal on the council calendar at the first convenient opportunity, and shall notify the appellant of the date the matter will be considered. At the hearing upon appeal, the council shall consider the grounds for the denial or revocation and afford the appellant an opportunity to present evidence on his own behalf. The council shall hear and determine the appeal, and the decision of the council shall be final and effective immediately.

(Prior code § 8.586)

Chapter 5.24 MISCELLANEOUS BUSINESS REGULATIONS

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5.24.010 Public dances defined.

For the purposes of Section 5.24.020, a public dance is expressly defined as one at which, for a compensation, either paid directly or indirectly, men and women are permitted to engage in dancing.

(Prior code § 8.200)

5.24.020 Advertising and conduct of dances.

No person, persons, club, lodge, organization or association of persons, or corporations shall advertise or conduct a public dance within the city at a later hour than three a.m.

(Prior code § 8.225)

5.24.030 Garage sales defined.

"Garage sale," for the purpose of Sections 5.24.040 and 5.24.050, means the sale or offering for sale of any goods by any person not holding a valid business license for such purpose. The offering for sale of one item by public display with a sign indicating the item is for sale and the sale of more than one item not offered by public display and where not signs are posted concerning a sale or place of sale are transactions exempt from the provisions of said sections.

(Prior code § 8.250)

5.24.040 Time limit for sale.

It is unlawful for any person to permit, conduct or operate any garage sale for a period longer than seventy-two (72) consecutive hours. No more than two garage sales shall be conducted at any one location during any calendar year.

(Prior code § 8.270)

5.24.050 Permit application.

The application for a permit shall contain the names of the owners of all goods which will be offered for sale at the garage sale. Any person offering goods for sale at a garage sale shall be deemed to have been issued a permit for a garage sale.

(Prior code § 8.275)