

## **Title 5**

### **BUSINESS LICENSES AND REGULATIONS**

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#### **Chapter 5.04**

### **GENERAL BUSINESS LICENSES**

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### **5.04.010 Definitions.**

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the following meanings respectively ascribed to them in this section:

- A. "Business" means any and all industries, pursuits, occupations, avocations, professions, and businesses mentioned in this chapter, except those carried on in a temporary manner by church, civic or fraternal organizations as projects for fund raising.
- B. "Chief executive" means the chief executive of Butte-Silver Bow, state of Montana.
- C. "Council" means the council of commissioners of Butte-Silver Bow, state of Montana.
- D. "Employee," for the purpose of this act, means any person including owners, managers, partners and agents, also including salesmen, and all persons engaged in or associated directly with the management and operation of the business concerned, to include thereby the employees, meaning the persons hired by professional businesses, otherwise exempted from local government licenses by state law. The intention hereby is to include within the persons denominated "employees," all persons hired by, or working for, the business involved, and to include owners and proprietors within said designation.
- E. "Government" means the local government of Butte-Silver Bow, state of Montana.
- F. "Nonprofit organization" means any group which is religious, charitable, social, educational, recreational or scientific which does not contemplate the distribution of pecuniary gains, profits or dividends to the members thereof and that pecuniary profit is not the object of the group.
- G. "Person" includes a corporation, partnership, company, association or society as well as a natural person and the agents and representatives thereof.
- H. "Year" means a calendar year beginning January 1st and ending December 31st.

(Ord. 20 § 1, 1977)

### **5.04.020 License required.**

For the protection and general welfare of the inhabitants of Butte-Silver Bow, it is declared that every business conducted within Butte-Silver Bow comes within the police power of the government, and no person shall engage in business, except nonprofit organizations, without first obtaining a license as provided in this chapter. The charge for such a license shall be as fixed in this chapter and the moneys received from licenses shall be used to defray the expense of issuing said licenses and the inspection, regulation and control of businesses within Butte-Silver Bow.

(Ord. 20 § 2, 1977)

**5.04.030 Duty of the treasurer.**

A. Application for Licenses. The treasurer shall be charged with the collection of the fees for the licenses required by this chapter. The treasurer shall procure blanks for applications and receipts and books of account in connection with the issuance of licenses. Applicants for licenses shall file with the treasurer an application, in writing, on a form which shall contain the following information:

1. Name and permanent address of applicant;
2. Full business name;
3. Number of employees, including the owners and managers;
4. A brief description of the nature of the business;
5. If an agent or representative, the name and address of the principal;
6. The length of time the right to do business is desired, where applicable;
7. The endorsement of the building inspector and the zoning officer showing that the business location sought to be licensed does not violate any building or technical code adopted by Butte-Silver Bow or any provision of the Butte-Silver Bow zoning ordinance; providing however, that such endorsements shall not be required on an application for renewal of license;
8. If engaged in operation of coin-operated machines, the number of machines operated within Butte-Silver Bow.

B. Issuance of License. It shall be the duty of the treasurer after being presented a properly completed application form to provide a duplicate copy of said form to the commissioners of the district in which the proposed activity is to be located. No license shall be issued until five days have passed from the date of the presentation of the completed application. It shall further be the duty of the treasurer to issue a license after the required time has passed together with tender of the appropriate license fee as provided in Section 5.04.100 unless an inspection by the health officer, sanitary inspector, fire inspector or building inspector indicates a violation of an ordinance existing at the place of business sought to be licensed, in which case such inspector shall submit a written description of said violation specifying the steps necessary to qualify the premises for license, a copy of which shall be furnished to the applicant. The officers herein named shall, where necessary, periodically inspect every place of business in Butte-Silver Bow for determining whether the same is being kept in a safe and proper condition as required by the ordinances of Butte-Silver Bow.

C. Reminder of Expiration. On or before the first day of January of each year, the treasurer shall notify every business holding a Butte-Silver Bow business license issued in accordance with this chapter that said license will expire on the thirty-first day of January of each year.

(Ord. 233 § 1, 1985; Ord. 184 § 1, 1982; Ord. 20 § 3, 1977)

#### **5.04.040 Licenses payable in advance.**

All licenses, except as otherwise herein provided, shall be payable yearly, in advance and on or before January 31st. Any license issued shall not be a license for any other place or type of business. All licenses, except as otherwise herein provided, shall expire on January 31st in each year.  
(Ord. 233 § 2 1985; Ord. 186 § 1, 1983; Ord. 20 § 4, 1977)

#### **5.04.050 Separate license for branch establishment.**

A license shall be obtained in the manner provided in this chapter for each branch establishment or location of a business, as if such branch establishment or location were a separate business; provided, that warehouses and distributing plants used in connection with and incidental to a licensed business where no sales are made shall not be deemed to be a branch establishment.  
(Ord. 20 § 5, 1977)

#### **5.04.060 Change of location.**

A licensee shall have the right to change the location of the licensed business; provided, the new location complies with the requirements of the ordinances of Butte-Silver Bow.  
(Ord. 20 § 6, 1977)

#### **5.04.070 Unlawful business not to be licensed.**

The provisions of this chapter shall not be construed to grant permission to carry on or conduct any unlawful business, or to conduct any business in an unlawful manner, or to grant immunity to any business from lawful regulation and control.  
(Ord. 20 § 7, 1977)

#### **5.04.080 Posting of license required.**

Every license issued under the provisions of this chapter shall be posted in a conspicuous place on the premises where the business is conducted, except that any license for any machine or device shall be posted conspicuously on the face of the machine or device, and that any license for a business without a fixed place of business shall be carried upon the person of the licensee and shall be shown to any resident of Butte-Silver Bow or law enforcement officer upon demand.  
(Ord. 20 § 8, 1977)

#### **5.04.090 Contents of license.**

Each license issued under the provisions of this chapter shall state upon its face the following:

- A. Name of licensee and any other name under which business is to be carried on;
- B. Number of employees as defined in Section 5.04.010;
- C. The address of the business;

- D. The amount of the license fee;
- E. The date of issuance and date of expiration;
- F. If engaged in operation of coin-operated machines, the number of machines operated within Butte-Silver Bow;

G. Such other and further information as the ordinances of Butte-Silver Bow require.  
(Ord. 20 § 10, 1977)

**5.04.100 Schedule of fees.**

The schedule of fees for business licenses shall be as follows; provided, that no business shall be required to obtain more than one license, except operators of coin-operated amusement games:

A. License fees shall be charged according to the following schedule for all specified businesses listed below:

Type of Business	Fee
1. Banks -- based on assets:	
\$0 to 9 million	\$ 300.00
\$10 to 40 million	500.00
\$41 to 80 million	800.00
\$81 to 120 million	1,000.00
\$121 to 200 million	1,200.00
\$201 million and over	1,500.00
2. Billboards	150.00
3. Broadcasting stations	200.00
4. Brokers	300.00
5. Each circus, menagerie or wild animal show (in-	450.00 for the first ten days, cluding side shows) 35.00 for each day thereafter
6. Go-kart ride operations	50.00, (plus proof of liability insurance coverage in the amount of \$500,000)
7. Distributors of coin-operated amusement games	500.00
8. Coin-operated amusement machines, each machine	40.00
9. Electric light and power company	1,500.00
10. Finance company or loan agencies -- based on assets:	
\$0 to 9 million	300.00
\$10 to 40 million	500.00
\$41 to 80 million	\$ 800.00
\$81 to 120 million	1,000.00
\$121 to 200 million	1,200.00
\$201 million and over	1,500.00

