

## CHAPTER 5

### BUSINESS AND OCCUPATIONS

#### **Article 1. License Taxes on Occupations, Etc.: General**

##### **Sec. 5-1. License Tax Levied on Certain Persons, Etc.** *[Amended 4/2009; Ord. No. 09-1067]*

A license is hereby levied on every person, firm, association or corporation engaging in, exercising or pursuing any of the following businesses, professions, trades, occupations or privileges in this city, in the amount respectively indicated:

	Contractor		Journeyman	Apprentice
	First time	Renewal		
Electric	\$100	\$25	\$25	\$25
Mechanical	\$100	\$25	\$25	\$25
Plumbing	\$100	\$25	\$25	\$25

Note: For additional information regarding licensing and registering plumbers and electricians, see Chapter 4 of this code. For licensing of taxi operators, see Chapter 24 of this code.

##### **Sec. 5-2 Payment of License Tax, Issuance of License, Expiration Date, Etc.**

It is unlawful for any person, firm, association or corporation to engage in, exercise or pursue any business, profession, trade, occupation or privilege for which a license tax is levied by the above section or by any other ordinance or ordinance provision without paying the license tax, and securing and possessing a valid license therefore. Upon making proper application to the City Clerk, the payment of the license tax and fulfillment of any other condition which may be prescribed by law and/or ordinance, the City Clerk shall issue a license therefore. Such license taxes shall be credited to the General Fund of the city.

Annual licenses shall expire on the 30<sup>th</sup> day of June of the year for which they are issued. When annual license is issued after six months for the remainder of the year to a person, firm, association or corporation just beginning to engage in, exercise or pursue a business, profession, trade, occupation or privilege, the tax collected shall be a fractional part of the annual tax equal to the fraction of the year remaining, with a minimum of sixty dollar (\$60.00).

Sec. 5-3. Itinerant Trades, Occupations, Businesses. [Amended 4/2009; Ord. No. 09-1067]

There is hereby levied an occupation tax in the amount per annum or per day, at the option of the taxpayer, against persons, firms, associations, and corporations engaged in itinerant occupations, trades, businesses, or solicitations within this municipality in the amount hereinafter specified. Solicitations within this municipality may only be conducted between the hours of 8:00 a.m. and 5:00 p.m., except by appointment.

	<u>Annually</u>	<u>Per Day</u>
1. Agents or solicitors selling or taking orders for sale of books, magazines, periodicals, or publication of any description, each	\$ <u>150.00</u>	\$ <u>20.00</u>
2. Carnival, circus or menagerie where admission is charged	\$_____	\$ <u>100.00</u>
3. Concessions, games and amusements not a part of an organized carnival where fee is charged	\$ <u>150.00</u>	\$ <u>20.00</u>
4. Business or occupation persons selling or undertaking to sell unsolicited services not specifically listed herein	\$ <u>150.00</u>	\$ <u>20.00</u>
5. Shows, including tent shows other than circuses and menageries, where admission is charged, each	\$_____	\$ <u>100.00</u>
6. Salesmen, solicitors, solicitors of donations to public or private charities, vendors and peddlers, either selling or taking orders for retail sale of goods and merchandise not heretofore listed, each	\$ <u>150.00</u>	\$ <u>20.00</u>
7. Produce Vendor	\$50.00	\$10.00
Except Farmers' Market		

Note: See Chapter 9, Article 2 for information regarding Fireworks Stands

#### Sec. 5-4. Definitions

Itinerant occupations, trades, businesses, and solicitations shall mean occupations, trades, businesses, and solicitations having no permanent warehouse, building, structure, residence or place of business within the limits of this municipality at which a permanent business is carried on throughout the year or usual production season in good faith, and not for the purpose of evading the provisions of this article, and shall include occupations, trades, businesses, and solicitation housed in temporary stands or quarters or in permanent quarters occupied pursuant to any temporary arrangement, or carried on by means of house to house solicitation, or upon the streets and sidewalks of the City of Wilburton; provided however that no occupation, trade, or business engaged in by an actual resident in good faith of Latimer County, who has been such a resident for more than ten (10) days, or drives and solicitations for funds or donations carried on and sponsored by any permanent civic, charitable, educational, or religious organization, association or club having a membership duly enrolled in accordance with the rules, regulations and by-laws of said organization, association, or club and the majority of said members being residents of the City of Wilburton or Latimer County, Oklahoma, shall be considered an itinerant occupation, trade, business or solicitation.

