

TITLE 3

BUSINESS AND LICENSING REGULATIONS

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CHAPTER 1

LIQUOR CONTROL

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3-1-1: **LICENSE REQUIRED; FEES:** It is hereby required that any person who shall desire to sell beer, wine or liquor at retail within the city under authority of Montana law shall apply for and obtain a license therefor from the city as provided in this chapter, and shall pay for such license an annual fee payable annually in advance. Such fees shall be in the amount of forty dollars (\$40.00) for wine license; sixty dollars (\$60.00) for beer license and eighty dollars (\$80.00) for liquor license. (1985 Code § 5.06.01)

3-1-2 : **APPLICATION FOR LICENSE:**

- A. **Written Application; Appearance Before Council:** Every person required by this chapter to obtain a license and who is applying therefor for the first time, and every person whose license has been previously refused or revoked, must either file with the city clerk-treasurer an application, in writing, as hereinafter specified, or

appear in person before the city council in regular meeting, and shall answer such questions as may be propounded and produce such evidence as the council may request.

- B. Required Information: If such application is made in writing, it shall specify the location of the premises where the business is to be carried on, the names of the persons conducting the business, and shall further state whether such business is to be carried on as a sole proprietorship, partnership or in some other form. (1985 Code § 5.06.02)

3-1-3: COLLECTION OF FEES: The city clerk-treasurer shall be charged with the collection of the license fees herein required. The application, whether made in person or in writing, and any request for renewal of such license shall be accompanied by tender of the required fee. (1985 Code § 5.06.03)

3-1-4: ON PREMISES WINE LICENSE: The applicant shall show to the satisfaction of the council that the sale of wine for on premises consumption, for which the license is sought, would be supplementary to a restaurant or prepared food business. (1985 Code § 5.06.04)

3-1-5: CONDITIONS OF ISSUANCE AND RENEWAL: The issuance and renewal of such license shall be conditioned, among other things, upon the possession by the applicant of an existing license for retail on premises sale of beer and wine issued by the state department of revenue. The applicant shall also be required to have a concurrent retail beer license issued by the city. (1985 Code § 5.06.05)

3-1-6: TERM: All licenses issued under this chapter in anyone year shall expire at twelve o'clock (12:00) midnight on June 30 of each year. (1985 Code § 5.06.10)

3-1-7: LOCATION NEAR SCHOOLS, CHURCHES: The provisions of Montana Code Annotated section 16-3-306(1) shall not apply to Main Street in the city. Any business or enterprise whose premises front Main Street may conduct retail sales of alcoholic beverages, provided

the business shall have first obtained the necessary permits and licenses from the city, state and federal government. (Ord . 294, 4-8-1989)

3-1-8: DEFINITION OF "PREMISES" FOR BEER: A "premises" within the meaning of this chapter is defined as a dispensing bar or any arrangement or device from which beer is dispensed or served. (1985 Code § 5.06 .07)

3-1-9: ONE LIQUOR LICENSE PER PERSON: Not more than one license for the retail sale of liquor shall be issued to any person, firm, association or corporation. (1985 Code § 5.06.08)

3-1-10: TRANSFER PLACE OF BUSINESS:
The licensee may transfer his place of business from one place to another providing he shall make application to and obtain from the mayor and city council leave so to do. Such change shall be noted on the records of the city clerk-treasurer. (1985 Code § 5.06.09)

3-1-11: TRANSFER OF LICENSE:

- A. Application For Transfer: Licenses may be sold and transferred by the licensee, but before any sale or transfer is made, application shall be made, in writing, to the city council for leave to make such transfer. The proposed assignee may be required to appear and answer such questions and produce such evidence as is required of applicants upon first issuance of a license.
- B. Council Action: Such assignment and transfer may be refused by the mayor and city council in their discretion. If leave is granted for an assignment, the city clerk-treasurer shall make proper notations thereof upon the license record. (1985 Code § 5.06.09)
- C. State Approval Required: A transfer of any such license may be made only on application to the city council, accompanied by satisfactory evidence of an approval of the transfer of the license issued by the state department of revenue, for such business.
- D. Prorated Fee; Refund: Where a license hereunder is issued for a period commencing subsequent to the first day of the current year for which such license may be issued, a pro rata fee calculated by a

quarterly basis shall be charged for the balance of such current year; and provided, further, that nothing herein shall be construed to entitle any licensee hereunder to any refund of any portion of any license fee in the event of his discontinuing such business or the suspension or revocation of . this license prior to the expiration of such year. (1985 Code § 5.06.10)