11. Gas companies (natural)	1,500.00
12. Mining companies, each mining company having a capitalization of \$5,000,000.00 or more	2,000.00
13. Mining companies, each mining company having a capitalization of less than \$5,000,000.00	1,500.00
14. Newspapers, each daily news	300.00
15. Each weekly newspaper	35.00
16. Railroads	900.00
17. Savings and loan associations -- based on assets:	
\$0 to 9 million	300.00
\$10 to 40 million	500.00
\$41 to 80 million	800.00
\$81 to 120 million	1,000.00
\$121 to 200 million	1,200.00
\$201 million and over	1,500.00
18. Telephone companies	1,500.00
19. Each theater or moving picture show house, including drive-ins	150.00
20. Water companies	900.00

B. License fees shall be charged according to the following schedule for all businesses other than those listed above:

Type of Business	Fee
1. Home occupation	\$35.00 annually
2. For all businesses employing one through two employees inclusively, including owners and proprietors, the sum of	35.00 annually
3. For all businesses employing three through five employees inclusively, including owners and proprietors, the sum of	50.00 annually
4. For all businesses employing six through twenty employees inclusively, including owners and proprietors, the sum of	100.00 annually
5. For all businesses employing twenty-one through thirty-five employees inclusively, including owners and proprietors, the sum of	150.00 annually

6. For all businesses employing thirty-six or more employees, including owners and proprietors, the sum of	200.00 annually
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(Ord. 316 § 1, 1987; Ord. 309 § 1, 1987; Ord. 260 § 1, 1986; Ord. 186 § 2, 1983; Ord. 11, 1977)

**5.04.110 Credit against fees.**

Any of the establishments mentioned in Section 5.04.100, otherwise licensed by Butte-Silver Bow and currently required to be licensed by Butte-Silver Bow for the purposes of conducting a business, shall receive as a credit against the license fees established in Section 5.04.100, the amount of the fee otherwise charged to such establishment by Butte-Silver Bow for other licensing purposes; in the event that the license fee otherwise charged exceeds the license fee set in Section 5.04.100, then said establishment shall be required only to pay the greater license fee.

(Ord. 20 § 12, 1977)

**5.04.120 Failure to obtain license.**

In addition to any other penalty provided by this code for failure to obtain a business license as required by this title, the fee for such license shall be increased by an amount equal to the regular license fee in all cases where the license is not obtained within thirty days after the date such license should have been obtained.

(Ord. 20 § 13, 1977)

**5.04.130 Violation--Penalty.**

Every person carrying on or engaging in the transaction of any business for which a license is required, without first procuring the proper license therefor, and any persons providing misinformation upon application for license, shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense.

(Ord. 20 § 9, 1977)

**Chapter 5.08**

**ALCOHOLIC BEVERAGES**

Sections:

- 5.08.010 Definitions.
- 5.08.015 Municipal alcoholic beverage provisions.
- 5.08.020 License fees.
- 5.08.030 Expiration--Transfer.
- 5.08.040 Approval or refusal.
- 5.08.050 Minors and disorderly persons on premises prohibited--Exceptions.
- 5.08.060 Hours of sale.
- 5.08.070 Depositing of receipts.
- 5.08.080 Violation--Penalty.

**5.08.010 Definitions.**

The following words and phrases used in this chapter shall be given the following interpretation:

- A. "Governing body" means the council of commissioners of Butte-Silver Bow.
- B. "Beer" means any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt and hops, or of any other similar products in drinkable water.
- C. "License" means a license issued by Butte-Silver Bow to a qualified person, under which it is lawful either for the licensee to brew, sell or dispense beer, or to sell and dispense liquor, respectively, as in this chapter provided.
- D. "Licensee" means the person to whom a license is issued.
- E. "Liquor" means all kinds of liquor sold by and/or in the state liquor store.
- F. "Person" means every individual, copartnership, corporation, hotel, restaurant, club and fraternal organization and all licensed retailers of beer or liquor, whether conducting the business singularly or collectively.
- G. "Retailer" means any person engaged in the sale and distribution of beer, either on draught or in bottles, to the public to be served and consumed on the premises of such retailer, or in the sale or distribution of beer to the public with the intent that such beer shall be taken away from the premises of such retailer for consumption off such premises.
- H. "State liquor store" means a liquor store established and operated by the Montana Liquor Control Board under the laws of Montana.
- I. "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits (grapes, apples, etc.) or other agricultural products containing sugar (honey, milk, etc.).

(Ord. 36 § 1, 1977)

#### **5.08.015 Municipal alcoholic beverage provisions.**

The local government of the city and county of Butte-Silver Bow hereby adopts the municipal provisions for determining license quotas as set forth in Chapter 4 of Title 16, MCA, in compliance with Section 7-5-201(1), MCA and specifically adopts the municipal quota provisions for incorporated cities as set forth in Sections 16-4-105 and 16-4-201, MCA.

(Ord. 518 § 2, 1995)

#### **5.08.020 License fees.**

Each licensee under the provisions of this chapter shall pay an annual license fee for each license as follows:

- A. Beer.

1. Each wholesaler, two hundred dollars;
2. Each retailer, one hundred dollars;
3. Each and any unit of a nationally chartered veterans organization, twenty-five dollars.

B. Wine Amendment.

1. Each retailer holding a beer license, one hundred dollars;
2. Providing, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared food business;
3. Nonretention of the beer license, for whatever reason, shall mean automatic loss of a wine amendment license.

C. All Beverage.

1. For each license within the urban service district, the boundaries of which are described in Section 7.03 (h) of the Charter of Butte-Silver Bow, or within a distance of ten miles thereof measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the urban service district, four hundred dollars per year;
2. For each license outside of the urban service district, two hundred dollars per year;
3. Each and any unit of a nationally chartered veterans organization, fifty dollars;
4. The license fees required under this section shall not be assessed on a pro rata basis and no reduction in such license fees shall be allowed in cases in which the license is issued for a period less than one year, nor shall any licensee hereunder be entitled to a return of any portion of the license fee in the event of his discontinuing such business or the suspension or revocation of a license prior to the expiration of such year, excepting where special permits for sale of beer are issued by the state of Montana.

D. The license fees provided for in this section are exclusive of and in addition to other license fees chargeable to Butte-Silver Bow for the sale of liquor, wine, beer and malt beverage.

E. Special Permits to Sell Beer. Special beer permits are authorized to be issued in cases where all requirements stipulated by the state are met by the applicant. The amount of the permit will be fifty percent of the license fee set by the state. The permit will be in effect for the period established by the state and will expire at the end of that period.