#### Sec. 5-5. Separate Licenses Required.

Every person, firm, association or corporation who engages in, exercises or pursues a business, profession, trade, occupation or privilege for which a license is required, at or from more than one place in the city, or who engages in, exercises or pursues more than one such business, profession, trade, occupation or privilege, shall pay the fee, and secure a separate license for each such place and/or for each such business, profession, trade, occupation or privilege.

#### Sec. 5-6. License to be Displayed.

1. Every holder of a license to engage in, exercise or pursue a business, profession, trade, occupation or privilege, shall conspicuously display the license at all times in some part of his place of business or activity where a person who has entered the place may readily see it; or, if he has no particular place of business or activity, shall carry the license and shall display it to any person who requests to see it.
2. Provided that, in lieu of the above manner of displaying such licenses, when licenses are required for coin-operated music or amusement devices, vending machines, and similar devices and equipment, the license may be placed on or attached to such device or equipment in such position and manner that it will be clearly visible; and shall be placed or attached if the license so states on its face.

3. It is unlawful to fail or refuse to display the license as required in this section.

Sec. 5-7. License may be Revoked.

Any license issued to any person, firm, association or corporation to engage in, exercise or pursue any business, profession, trade, occupation, or privilege may be revoked by the city council after adequate opportunity for a hearing for any one of the following reasons:

1. That the licensee is engaging in, exercising, or pursuing the business, profession, trade, occupation or privilege in such a manner that he has created or is creating a public nuisance as defined by 50 O.S. Sections 1 and 2 or Chapter 13 of this code.
2. Serious or repeated violation of the law or ordinances. Provided that valid licenses may be revoked only when the business, profession, trade, occupation or privilege is one which the city council has power to prohibit because of its nature or because of the manner in which it is engaged in, exercised or pursued.

Sec. 5-8. Transfer of License Prohibited.

Assignment or transfer of licenses shall not be permitted in this city.

## **Article 2. Amusement Devices, Shows, Recreation Halls**

### **Sec. 5-9. Proper Operation of Pool, Billiard and Other Recreation Halls; Time When Closed.**

1. It is unlawful for the owner, manager or operator of a pool, billiard or other recreation hall to permit therein gambling; betting; operation of a lottery; sale, furnishing or drinking of intoxicating liquor; disorderly conduct; loud or disturbing language, noise or music; profane language, or to allow assembly outside such establishment; or any other violation of the laws of the state or of the ordinances of the city.
2. It is also unlawful for the owner, manager or operator of such a hall to permit therein fighting, boxing, wrestling, other contests of physical strength, or the sale, furnishing or drinking of non-intoxicating beverages as defined by 37 O.S. Section 163.2 (including so-called "3.2 beer").
3. It is unlawful for the owner, manager or operator of a pool, billiard or other recreation hall to operate such facility to violate any curfew ordinance.

### **Sec. 5-10. Revocation of License.**

The Municipal Judge, after adequate opportunity for a hearing, may revoke the license for the operation of a pool, billiard or other recreation hall for the violation of the laws or ordinances of the city. This procedure is cumulative to that in Section 5-7.

### **Sec. 5-11. Shooting Galleries.**

1. Every shooting gallery constructed, established, set up or operated hereafter shall be constructed, established, set up and operated in accordance with the standards, specifications and requirements of 53 O.S. Sections 701-708, and comply with all the requirements thereof. No shooting gallery shall be operated until a license has been secured therefore in accordance with this chapter. Any violation of any provision of this section or of any provision of 63 O.S. Sections 701-708 shall be punishable as such.
2. It shall be unlawful for an individual, company, association, or corporation to conduct, aid, abet or assist in any dance in any form whatever within the incorporated city limits of the municipality without a proper license issued by the city council or their appointed designee.