3-1 -12: **DISPLAY OF LICENSE:** All licenses issued under the provisions of this chapter shall , at all times, be prominently displayed in the place of business of such license. (1985 Code § 5.06.11)

3-1-13: **REVOCAION OF LICENSES:** All licenses issued under this chapter shall be revocable by the city council for proper cause, or the council may refuse to reissue or extend such license when its term expires, for the same reason . All such licenses shall be conditioned that the licensee will conduct his business in a quiet, orderly manner and will observe and obey the laws of the United States and the state, and the ordinances of the city and shall further be conditioned that the licensee will not permit upon the premises where his business is 'conducted any disorderly , noisy, offensive or illegal conduct; and such license may be summarily suspended or revoked by the council for a breach of any of the . conditions of the license or any of the terms of this chapter. Where any such license is revoked prior to the expiration of the term for which payment has been made, the unearned portion shall be retained by the city . (1985 Code § 5.06.06)

3-1-14: **PENALTY:** Penalties for the violation of this chapter shall be in accordance with the general penalty found in section 1-4-1 of this code . (1985 Code § 5.06.12)

CHAPTER 2

SOLICITORS

SECTION:

3-2- 1:	Definition
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3-2- 9:	Public Parks
3-2-10:	Door To Door Hours
3-2-11 :	Exceptions
3-2-12:	Revocation

3-2-1: **DEFINITION:** A "solicitor" within the meaning of this chapter is defined to be any person who goes from house to house, or place to place within the corporate limits of the city (or from a stand, wagon, railroad car, motor vehicle, or upon any street or upon any public ground or from temporary quarters within the city, whether such business be conducted by personal contact and interview or by use of telephone for such purposes), selling or taking orders for or offering to sell or take orders for goods, wares, merchandise, professional or personal services, or for the making, manufacturing, or repairing of any article or thing whatsoever, except those selling to merchants for resale. (Ord. 301, 1-1992)

3-2-2: **LICENSE REQUIRED:** It shall be unlawful for any person to act as solicitor within the meaning and application of this chapter unless he or she or their employer shall have first secured a license therefor in the manner provided by this chapter. Each license shall be issued in the name of the applicant and firm and is not transferable to any other person or firm. (Ord. 301, 1-1992)

3-2-3: FEES:

- A. License Fee: The license fee for solicitors hereunder shall be twenty five dollars (\$25.00) per annum for each calendar year or fraction thereof, payable in advance, for each firm employing solicitors as defined in section 3-2-1 of this chapter, and one solicitor employed by said firm. The license fee for each additional solicitor in excess of one employed by any firm shall be ten dollars (\$10 .00) per calendar year or fraction thereof, payable in advance.
- B. Investigation Fee: In addition to said license fee, any person so engaged in such occupation or business who at the time of his application shall not maintain an established place of business within the city shall pay an investigation fee of twenty five dollars (\$25.00), which sum shall be used to investigate the ability of the applicant to qualify for a license under this chapter . Any sum not used for such investigation shall be returned to the applicant. The sum is payable at the time the application is filed. Where the applicant has been previously granted a license within a period of twelve (12) months prior to the date of application, he shall not be required to pay the investigation fee. (Ord. 301,1-1992)

3-2-4: APPLICATION:

- A. Form: Any person desiring to secure a solicitor's license shall apply therefor, in writing, over his or her signature to the clerk-treasurer on forms provided by the city.
- B. Required Information: Such application shall state as to each solicitor:
1. The name and address of each solicitor.
 2. The name and address of the person, firm or corporation by whom employed; if the firm be a partnership, showing the names and addresses of all partners; if the employing firm be a corporation, showing the address of the principal place of business.
 3. The length of service of each such solicitor with such employer.
 4. The place of residence and nature of employment of each solicitor during the last preceding year.

5. The nature or character of goods, wares, merchandise or services to be offered by each solicitor.

6. The personal description of each solicitor, and other such credentials and other evidence of good moral character and identity of each solicitor as may be reasonably required by the clerk-treasurer. (Ord. 301, 1-1992)

3-2-5: BOND:

- A. Immediate Issuance Of License; Amount: If any applicant for a license, including solicitor or his employer, shall be unwilling to receive a license only upon the conclusion of a thirty (30) day period of investigation as provided in section 3-2-6 of this chapter, and he desires the issuance of a license by the clerk-treasurer immediately upon application, he may deposit with the clerk-treasurer a cash or surety bond in the sum of not less than one hundred dollars (\$100.00), at the discretion of the clerk-treasurer or city attorney.
- B. Form Of Bond; Conditions: Such surety bond to be executed by a company authorized to write such bonds in the state, which bond shall be in the favor of the city covering the period for which said license is issued, plus a period of ninety (90) days thereafter, and conditioned that said business will be conducted in a lawful and proper manner and that all goods, wares, merchandise or personal or professional services sold by the solicitor will be delivered in accordance with the terms of the written order, or failing therein, that the advance payment made by the buyer on such order shall be refunded; thereupon such license or licenses may be immediately issued.
- C. Aggrieved Persons: Any person aggrieved by the action of such solicitor shall have a right of action on the bond for the recovery of money or damages, or both.
- D. Return Of Bond: Such remaining cash bond will be returned at the termination of the license, plus a period of ninety (90) days, without interest. (Ord. 301, 1-1992)

3-2-6: ISSUANCE OF LICENSES; TERM: If the chief of police shall determine after thirty (30) days' investigation that the facts set forth in the application are true, that the solicitor is of good moral character and that he proposes to engage in a lawful and legitimate commercial or

professional enterprise, the chief of police shall then approve the application and the clerk-treasurer may issue the license applied for. Such licenses shall expire on December 31 of the year in which such licenses have been issued. Except as herein provided, no license shall be issued until the conclusion of thirty (30) days' investigation. (Ord . 301, 1-1992)

3-2-7: **MUST CARRY LICENSE:** Such license with attached personal description shall be carried at all times by each solicitor for whom issued when soliciting or canvassing in the city and shall be exhibited by such solicitor when requested to do so by any police officer or person solicited. (Ord. 301,1-1992)

3-2-8: **PERMIT RESTRICTIONS:** The city, in its discretion, may restrict a permit to provide that no solicitor shall operate in competition with any local religious, charitable, or social institution when the members of such organization so engaged are bona fide residents of the city, employed without compensation or remuneration, to further and advance the aims and purposes of such institutions . (Ord. 301, 1-1992)

3-2-9: **PUBLIC PARKS:** There shall be no soliciting allowed upon any public park within the city . This provision shall apply to all persons whether licensed or not, and including those exceptions listed in section 3-2-11 of this chapter. (Ord. 301, 1-1992)

3-2-10: **DOOR TO DOOR HOURS:** Solicitors conducting their business from door to door shall operate only between the hours of nine o'clock (9:00) A.M. and five o'clock (5:00) P.M. (Ord. 301, 1-1992)

3-2-11: **EXCEPTIONS:** The provisions of this chapter shall not apply to:

- A. A person using a vehicle owned by him, whether operated by him or his agent, for the transportation of farm produce raised or produced by him on his own or leased premises when the entire course of such transportation extends not more than the confines of the territorial limits of the state .
- B. To any regularly licensed auctioneer in pursuit of his profession.

- C. To any local religious, charitable or social institution when the solicitors so engaged are bona fide residents of the city, employed without compensation or remuneration, to further and advance the aims and purposes of such institutions.
- D. To any regularly established and recognized charitable or welfare institutions or organizations of and within the state and whose benefits are available to any person within the state.
- E. To wholesalers calling upon established businesses in the city.
- F. To all class and year books sponsored by public and parochial schools of the state. (Ord. 301, 1-1992)

3-2-12: REVOCATION: Any such license may be revoked by the clerk-treasurer or chief of police for the violation by the solicitor or by the solicitor's employer of any of the laws of the city or of any state or federal laws, or whenever such solicitor shall, in the judgment of the council, cease to possess the character and qualification required by this chapter for the issuance of such permit. (Ord. 301, 1-1992)

CHAPTER 3

VIDEO DRAW POKER MACHINES

SECTION :

- 3-3-1 : License Required
- 3-3-2: Application
- 3-3-3: Fee; Term
- 3-3-4: Revocation

3-3-1: LICENSE REQUIRED: No person, firm or corporation shall install, operate or engage in the business of an operator or proprietor of a "video draw poker machine" as defined by Montana law without having first obtained a license as provided in this chapter. (Ord. 280,8-1985)

3-3-2: APPLICATION: The applications for such licenses shall be made to the city clerk-treasurer and shall identify the video draw poker machine to be licensed and specify the location of the machine. (Ord. 280, 8-1985)

3-3-3: FEE; TERM: The amount of the annual license fee shall be set and may be changed by resolution of the city council, but in no case shall the fee exceed one thousand dollars (\$1,000.00) for each video draw poker machine. The license expires on June 30 of each year and the fee is prorated. (Ord. 280 , 8-1985)

3-3-4: REVOCATION: The mayor shall have the right to revoke any license issued hereunder for the violation of any state law or administrative regulation governing the operation of video draw poker machines. (Ord. 280,8-1985)