(Ord. 59 § 1, 1978; Ord. 36 § 2, 1977)

**5.08.030 Expiration--Transfer.**

All licenses issued, as aforesaid, in any year, shall expire on the thirty-first day of December, at midnight of each year; provided, that a transfer of any such license may be made on application to the Treasurer of Butte-Silver Bow, and on consent of the council as herein provided for the original issuance of said license, when such license has theretofore been authorized to be transferred by the Department of Revenue of the state; provided further, that all license fees due under this chapter as enumerated in Section 5.08.020 may, by the licensee, be paid semiannually, one-half of said license fee on or before the first day of July of each year. (Ord. 36 § 4, 1977)

#### **5.08.040 Approval or refusal.**

Upon the filing of the application prescribed in Section 5.08.030, accompanied by the evidence thereby required, and upon payment of the required license fee, Butte-Silver Bow thereupon shall issue and deliver to the applicant a license to carry on the business for which the applicant owns and holds subsisting licenses in respect to the same premises for which license is applied for as provided in Section 5.08.020; provided, however, that the treasurer, in his discretion, may hold the application for license, until the next regular meeting of the council following his receipt of such application and accompanying documents, if any, when he shall submit such application and accompanying documents to the council, which may, in its discretion, decline to authorize such license if, in the judgment of the council, it will be for the best interests of Butte-Silver Bow to refuse such license. Upon such refusal the license fee paid by the applicant and all documents filed by him, other than such application, shall be returned to the applicant. (Ord. 36 § 4, 1977)

#### **5.08.050 Minors and disorderly persons on premises prohibited--Exceptions.**

It is unlawful for any licensee where beer or liquor is sold for consumption on the premises, or his or her employee, to allow or permit any person under the age of eighteen years, or any intoxicated or disorderly person, to congregate, be or remain in or about his premises or be employed therein, or for any person under the age of eighteen years to have in his or her possession any beer or liquor; provided, however, that where nonalcoholic items are sold for consumption off the premises, a minor under eighteen years of age may be permitted lawfully to enter on such premises to purchase such nonalcoholic items; and, further provided, that under no other circumstances shall a minor under eighteen years of age be permitted to remain on such premises. Notwithstanding the above, a minor under eighteen years of age may be permitted lawfully to remain on any premises where beer or liquor are sold for consumption on the premises if a restaurant or prepared food business is also operated on the premises. (Ord. 36 § 5, 1977)

#### **5.08.060 Hours of sale.**

It is unlawful for any beer or liquor to be sold, offered for sale or given away upon any premises licensed to sell beer or liquor at retail between the hours of two a.m. and eight a.m. (Ord. 36 § 6, 1977)

#### **5.08.070 Depositing of receipts.**

All receipts from license fees and fines collected under the provisions of this chapter shall be deposited to the credit of the general fund of Butte-Silver Bow, out of which fund the cost of administering this chapter

shall be paid.  
(Ord. 36 § 7, 1977)

### **5.08.080 Violation--Penalty.**

Every person carrying on or engaging in the transaction of any business for which a license is required by this chapter, without first procuring the proper license therefor, and any persons providing misleading information upon application for license, shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.  
(Ord. 36 § 8, 1979)

## **Chapter 5.12**

### **AUCTIONEERS**

#### Sections:

- 5.12.010 License--Fee--Bond.
- 5.12.020 License--Payable in advance.
- 5.12.030 License--Application.
- 5.12.040 Declaring partners and clerks.
- 5.12.050 Partners and clerks liable.
- 5.12.060 Location change.
- 5.12.070 Purchaser to receive receipt.
- 5.12.080 False bidding prohibited.
- 5.12.090 False representation prohibited.
- 5.12.100 Terms and conditions of sale to be stated.
- 5.12.110 Description of property to be announced.
- 5.12.120 Fictitious bidding prohibited.
- 5.12.130 Auctions prohibited on public thoroughfares.
- 5.12.140 Rules to be displayed.
- 5.12.150 Violation--Penalty.

### **5.12.010 License--Fee--Bond.**

Any person may become an auctioneer and be licensed to sell real and personal property at public auction at a place to be named in his license upon making application to the treasurer of Butte-Silver Bow for a license and upon paying to the treasurer the amount of fifty dollars per year and executing a bond to Butte-Silver Bow in the sum of one thousand dollars.  
(Ord. 34 § 1, 1977)

### **5.12.020 License--Payable in advance.**

All licenses shall be payable early in advance, and on or before January 1st. Any issued after July 1st of each year shall be issued at one-half the early rate. All licenses shall expire on December 31st of each year.  
(Ord. 34 § 2, 1977)

### **5.12.030 License--Application.**

Any person desiring to obtain a license as an auctioneer shall make application in writing, setting forth

his name, place of residence, place of business and the names of his sureties.  
(Ord. 34 § 3, 1977)

#### **5.12.040 Declaring partners and clerks.**

Any person licensed as an auctioneer shall, at the time he receives his license, file a signed statement with the clerk, designating a partner or partners, if any, and of any clerk or clerks in said auctioneer's employ; if at any time during the period of such license any change is made of partners or of clerks, the auctioneer shall file a statement with the clerk forthwith, setting forth and giving the name or names of new partner or partners, or new clerk or clerks. If any licensed auctioneer permits any person other than a partner or clerk, duly designated by him, to sell any article at auction, he shall be deemed guilty of a violation of this chapter.  
(Ord. 34 § 4, 1977)

#### **5.12.050 Partners and clerks liable.**

If a partner or clerk of any person licensed as an auctioneer, while acting as an auctioneer, violates any of the provisions of this chapter or of any law of Butte-Silver Bow governing or concerning auctioneers, such partner or clerk shall be subject to all the penalties imposed by this chapter upon licensed auctioneers for violations of any of the provisions of this chapter.  
(Ord. 34 § 5, 1977)

#### **5.12.060 Location change.**

If any change is made in the location of the business covered by the license, no business shall be carried on or conducted at or in the new location under such license until a notice of the change has been given in writing by the licensee to the treasurer.  
(Ord. 34 § 6, 1977)

#### **5.12.070 Purchaser to receive receipt.**

The purchase of any personal property at an auction sale shall be given a receipt by the auctioneer, which receipt shall set out in full either on the face or reverse side of the receipt this specific section and shall recite the fact that said purchaser shall have the right to return said personal property to the auctioneer at any time within five days from the day of sale if the said personal property is not of the quality represented to him, and the auctioneer shall return to the purchaser the price paid by the purchaser for the personal property purchased at the auction.  
(Ord. 34 § 7, 1977)

#### **5.12.080 False bidding prohibited.**

Any auctioneer who exhibits and offers for sale at auction any article, and induces its purchase by false bidding, shall forfeit his license and be fined as provided by this chapter.  
(Ord. 34 § 8, 1977)

#### **5.12.090 False representation prohibited.**

Any auctioneer or person being present when any real or personal property is offered for sale, who knowingly, with intent to induce any person or persons to purchase the same or any part thereof, makes any false representation or statement as to the ownership of, or the character or quality of, or as to the property or circumstances of the owner or pretended owner of such property, shall be in violation of this chapter; and, if such false representation is made by such auctioneer, or by any other person with such auctioneer's knowledge and consent or connivance, the license of such auctioneer shall be revoked.  
(Ord. 34 § 9, 1977)

**5.12.100 Terms and conditions of sale to be stated.**

It shall be the duty of any auctioneer before beginning an auction sale of real or personal property to state fully the terms and conditions upon which the sales will be made.  
(Ord. 34 § 10, 1977)

**5.12.110 Description of property to be announced.**

It shall be the duty of any auctioneer who offers for sale real and personal property of any kind whatever to announce to the persons present, before proceeding to sell same, the character, quality and description of the property offered for sale.  
(Ord. 34 § 11, 1977)

**5.12.120 Fictitious bidding prohibited.**

It is unlawful for any auctioneer to procure any person to make a fictitious bid at any auction sale of real or personal property, or to conspire with any person to make a fictitious bid at any such auction sale or sales, or knowingly to permit any person to make a fictitious bid at any such auction sale. Any auctioneer who himself fictitiously raises any bid at any auction sale shall be fined as provided by this chapter.  
(Ord. 34 § 12, 1977)

**5.12.130 Auctions prohibited on public thoroughfares.**

It is unlawful for any real or personal property to be sold at auction or exposed for sale by an auctioneer in any street, avenue, alley or public place within Butte-Silver Bow.  
(Ord. 34 § 13, 1977)

**5.12.140 Rules to be displayed.**

A copy of the rules set forth in this chapter shall be conspicuously displayed at the place of auction and failure to display said copy shall subject the auctioneer conducting the auction sale to the penalties provided in this chapter.  
(Ord. 34 § 14, 1977)