### **Article 3. Pawnbrokers.**

#### **Sec. 5-12. Pawnbrokers to Keep Register: Register Subject to Inspection; When Open for Business.**

1. Every pawnbroker shall keep at his place of business a register in which he shall record in ink or with indelible pencil an adequate description of all property purchased, taken or received by him, including any number that may be thereon. He shall record in the register the date when all property is received and also the name and place of residence of the person leaving or pledging the property, including his street and street number if any. He shall also record his age, color, color of eyes and hair, weight and height, unless he is acquainted with him. He shall record in the register the amount loaned, the interest and/or any other charges, and the time when the loan is to become due. All such entries shall be made within one hour after the purchase of receipt of property. The register will be kept clean and legible.
2. The pawnbroker shall give without charge to the person leaving or pledging property a legible ticket containing a true copy of all entries made in the register concerning the property left or pledged.
3. The register herein required to be kept shall be subject to the inspection at any time by any policeman of the city, the sheriff of the county, any deputy sheriff of the county, the city attorney, the county attorney, the mayor and any person authorized in writing to make such inspection by the mayor or the chief of police. Upon request, the pawnbroker shall show to such officer or person for inspection any article or articles purchased, taken or received unless such article or articles have already been legally disposed of.

## **Article 4. Advertising**

### **Sec. 5-13. Throwing Advertising on Street, Etc., Prohibited.**

It is unlawful for any person to throw, leave or deposit, or cause to be thrown, left or deposited upon any street, alley, sidewalk, or other public area any handbill, circular, or other advertising matter.

Note: For provision prohibiting placing signs on property of another without consent, etc., see Section 15-36 of this code.



## **Article 5. Weights and Measures**

### **Sec. 5-14. Short Weights and Measures Prohibited.**

It is unlawful for any person, firm or corporation to sell, or offer for sale, any food, fuel, clothing, or any other commodity which does not weigh or measure fully as much, according to standard weights or measures of the State of Oklahoma, as the weight or measure for which it is sold or offered for sale.



**Article 6. Sale of Merchandise, Etc.**

**Sec. 5-15. Consent Required for Sale of Personal Property on or in Vacant Property.**

It is unlawful for any person, firm or corporation, including a civic or religious organization to sell, barter, trade or transfer any merchandise, wearing apparel or other personal property of any kind on or in any vacant property without the consent of the owner or person in control of said property.

**Sec. 5-16. Auctions on Streets and Sidewalks Unlawful.**

It is unlawful for any person to hold any public or private auction for sale of property on any of the streets or sidewalks of the city; provided that this section shall not apply to the sale of property under any lien, execution or order of any court of the State of Oklahoma or of the United States of America.



## **Article 7. Residential Sales**

### **Sec. 5-17. Definitions.**

Residential sale shall mean any sale of what is held out to be or is commonly known as a garage, porch, room backyard or patio sale or any other type of general sale conducted from or on any premises not located in a zoning district which permits such sales, where goods or articles of any type are held out for sale to the public. This definition shall not include a situation where specific items are held out for sale and all advertisement of such sale specifically names the items to be sold.

### **Sec. 5-18. License Required; Other Ordinances Still Applicable; One License Per Location.**

1. No person shall hold, conduct, engage in, or participate in any manner in a residential sale without a license.
2. The issuance of a license shall not exempt such persons from the terms and provisions of other ordinances.
3. A separate license shall be required for each location at which a residential sale is to be held, and no location shall be eligible for more than one (1) license in any four (4) week period.

### **Sec. 5-19. Application for License.**

An applicant for a license shall furnish the City Clerk with the following information:

1. Full name and address of applicant.
2. The location at which the proposed residential sale is to be held.
3. The serial or identification number of each article to be sold, if it is obtainable.
4. The date or dates upon which the sale is to be held.
5. An affidavit from the applicant to the effect that all goods to be sold at the residential sale are owned by the applicant and have not been obtained for the purpose of reselling them at the sale.

Sec. 5-20. Issuance of License; Exceptions; Pre-Investigation.