**5.12.150 Violation--Penalty.**

Every person carrying on or engaging in the transaction of any business for which this license is required, without first procuring the proper license therefor, and any persons providing misinformation upon

application for license, shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.  
(Ord. 34 § 15, 1977)

## **Chapter 5.16**

### **BILLPOSTING AND HANDBILLS**

#### Sections:

**5.16.010 Nonprofit organizations defined.**

**5.16.020 License--Required.**

**5.16.030 License--Application.**

**5.16.040 License--Payable in advance.**

**5.16.050 Littering public thoroughfares prohibited.**

**5.16.060 Posting on fences or poles prohibited without consent.**

**5.16.070 Violation--Penalty.**

#### **5.16.010 Nonprofit organizations defined.**

"Nonprofit organizations" as used in the regulations set forth in this chapter means:

- A. Government entities organized under the laws of the state and its subdivisions;
- B. Corporations or any community chest, fund, foundation or other organization organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to animals, no part of the net earning of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in or intervene in any political campaign on behalf of any candidate for public office;
- C. Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare or education, or local associations of employees, the net earnings of which are devoted exclusively to charitable, educational or recreational purposes;
- D. Labor, agricultural or horticultural organizations;
- E. Business leagues, chambers of commerce, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;
- F. Clubs organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual;
- G. Fraternal beneficiary societies, orders or associations operating under the lodge system for the exclusive benefit of the members of the fraternity itself operating under the lodge system. The governing body may require any proof it deems necessary to determine the nature of alleged

nonprofit organizations, and may deny the status to organizations not satisfying a majority of the governing body that it is a nonprofit organization as defined in this section.

(Ord. 29 § 2, 1977)

#### **5.16.020 License--Required.**

It is unlawful for any person, firm or corporation other than a nonprofit organization to engage in the distribution of any advertising material including the attaching of any signs, bills, pictures or advertising matter, unless the person has first been licensed.

(Ord. 29 § 1, 1977)

#### **5.16.030 License--Application.**

Application for a license shall be made to the treasurer, together with all necessary information required of general licenses by Chapter 5.04. Upon approval of said application by the council, the treasurer shall issue a license for which a fee of forty dollars shall be paid per year.

(Ord. 29 § 3, 1977)

#### **5.16.040 License--Payable in advance.**

All licenses shall be payable yearly in advance, and on or before January 1st. Any license issued after July 1st of each year shall be issued at one-half the yearly rate. All licenses shall expire on December 31st of each year.

(Ord. 29 § 4, 1977)

#### **5.16.050 Littering public thoroughfares prohibited.**

It is unlawful for any person to scatter or throw upon the public thoroughfares any handbills, posters, advertisements or papers. Nothing herein shall be construed to authorize any person to obstruct the public thoroughfares or create any nuisance therein. These provisions shall not interfere or prevent the posting of notices required by law to be posted.

(Ord. 29 § 5, 1977)

#### **5.16.060 Posting on fences or poles prohibited without consent.**

It is unlawful for any person to post, paint, tack or otherwise attach any notice or other advertising matter to any fence, wall or building or other property until first obtaining the consent of the owner of such property. It is unlawful for any person to post, paint, tack or otherwise attach any notices or advertising matter to any telephone, electric or other such poles.

(Ord. 29 § 6, 1977)

#### **5.16.070 Violation--Penalty.**

Every person carrying on or engaging in the transaction of any business for which a license is required by this chapter, without first procuring the proper license therefor, and any persons providing misleading information upon application for license, shall be guilty of a misdemeanor and jurisdiction for such violations

shall be in the city court of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.  
(Ord. 29 § 7, 1977)

## **Chapter 5.20**

### **CARNIVALS**

Sections:

**5.20.010 License--Fee.**

**5.20.020 License--Application--Issuance.**

**5.20.030 Bond.**

**5.20.040 Violation--Penalty.**

#### **5.20.010 License--Fee.**

Each carnival within the jurisdictional area of Butte-Silver Bow, other than circuses, menageries and wild animal shows shall, before opening, conducting, operating, running, sponsoring or maintaining any performance or performances, or showing in or of the same or operation in connection therewith, pay to the treasurer the sum of fifty dollars per day for each and every day of operation of the same, and obtain a license therefor.

(Ord. 35 § 1, 1977)

#### **5.20.020 License--Application--Issuance.**

Before any license is granted by the treasurer, application shall be made in writing to the treasurer by the person who conducts or intends to conduct, operate, engage in or carry on or sponsor the pursuit, profession, vocation or business, herein described within the jurisdictional area of Butte-Silver Bow. The treasurer shall thereupon cause the same to be presented to the council at its next meeting after receipt of the application. The council shall then take such action as it shall deem fit and proper concerning the issuance or withholding of the license applied for. If the license applied for shall be approved and ordered issued by the council, it shall cause the treasurer to be notified in writing of such action, and the treasurer shall thereupon, and upon receipt of the sum of fifty dollars for each day that such operation is to be carried on, issue a license therefor and specify in said license the days for which it is issued and the place where operation is to be carried on, which place shall be the same as that designated by the council, if it designates any.

(Ord. 35 § 2, 1977)

#### **5.20.030 Bond.**

Before any license is issued by the treasurer, the person who conducts or intends to conduct, operate, engage in, or carry on any such carnival or sponsor the same, shall furnish to Butte-Silver Bow a cash deposit in the amount of one thousand dollars or a surety bond executed by some bonding or surety company authorized to do business in the state in the sum of one thousand dollars conditioned to hold Butte-Silver Bow harmless from any and all costs and expense that may be incurred or become a liability on account of or by reason of the carnival being opened, showing or being conducted within the jurisdictional area of Butte-Silver Bow or using any of the facilities of Butte-Silver Bow or its streets and alleys in moving the carnival to or from the place where the same shall be operated or shown.

(Ord. 35 § 3, 1977)

#### **5.20.040 Violation--Penalty.**

Every person carrying on or engaging in the transaction of any business for which a license is required by this chapter, without first procuring the proper license therefor, and any persons providing misleading information upon application for license, shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.

(Ord. 35 § 4, 1977)

### **Chapter 5.24**

#### **GAMBLING GAMES**

Sections:

**5.24.010 Definitions.**

**5.24.015 Hours of operation.**

**5.24.020 Raffle permit required--Exceptions.**

**5.24.030 Raffle permit fees--Exceptions--Exemptions.**

**5.24.040 Fees to be paid and application delivered to treasurer.**

**5.24.210 Violation--Penalty.**

#### **5.24.010 Definitions.**

For the purpose of this chapter and any documents adopted pursuant to it, certain words and phrases are defined, and certain provisions shall be construed as set out in this section, unless it is apparent from the context that a different meaning is intended.

- A. City, County Defined. "City-county" or "city and county" as used in these regulations means the city and county of Butte-Silver Bow, Montana, and includes all of that area within its territorial boundaries, and includes that area within the town of Walkerville.
- B. Churches Defined. "Churches" as used in these regulations means an organization, including a religious corporation solely represented by a priest, minister, rector, pastor or authorized representative of any bona fide church or religion where such priest, minister, rector, pastor or representative holds or operates under certificate or credit, commission or ordination under the ecclesiastical laws of a religious corporation incorporated under the laws of any state or territory of the United States of America, or any voluntary religious association, and who fully conforms to the rights and practices prescribed by the supreme conference, convocation, convention, assembly, association or synod of the system of faith with which they are affiliated.
- C. Nonprofit Organization Defined. "Nonprofit organization" as used in these regulations means an organization as defined in Section 23-5-112, MCA, and includes:
  - 1. Government entities organized under the laws of the state and its subdivisions;
  - 2. Corporations or any fund, foundation or other organization organized and operated

exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to animals, no part of the net earning of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in or intervene in any political campaign on behalf of any candidate for public office;

3. Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare or education, or local associations of employees, the net earnings of which are devoted exclusively to charitable, educational or recreational purposes;
4. Labor, agricultural or horticultural organizations;
5. Business leagues, chambers of commerce, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;
6. Clubs organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual;
7. Fraternal beneficiary societies, orders or associations operating under the lodge system for the exclusive benefit of the members of a fraternity itself operating under the lodge system. The governing body may require any proof it deems necessary to determine the nature of alleged nonprofit organizations, and may deny that status to organizations not satisfying a majority of the governing body that it is a nonprofit organization as defined in this section.

D. Unrecognized Churches Defined. Any church or religious organization which is organized for the primary purpose of conferring certificates of commission, credit or ordination for a price and not primarily for the purpose of teaching and practicing a religious doctrine or belief shall not be deemed to be a bona fide church or religious organization.

(Ord. 493 § 1, 1994; Ord. 145 § 1, 1981)

#### **5.24.015 Hours of operation.**

All gambling games which are authorized and permitted by the state of Montana may continue to be played within the city-county between the hours of two a.m. and eight a.m. each day, as provided in Section 23-5-307 and 23-5-408, MCA.

(Ord. 371 § 5, 1990)

#### **5.24.020 Raffle permit required--Exceptions.**

Except as provided in subsections 5.24.030(B)(1) and (2) herein, and pursuant to the provisions of Section 23-5-412, Montana Code Annotated, no raffles shall be conducted within the city and county by

anyone, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others, on any premises, without having first procured and thereafter maintained in full force and effect a raffle permit issued by the council of commissioners.

(Ord. 493 § 2, 1994: Ord. 371 § 1, 1990: Ord. 145 § 2, 1981)

#### **5.24.030 Raffle permit fees--Exceptions--Exemptions.**

- A. The permit fee for operation of a raffle within the city-county shall be one thousand dollars per raffle.
- B. Except as provided in subsections (B)(1) and (B)(2) of this section, a permit must be issued by the council of commissioners. The permit must be issued before the raffle may be conducted.
  - 1. If tickets for a raffle are to be sold in more than one county, a permit must be obtained only in the county where the winners of the raffle are to be determined.
  - 2. If a raffle is to be conducted by a church or a nonprofit organization, a permit is not required, but the church or nonprofit organization must apply in writing to the council of commissioners for an exemption from the permit. The application must contain sufficient information so that the council of commissioners can determine that the applicant is in fact a church or nonprofit organization as defined herein.
- C. Any exemption granted as provided above shall be approved by a majority vote of the council of commissioners at a regular meeting.
- D. Except for a church or a nonprofit organization, a person or organization conducting a raffle shall own all prizes to be awarded as part of the raffle before the sale of any tickets.
- E. A person who has conducted a raffle must submit an accounting to the council of commissioners within thirty days following the completion of the raffle. The person or persons submitting the application to the council of commissioners for exemption from the permit, along with the church or nonprofit corporation conducting the raffle, shall be responsible for submitting the accounting to the council of commissioners.
- F. The sale of raffle tickets authorized by this chapter is restricted to events and participants within the geographic confines of the state.
- G. The value of a prize awarded for an individual ticket for a raffle conducted by a person or organization, other than a church or nonprofit organization, may not exceed five thousand dollars. The prize may be in the form of cash, other intangible personal property, tangible personal property, or real property. Prizes may not be combined in any manner to increase the ultimate value of the prize awarded for each ticket.
- H.
  - 1. A church or a nonprofit organization shall comply with the requirements in subsections (E) and (F) of this section.
  - 2. The proceeds from the sale of tickets for a raffle conducted by a church or a nonprofit organization may be used only for charitable purposes or to pay for prizes. Proceeds may not be

used for the administrative cost of conducting the raffle.

3. a. The value of a prize awarded for an individual ticket for a raffle conducted by a church or a nonprofit organization may equal or exceed five thousand dollars if the prize is in the form of:

- i. Tangible personal property; or
- ii. Real property the fair market value of which has been certified in writing by an appraiser licensed under Section 37-54-201, MCA.

- b. If the value of the prize is less than five thousand dollars, the prize may be in the form of cash, other intangible personal property, tangible personal property, or real property.

(Ord. 493 § 3, 1994; Ord. 371 § 2, 1990; Ord. 349 § 1, 1989; Ord. 307 § 1, 1987; Ord. 230 § 1, 1985; Ord. 169 § 1, 1982; Ord. 154 § 1, 1981; Ord. 145 § 3, 1981)

#### **5.24.040 Fees to be paid and application delivered to treasurer.**

All raffle fees and all applications mentioned in this chapter shall be paid and delivered to the treasurer. (Ord. 371 § 3, 1990; Ord. 154 § 2, 1981; Ord. 145 § 4, 1981)

#### **5.24.210 Violation--Penalty.**

Every person engaged in the operation of a raffle for which a permit is required under the provisions of this chapter without first procuring the proper permit therefor, and any person providing misinformation upon application for permit, shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. Every day business is conducted without a permit shall constitute a separate offense. (Ord. 371 § 4, 1990; Ord. 145 § 21, 1981)

### **Chapter 5.28**

## **HOTELS AND MOTELS**

Sections:

**5.28.010 Definitions.**

**5.28.020 License required.**

**5.28.030 Fire protection equipment.**

**5.28.040 Maintenance of equipment.**

**5.28.050 Inspections.**

**5.28.060 Service station restrictions.**

**5.28.070 Parking space on premises.**

**5.28.080 Hotel register.**

**5.28.090 Guests required to register.**

**5.28.100 Violation--Penalty.**

#### **5.28.010 Definitions.**

For the purposes of this chapter, the following words shall have the meanings ascribed to them as follows:

A. "Hotel" means every building maintained or advertised as a public lodginghouse or where more than six rooms are provided for sleeping accommodations.

B. "Motel" means a hotel in which the rooms are accessible from an outdoor parking area.  
(Ord. 31 §§ 1, 2, 1977)

**5.28.020 License required.**

All hotels and motels must be licensed in accordance with the provision prescribed in Chapter 5.04.  
(Ord. 31 § 10, 1977)

**5.28.030 Fire protection equipment.**

The director of fire services, or other officer designated by the council, shall survey each hotel and motel and specify suitable fire detecting devices or extinguishing appliances which shall be provided. Such devices or appliances may consist of automatic sprinkler or water spray systems, standpipe and hose, fixed or portable fire extinguishers or other suitable fire extinguishing systems.

(Ord. 571 § 29, 1996; Ord. 551 § 14 (part), 1996; Ord. 31 § 3, 1977)

**5.28.040 Maintenance of equipment.**

Fire protective or extinguishing systems or appliances which have been installed in compliance with any permit or order, or according to any provisions of the ordinances of Butte-Silver Bow, shall be maintained in operative condition at all times and it is unlawful for any owner or occupant to reduce the effectiveness of the protection so required.

(Ord. 31 § 4, 1977)

**5.28.050 Inspections.**

It shall be the duty of the director of fire services and the health officer, or other officers so designated by the council, to make periodic and regular inspections of every hotel and motel and to make regular reports to the council of such hotels and motels concerning regulations imposed by the ordinances of Butte-Silver Bow.

(Ord. 571 § 30, 1996; Ord. 551 § 14 (part), 1996; Ord. 31 § 5, 1977)

**5.28.060 Service station restrictions.**

Automobile service stations shall be located no closer than fifty feet to any motel.