1. The City Clerk is hereby authorized to grant a license for a residential sale for a period not to exceed two (2) consecutive days to any person applying who otherwise complies with the requirements of this code.
2. If a residential sale is not held on the dates for which the license is issued or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the license holder to this effect is submitted, the City Clerk may issue another license to the applicant for a residential sale to be conducted at the same location within thirty (30) days from the date when the first sale was to be held.
3. Before issuing a residential sale license, the City Clerk may conduct such investigation as may reasonably be necessary to determine if there is compliance with this code.

Sec. 5-21. License Fee.

There is hereby levied a fee for residential sale licenses. The amount of the fee is five dollars (\$5.00).

Sec. 5-22. Interval Between Sales.

No person shall hold, conduct, engage in or participate in any manner or allow a residential sale to be held or conducted on premises under his control or ownership more than one (1) time in any six (6) month period, subject however to the exception allowed in Section 5-30 of this code.

Sec. 5-23. Signs.

1. Not more than one (1) sign or other device used for the purpose of advertising or otherwise calling attention to a residential sale shall be allowed for each residential sale licensed under this ordinance.
2. The sign, or device, shall be located on the immediate premises where the sale is to be conducted, but in no event shall the sign or device be more than two hundred (200) feet from the sale area.
3. The display surface of a sign or device shall not exceed twelve (12) square feet on each side.

Sec. 5-24. Revocation and Refusal of License.

1. Any license may be revoked or any application for issuance of a license may be refused by the City Clerk if the application submitted by the applicant or license holder contains any false, fraudulent or misleading statement.
2. If any person is convicted of an offense under this article, the City Clerk is instructed to cancel any existing residential sale license held by the person convicted and not to issue such person another residential sale license for a period of two (2) years from the time of conviction.

Sec. 5-25. Sale Area Confined to Premises.

The sale area of any residential sale shall be confined to the premises for which the license has been issued, and in no event shall articles or goods be so displayed as to attract attention, or be conspicuously in view from any public street.

Sec. 5-26. Separate Violations.

Every article sold and every day a sale is conducted in violation of this code shall constitute a separate offense.

Sec. 5-27. Persons Exempted.

The provisions of this article shall not apply to or affect the following:

1. Persons acting pursuant to an order of a court of competent jurisdiction.
2. Persons acting in accordance with their powers and duties as public officials.
3. Duly licensed auctioneers selling at auctions.
4. Charitable organizations or persons when the proceeds from the sale are used directly for charitable purposes and the goods or articles are not sold on a consignment basis.

Sec. 5-28. Separability.

In the event any portion of this article shall be held to be invalid or unconstitutional, the remainder of this article shall not thereby be invalid.

## **Article 8. Oil and Gas Wells.**

### **Sec. 5-29. Permit Required.**

It shall be an offense for any person, partnership, association or corporation to drill, operate, maintain, or abandon any oil and/or gas well within the corporate limits within the City of Wilburton , Oklahoma, or to work upon or assist in any way in such work, unless a permit for such work is authorized by the city council of said city.

### **Sec. 5-30. Application for Permit.**

Such permit shall be issued only to the owners of the oil and gas lease-hold interest and every applicant for such permit shall, at least ten (10) days prior to the proposed commencement of such work, file a written application addressed to the City Council for such permit and such written application shall contain the following information:

1. The name and address of each owner of an interest in the oil and gas lease under which such well is to be drilled, operated, maintained or abandoned.
2. The name and address of the person or firm in charge of the operation and maintenance of such well.
3. The name and address of the person or firm in charge of the work to be done under such permit.
4. The exact location of the well or proposed well where the drilling or other work is to be performed.
5. That the owners of one hundred per cent (100%) of the surface area, exclusive of streets and alleys, within two hundred (200) feet of the proposed well site have consented in writing to the drilling of such well at such location. This requirement shall only apply to an application for a permit to drill a new well. The mere execution of an oil and gas lease shall not be accepted as compliance with this requirement, unless such lease describes specifically the location of the proposed well and consents to such location.
6. That the owners of the leasehold interest and person in charge of the drilling, operation, maintenance or abandonment of such well are familiar with the ordinances of the city and will abide by the provisions thereof.

Sec. 5-31. Supporting Documentation.

If the application is for a permit to drill a new well, said applicant shall attach to his said application exhibits reflecting the following:

1. Exhibit "A": Certificate by bonded abstractor or Attorney at Law authorized to practice law in State of Oklahoma, reflecting names of the owners of interest in the real estate situated within two hundred (200) feet of such proposed well site.
2. Exhibit "B": A plat with detailed, scaled dimensions of the proposed well location, lot and property lines within two hundred (200) feet of such well site, with notation or reference thereon to the surface owner of all such property as reflected by Exhibit "A".
3. Exhibit "C": A scale drawing of the proposed well site reflecting proposed well location of drilling rig, motors, tanks, and other principal equipment to be used in the drilling of such well with reference being made to property lines and structures (nature of structures being noted) located within two hundred (200) feet of such well site.
4. Exhibit "D": A scale drawing of proposed well site reflecting proposed location of equipment, motors, tanks and other installations to be used in the maintenance, operation and other work of such well with reference being made to property lines and structures (nature of structures being noted) located within two hundred (200) feet of such well site.

Sec. 5-32. Bond Requirement.

1. Every applicant at the time of filing its application shall also submit a bond in favor of the city in the amount of One Million dollars (\$1,000,000.00) and executed by said applicant and a corporate surety authorized to do business within the State of Oklahoma and conditioned that said applicant shall:
  - a. Repair immediately any damage to paving, sidewalks, streets, alleys, curbing, parking, sewers or other public property arising out of any work relating to said well, all in accordance with the requirements of the city and its authorized representative under his supervision.
  - b. Pay all fees and sums due the city hereunder and comply and abide by the ordinance of the city and laws of the State of Oklahoma.
2. The city council may increase or reduce the amount of such bond required at or after the issuance of such permit.

3. In the case any bond required herein shall lapse or become void for any reason whatsoever, the permit issued under the terms of this ordinance shall immediately become inoperative and void until a new bond reinstated in full force, and such well shall be shut down and all operations and production thereof suspended and discontinued until the filing of such new bond or reinstatement of such existing bond.

Sec. 5-33. Insurance Requirements.

1. Each applicant shall also submit with its said written application a policy of public liability insurance, insuring said applicant and the city against all claims or causes of action made against either or both applicant and said city for damages to persons or property arising out of the drilling, maintenance, operation or abandonment of such well. The minimum amounts of such insurance shall be \$5,000,000.00.
2. Such insurance policy shall contain a provision that the issuing company will not cancel or change such policy of insurance except after thirty (30) days notice to the applicant and the city.

Sec. 5-34. Justification for Refusal of Permit.

1. No permit shall be granted for the location of any well within six hundred (600) feet of the location of another well for which a permit had previously been granted.
2. The city council shall have the power and reserves the authority to refuse any applicant for a permit where by reason of the location of the proposed well and the character and value of the permanent improvements in its vicinity, and the use to which the land and surroundings are adapted for civic or other purpose, or for other reasons the council considers such proposed well might constitute a hazard to the public health, welfare and safety.

Sec. 5-35. Fee for Permit.

Every applicant shall pay a fee of \$500.00\_ dollars (\$ 500.00) to the city payable within ten (10) days after each anniversary date of said permit. In addition, the city shall receive a royalty from any producing well.

Sec. 5-36. Endangering Public Health.

Every permit granted by the city shall be conditioned that whenever, in the judgment of

the City Council, the public health, welfare and safety is endangered or threatened by reason of the drilling, operation, maintenance or abandonment of said well, said council may, if such condition is not corrected within three (3) days after written notice thereof is given to permit holder, direct the owners and operators of said well to cease and desist in the further work relating to said well and make any further order as such council may deem proper and requisite in the premises in order to remove or avoid such threat or hazard to the public health, safety and welfare whether or not occasioned by such operator or owners.

Sec. 5-37. Operation of Well.