(Ord. 31 § 6, 1977)

**5.28.070 Parking space on premises.**

Each unit of a motel or tourist court shall be provided with an assigned parking space entirely on the premises.

(Ord. 31 § 7, 1977)

**5.28.080 Hotel register.**

A register shall be maintained at every hotel and each guest shall be required to register his/her name and home address. The date of arrival and departure shall be clearly indicated and the register shall be maintained for a period of at least three years following registration. The register shall be open for inspection to any authorized person.  
(Ord. 31 § 8, 1977)

#### **5.28.090 Guests required to register.**

Every operator of a motel shall maintain a register in which each guest shall register his name, home address and license number of the vehicle in which he is traveling. The date of his arrival and departure shall also be recorded. Such register shall be available to any authorized person inspecting the motel and shall be preserved for a period of not less than three years.  
(Ord. 31 § 9, 1977)

#### **5.28.100 Violation--Penalty.**

Every person carrying on or engaging in the transaction of any business for which a license is required by this chapter, without first procuring the proper license therefor, and any persons providing misleading information upon application for license, shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.  
(Ord. 31 § 11, 1977)

## **Chapter 5.32**

### **JUNKYARDS**

#### Sections:

- 5.32.010 Purpose--Nonconforming junkyards declared nuisance.
- 5.32.020 Definitions.
- 5.32.030 Exemption.
- 5.32.040 Restrictions as to location.
- 5.32.050 License--Required.
- 5.32.060 License--Fee--Posting certificate.
- 5.32.070 License--Payable in advance--Expiration.
- 5.32.080 Application.
- 5.32.090 Location change.
- 5.32.100 Bond required--Report.
- 5.32.110 Other businesses prohibited.
- 5.32.120 Records to be kept.
- 5.32.130 Copy of records to sheriff.
- 5.32.140 Sheriff may demand articles.
- 5.32.150 Business prohibited unless report filed.
- 5.32.160 Purchases restricted.
- 5.32.170 Selling of articles within five days prohibited.
- 5.32.180 Advertising information to be reported.
- 5.32.190 Revocation.
- 5.32.200 Licensee liable for other acts.
- 5.32.210 Enforcement.
- 5.32.220 Violation--Penalty.

### **5.32.010 Purpose--Nonconforming junkyards declared nuisance.**

A. For the purposes of promoting the public safety, health and welfare, and the convenience and enjoyment of public travel, to protect the public investment in public streets and highways and to preserve and enhance the scenic beauty of lands bordering public streets and highways, it is hereby declared to be in the public interest to regulate and restrict the establishment, operation and maintenance of junkyards in areas adjacent to public streets and highways within Butte-Silver Bow.

B. The council of commissioners finds and declares that junkyards which do not conform to the requirements of this chapter are public nuisances.  
(Ord. 46 § 1, 1978)

### **5.32.020 Definitions.**

For the purposes of this chapter, the following words shall have the meanings ascribed to them as follows:

- A. "Automobile graveyard" means any premises which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.
- B. "Highway" means a free and public roadway under the control of and kept by the public which has been established by regular proceedings for that purpose.
- C. "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.
- D. "Junkyard" means any premises which is maintained, operated or used for storing, keeping, buying or selling junk; or for the maintenance or operation of an automobile graveyard; or a garbage dump or sanitary fill.
- E. "Street" means any urban way or thoroughfare maintained by the public to be used by the community at large for purposes of transit or traffic.

(Ord. 46 § 1(A), (B), (C), (D), (E), 1978)

### **5.32.030 Exemption.**

Excluded from the provisions of this chapter is any business maintained and licensed as a motor vehicle wrecking facility in accordance with the provisions of Chapter 68, Title 69 of the Revised Codes of Montana, 1947, or any landfill dump operated by the government of Butte-Silver Bow.

(Ord. 46 § 1(F), 1978)

### **5.32.040 Restrictions as to location.**

No license shall be granted for the establishment, maintenance or operation of a junkyard within one

thousand feet of the nearest edge of the right-of-way of any street or highway within Butte-Silver Bow except the following:

- A. Those which are screened by natural objects, planting, fences or other appropriate means so as not to be visible from the main traveled way of any such street or highway, or otherwise removed from sight;
- B. Those located within areas which are zoned for industrial use;
- C. Those which are not visible from the main traveled way of any such street or highway.

(Ord. 46 § 3, 1978)

#### **5.32.050 License--Required.**

It is unlawful for any person to use, exercise, engage in or carry on the business of buying, selling or dealing in the merchandise mentioned in Section 5.32.020, or to exercise, engage in or carry on any such business at any other house or place than that designated in his license; or to draw or drive any vehicles through the streets of Butte-Silver Bow while engaged in the business of buying, selling, or dealing in the merchandise described in this chapter without first being licensed to do so by Butte-Silver Bow.

(Ord. 46 § 4, 1978)

#### **5.32.060 License--Fee--Posting certificate.**

Every person engaged in the business of dealing in the articles mentioned in Section 5.32.020 shall pay a license fee to Butte-Silver Bow in the sum of two hundred dollars per year, payable to the treasurer, in advance; and every such dealer shall post the certificate for such license in a conspicuous place at his place of business.

(Ord. 46 § 5, 1978)

#### **5.32.070 License--Payable in advance--Expiration.**

All licenses shall be payable yearly in advance, and on or before January 1st. Any issued after July 1st of each year shall be issued at one-half the yearly rate. All licenses shall expire on December 31st of each year.

(Ord. 46 § 6, 1978)

#### **5.32.080 Application.**

A. Any person desiring a license to carry on the business or deal in the articles mentioned in Section 5.32.020 shall make application in writing to the council, setting out his full name and residence if an individual; if a corporation of persons, the name and residence of all partners; and, if an association of persons, the name and residence of each member of the association. Such application shall also set out the location at which it is intended or desired to conduct such business. The application shall be accompanied by a petition signed by at least twenty freeholders residing within Butte-Silver Bow, certifying to his good character if it be an individual, or to the good character of the officers if it is a corporation, or to the good character of the partners if it is a copartnership, or to the good character of the members of the association if it is an association of persons.

B. No such person, company, corporation, copartnership or association of persons shall conduct, carry on or maintain the business mentioned in Section 5.32.020 until the council has first granted permission so to do. The treasurer of Butte-Silver Bow is prohibited from issuing a license for any such business until the council has first granted a permit to do so.  
(Ord. 46 § 7, 1978)

### **5.32.090 Location change.**

A. No business licensed under the provisions of this chapter shall relocate within the jurisdictional area of Butte-Silver Bow until application for such change of location has been approved by the council of commissioners.

B. After approval for relocation is given by the council of commissioners, such change of place or location shall be endorsed upon the license by the clerk.  
(Ord. 46 § 8, 1978)

### **5.32.100 Bond required--Report.**

Every person shall, at the time of receiving such license, enter into, make and execute a bond to Butte-Silver Bow in the penal sum of twenty-five hundred dollars, conditioned upon the faithful compliance with all of the laws of Butte-Silver Bow enforced at the time of the issuance of said license or that may be thereafter passed respecting the conducting and maintenance of the business described in this chapter, and such bond shall be signed and executed by at least two sufficient sureties or by a bonding company authorized to do business in the state, which said bond shall, before acceptance, be approved by the attorney and shall provide that a person engaged in the business described in this chapter shall furnish to the sheriff, within twenty-four hours after the close of business of each business day, a true and correct report showing the entries as provided for in Section 5.32.120, to be kept by said person.  
(Ord. 46 § 9, 1978)

### **5.32.110 Other businesses prohibited.**

It is unlawful for any junk dealer or any person directly or indirectly interested in any junkyard business to engage in or be interested in any pawnbroking or loan broking business or to conduct or operate what is commonly known as a secondhand shop.  
(Ord. 46 § 10, 1978)

### **5.32.120 Records to be kept.**

Every person engaged in the business mentioned in this chapter shall keep a book in which shall be legibly written in ink the time of purchase of any article or thing in the course of business. An accurate account or description shall be kept of each and every article so purchased, the price paid therefor, the precise time of making each purchase and the name and residence of the person or persons from whom such purchase was made, together with a description of the person or persons, showing the approximate height and weight of such person or persons, apparent age and nationality, his color or complexion, the color of hair and eyes, and the sex and the distinguishing physical marks. Such book shall be open to the inspection of the sheriff or any member of the law enforcement department at all reasonable hours.