1. Said well shall be cased and casing cemented from the top of said well hole to a depth not less than fifty (50) feet below all fresh water strata encountered in the well and in a manner that will protect such fresh water from contamination resulting from the drilling or operation of the well. Notwithstanding a compliance or attempted compliance with the foregoing requirements of this section, if it is later determined that a fresh water strata exists in the well which has not been properly cased and cemented to the extent and in the manner necessary to protect such fresh water strata from contamination, permit holder shall take such measures as may be necessary to so protect said fresh water strata.
2. The permit holder shall notify the city at least twenty-four (24) hours prior to running the pipe for such work, for the purpose of permitting the authorized representatives of the city to inspect such pipe on the location, and at least two (2) hours and not more than three (3) hours before commencing procedure to cement such pipe, the city shall be notified thereof in order that a representative of the city may observe such procedure.

Sec. 5-38. Power Source for Pumping Units.

Electric power motors only shall be used for pumping units, unless approval for use of other power is granted upon special application and permit of the city council.

Sec. 5-39. Preferential Permit Issuing.

In case there be applications filed with the City Clerk and pending at the same time, for permits to drill in any one drilling area of the city, by more than one applicant, application shall be granted, if otherwise sufficient, which shall be made by the person, association or corporation holding the greater area of the ground in the area, by lease or other contract with the owners, permitting the drilling thereon for oil or gas.

Sec. 5-40. Pollution Control.

The permit holder shall take every reasonable precaution to prevent the escape of noxious fumes, gases, oil or other substances from the location of such well.

Sec. 5-41. Additional Permits Required.

No pipelines, equipment appliance or any structure shall be laid, constructed, erected, maintained or permitted to remain in, or under any street, alley, or public way, without a special permit in writing from the city council.

Sec. 5-42. Chain Link Fence Required.

1. All pumps, tanks and equipment used in the operation of a completed well shall be enclosed on all sides by chain link fence six (6) feet high with steel posts with four strands of barbed wire above such fence.
2. During drilling operations, a watchman shall be maintained on the premises at all times who shall be charged with the responsibility of protecting the general public from any hazard resulting from the conduct of such drilling operations; if such watchman to be employed, then the entire well location shall be fenced as in the operation of a completed well.

Sec. 5-43. Earthen Dikes Required.

All tanks shall be surrounded by earthen dikes of sufficient height so as to contain a capacity of fluid equal to one hundred fifty percent (150%) of the capacity of such tanks.

Sec. 5-44. Permit Revocation.

In the event permit holder should violate or fail to comply with any of the provisions of this ordinance or the order and direction of an authorized representative of the city acting pursuant to the authority granted herein, the city council may cancel the permit or permits theretofore granted by city to said permit holder and the said permit holder shall cease and desist in any work relating to any well, the permit for which has been canceled.

Sec. 5-45. Failure to Collect Tax.

1. A vendor who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied herein, or willfully or intentionally fails, neglects or refuses to comply with these provisions or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or part of the tax herein levied, or makes in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever shall be deemed guilty of an offense.
2. In addition to all civil penalties provided by this article, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this article shall be an offense.
3. The certificate of the tax collector to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this ordinance, shall be presumptive evidence thereof.
4. Any vendor found guilty of committing an offense shall be fined not more than two hundred fifteen dollars (\$ 215.00), plus costs. Each day said offense shall continue shall constitute a separate offense.

Sec. 5-46. Proceeding to Recover Tax.

When any vendor or other person shall fail or refuse to file, files a false report, fraudulently files or fails to collect any tax, pay over any tax or fails to pay any tax penalties due and owing or interest imposed by this ordinance herein provided, the City Attorney shall on the request of the tax collector, bring an action in the appropriate court to enforce the payment of the same.

Sec. 5-47. Penalty for Violations.

It shall be an offense for any person, firm, association or corporation to violate, or fail to comply with, any of the provisions of this ordinances, and upon conviction thereof, such person, firm, association or corporation shall be fined a sum not in excess of two hundred fifteen dollars (\$215.00) inclusive of cost.

## **Article 9. Penalty**

### **Sec. 5-48. Penalty.**

1. Any person, firm, association or corporation who shall engage in any business, profession, trade or occupation, or exercise any privilege, for which a license is required by this chapter, without a valid license as thereby required, or who shall violate any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction, shall be fined in any sum not to exceed two hundred fifteen dollars (\$215.00) including costs.
2. Every day upon which a violation occurs or continues shall be deemed a separate offense.