(Ord. 46 § 11, 1978)

**5.32.130 Copy of records to sheriff.**

It shall be the duty of every licensed person engaged in buying and selling articles described in this chapter, to make and deliver to the sheriff every business day, within twenty-four hours after the close of business, a legible and correct copy from the book required to be kept by Section 5.32.120.

(Ord. 46 § 12, 1978)

**5.32.140 Sheriff may demand articles.**

Every such person who receives or is in possession of any goods, article or thing which may have been lost or stolen, shall forthwith, on demand to view the same, present the same to the sheriff or to any member of the law enforcement department, and no goods, article or thing reported lost or stolen shall be sold, offered for sale, transferred or disposed of in any manner within three months thereafter except upon permission of the sheriff.

(Ord. 46 § 13, 1978)

**5.32.150 Business prohibited unless report filed.**

It is hereafter unlawful for any person or any of his servants, agents or employees to open, conduct or maintain any business as junkyard dealers on any day unless the report provided for in this chapter has first been delivered to the sheriff.

(Ord. 46 § 14, 1978)

**5.32.160 Purchases restricted.**

It is unlawful for any person licensed as aforesaid to purchase any goods, article or thing whatsoever from a minor without the written consent of the parents or guardian of such minor or from any person or persons who are intoxicated.

(Ord. 46 § 15, 1978)

**5.32.170 Selling of articles within five days prohibited.**

It is unlawful for any person to offer for sale or sell, transfer or dispose of any article or articles within five days from the time of the purchase thereof, or until after the same has been within the building where offered or exposed for sale for at least five days.

(Ord. 46 § 16, 1978)

**5.32.180 Advertising information to be reported.**

If any goods, article or thing is advertised in any newspaper printed in Butte-Silver Bow as having been lost or stolen, and if any of the said goods, article or thing, or anything answering to their description, then or thereafter comes into the possession of said licensed person, he shall forthwith file information thereof in writing at the office of the sheriff, and shall also state through whom the same was received, giving therewith the description required to be given in Section 5.32.120.

(Ord. 46 § 17, 1978)

### **5.32.190 Revocation.**

Every license granted or to be granted under the terms of this chapter may be revoked by the chief executive upon satisfactory cause appearing for so doing, or for a violation of any of the provisions of this chapter, which revocation shall be reported to the council at its next meeting succeeding such action or revocation.

(Ord. 46 § 18, 1978)

### **5.32.200 Licensee liable for other acts.**

The holder of a license as provided for in this chapter is declared to be, and may be liable for, any and all acts of his employees, agents and servants, and for the violation by them of any of the provisions of this chapter.

(Ord. 46 § 19, 1978)

### **5.32.210 Enforcement.**

The Butte-Silver Bow health department shall be responsible for enforcement for the provisions of this chapter.

(Ord. 46 § 21, 1978)

### **5.32.220 Violation--Penalty.**

Every person carrying on or engaging in the transaction of any business for which this license is required, without first procuring the proper license therefor, and any persons providing misleading information upon application for license, shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.

(Ord. 46 § 20, 1978)

## **Chapter 5.36**

### **PAWNBROKERS**

#### Sections:

**5.36.010 Definition.**

**5.36.020 License--Required--Fee.**

**5.36.030 License--Payable in advance--Expiration.**

**5.36.040 Application.**

**5.36.050 Location change.**

**5.36.060 Bond required.**

**5.36.070 Other business prohibited.**

**5.36.080 Records.**

**5.36.090 Pledgor to deliver note.**

**5.36.100 Inspection by sheriff.**

**5.36.110 Prohibited purchases.**

**5.36.120 Copy of records to sheriff.**

**5.36.130 Business prohibited unless report filed.**

5.36.140 Hours and days of business restricted.  
5.36.150 Purchases restricted.  
5.36.160 Building restrictions.  
5.36.170 Employee age restrictions.  
5.36.180 Stolen property returned to owner.  
5.36.190 Revocation.  
5.36.200 Regulations to be posted.  
5.36.210 Forfeiture sale prohibited within six months.  
5.36.220 Licensee liable for all acts.  
5.36.230 Violation--Penalty.

### **5.36.010 Definition.**

Any person who loans money on deposit or pledge of personal property or other valuable thing, or who deals in the purchasing of personal property or other valuable thing on the condition of selling the same again at a stipulated price, is defined and declared to be a pawnbroker; provided, that no pawnbroker or loanbroker shall be allowed or permitted to buy or deal in secondhand goods or articles except on condition of reselling the same to the owner at a stipulated price within a certain time.

(Ord. 33 § 1, 1977)

### **5.36.020 License--Required--Fee.**

It is unlawful for any person to engage in, carry on or conduct the business of a pawnbroker unless he is licensed so to do. A pawnbroker license fee shall be two hundred dollars per year.

(Ord. 33 § 2, 1977)

### **5.36.030 License--Payable in advance--Expiration.**

All licenses shall be payable early in advance, and on or before January 1st. Any issued after July 1st of each year shall be issued at one-half the yearly rate. All licenses shall expire on December 31st of each year.

(Ord. 33 § 3, 1977)

### **5.36.040 Application.**

A. Any person desiring a license as a pawnbroker shall make application in writing to Butte-Silver Bow setting out in such application the full name and residence of each of its officers and if a copartnership the name of all partners. Such application shall also set out the location at which it is intended or desired to conduct such business.

B. The application shall be accompanied by a petition signed by at least ten freeholders and householders residing within Butte-Silver Bow, certifying to the good character of the individual or to the good character of the officers of a corporation if it be a corporation. No person or corporation shall conduct, carry on or maintain the business of a pawnbroker until the council has first granted permission so to do; and the treasurer of Butte-Silver Bow is prohibited from issuing a license to any person or corporation to conduct the business of a pawnbroker until the council has first granted a permit to do so.

(Ord. 33 § 4, 1977)

### **5.36.050 Location change.**

If any change is made in the location of the place of business designated therein, no business shall be carried on or engaged in at the new location under such license until notice of the change has been given in writing to the treasurer, and such change of place of location shall be endorsed upon the license issued by Butte-Silver Bow.  
(Ord. 33 § 5, 1977)

#### **5.36.060 Bond required.**

Any person so licensed shall, at the time of receiving such license, execute a bond to Butte-Silver Bow in the sum of two thousand dollars, with good and sufficient sureties, conditioned for the due observance of all laws of Butte-Silver Bow, respecting pawnbrokers and loanbrokers or keepers of loan offices at any time during the continuance of such license.  
(Ord. 33 § 6, 1977)

#### **5.36.070 Other business prohibited.**

It is hereafter unlawful for any pawnbroker or any person either directly or indirectly interested in any pawnbroking business to be engaged in or be interested in any secondhand store or business during the continuance of such pawnbroker's license.  
(Ord. 33 § 7, 1977)

#### **5.36.080 Records.**

A. Every pawnbroker, loanbroker or keeper of a loan office shall keep a book in which shall be legibly written in ink at the time of each loan an accurate account and description in the English language of the article pawned or pledged which description shall include:

1. The commonly used name of the group, class or category of property which describes the article;
2. The brand name of the article or the name of the manufacture if the article does not have a brand name;
3. The model or designation number of the article;
4. The serial number of the article;
5. The amount of money loaned on the article;
6. The time of pledging the article;
7. The rate of interest to be paid on such loan;
8. A description of the person pawning or pledging the article, which description shall include the person's:
  - a. Name,

- b. Residence,
- c. Date of birth,
- d. Social Security number,
- e. Sex,
- f. Race,
- g. Height,
- h. Weight.

B. No entry made in the book described in subsection A of this section shall be erased, obliterated or defaced.

C. Every person pawning or pledging any article shall be required to present some form of positive identification to the pawnbroker, loanbroker or keeper of a loan office, and such identification shall include the information required by subsection (A)(8) of this section.  
(Ord. 460 § 1, 1993: Ord. 33 § 8, 1977)

#### **5.36.090 Pledgor to deliver note.**

Every pawnbroker, loanbroker or keeper of a loan office shall, at the time of each loan, deliver to the person pawning or pledging any goods, article or thing, a memorandum or note signed by the pawnbroker containing the substance of the entry required to be made in his book by Section 5.36.080; and no charge shall be made or received by any pawnbroker, loanbroker or keeper of a loan office for any such entry, memorandum or note.  
(Ord. 33 § 9, 1977)

#### **5.36.100 Inspection by sheriff.**

The book or records, as well as every article pawned or pledged, including those articles which have not yet reached a stage of forfeiture, shall at all reasonable times be open to the inspection of the sheriff or any member of the law enforcement department.  
(Ord. 460 § 2, 1993: Ord. 33 § 10, 1977)

#### **5.36.110 Prohibited purchases.**

It is unlawful for any pawnbroker, loanbroker or keeper of a loan office to, under any pretense whatever, purchase or buy any secondhand furniture, metals, clothes, or any other article or thing whatever offered to him as a pawn or pledge.  
(Ord. 33 § 11, 1977)

### **5.36.120 Copy of records to sheriff.**

A. It shall be the duty of every licensed pawnbroker, loanbroker or keeper of a loan office to make out and deliver to the sheriff every day within one hour after the place of business is closed for the day, a legible and correct copy from the book required in Section 5.36.080 of all articles received on deposit during the preceding twenty-four hours, which copy shall include the following information:

1. The time, amount and hour when such article was received or purchased;
2. A description of the person pawning or pledging the article, which description shall include the person's:
  - a. Name,
  - b. Residence,
  - c. Date of birth,
  - d. Social Security number,
  - e. Sex,
  - f. Race,
  - g. Height,
  - h. Weight.

B. No article received on deposit, purchase or pledge by or to any licensed person shall be sold or permitted to be redeemed or removed from the place of business of such licensed person for the space of twenty-four hours after the copy and statement required to be delivered to the sheriff has been delivered as required by this section.

(Ord. 460 § 3, 1993: Ord. 33 § 12, 1977)

### **5.36.130 Business prohibited unless report filed.**

It is hereafter unlawful for any person to open, conduct or maintain any business as pawnbroker, loanbroker or keeper of a loan office on any day unless the report provided for in Section 5.36.080 has first been delivered to the sheriff.

(Ord. 33 § 13, 1977)

### **5.36.140 Hours and days of business restricted.**

It is unlawful for any person or corporation licensed as provided in this chapter to receive on deposit or pledge any personal property or other valuable thing before the hour of eight a.m. or after the hour of six p.m. during the day, or upon Sunday. No person shall open or keep his place of business open for any purpose after

the hour of six p.m., and before the hour of eight a.m., or at anytime on Sundays or legal holidays.  
(Ord. 33 § 14, 1977)

#### **5.36.150 Purchases restricted.**

A. It is unlawful for any person licensed as provided in this chapter to take or receive in pawn or pledge for money loaned any property, bonds, notes, securities, articles or other valuable thing from a minor, or the ownership of which is in or is claimed by any minor or which may be in the possession of or under the control of any minor.

B. It is unlawful for any person licensed as provided in this chapter to take any article in pawn from any person appearing to be intoxicated, person known to be a thief or convicted of larceny or burglary.  
(Ord. 33 § 15, 1977)

#### **5.36.160 Building restrictions.**

It is unlawful for any person licensed as provided in this chapter to carry on any business directly or indirectly in the same building or in any building adjoining the place or building in which he may be licensed to carry on the business of pawnbroker, loanbroker or keeper of a loan office.  
(Ord. 33 § 16, 1977)

#### **5.36.170 Employee age restrictions.**

It is unlawful for any person licensed as provided in this chapter to permit any person under the age of sixteen years to take pledges in pawn, nor shall any such person under the age of sixteen years take pledges in pawn.  
(Ord. 33 § 17, 1977)

#### **5.36.180 Stolen property returned to owner.**

Whenever any person is found to be the owner of stolen property which has been pawned, such property shall be returned to the owner thereof without payment of the amount advanced by the pawnbroker, loanbroker or keeper of a loan office or any costs or charges of any kind or character which the pawnbroker may have placed upon the same, and any pawnbroker, loanbroker or keeper of a loan office who, upon demand, refuses, neglects or fails to deliver to the true owner any property which may have been pawned with him and which may have been stolen shall be deemed guilty of a violation of the provisions of this chapter.  
(Ord. 33 § 18, 1977)

#### **5.36.190 Revocation.**

A. It shall be the duty of the sheriff and the members of his department to report to the chief executive and the county attorney any failure to comply with the provisions of this chapter, and the chief executive, upon review of such report and upon satisfactory proof to him that the person conducting the loan office or pawnbroker's office has failed to comply with the provisions of this chapter, shall suspend such license and after ordering such suspension, shall recommend to the council that such license be revoked.

- B. Upon receiving the order of suspension from the chief executive:
1. The council shall schedule a hearing on the recommendation for revocation of the license.
  2. Such hearing shall be scheduled within thirty days after receipt of the order of suspension.
  3. Notice of such hearing shall be personally given to the license holder at least ten days prior to the hearing.

C. It shall be the duty of the county attorney to prepare the order enforcing the decision of the council.

(Ord. 460 § 4, 1993: Ord. 33 § 19, 1977)

#### **5.36.200 Regulations to be posted.**

It is unlawful for any person to conduct the business of pawnbroker, loanbroker or keeper of a loan office unless he keeps posted in a conspicuous place in his place of business a copy of regulations set forth in this chapter.

(Ord. 33 § 20, 1977)

#### **5.36.210 Forfeiture sale prohibited within six months.**

It is unlawful in all cases where articles pledged have been forfeited for a sale or other disposal thereof to be made by the pawnbroker, loanbroker or keeper of a loan office within a period of six months of such forfeiture; during such time the pledgor shall have the first right to redeem such articles at no greater advance than ten percent upon the amount due when forfeiture occurred.

(Ord. 33 § 21, 1977)

#### **5.36.220 Licensee liable for all acts.**

The holder of a pawnbroker's license is declared to be liable for any and all acts of his employees.

(Ord. 33 § 22, 1977)

#### **5.36.230 Violation--Penalty.**

Every person carrying on or engaging in the transaction of any business for which this license is required, without first procuring the proper license therefor, and any persons providing misleading information upon application for license, shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.

(Ord. 33 § 23, 1977)

### **Chapter 5.40**

## **PRIVATE DETECTIVE, INVESTIGATOR OR SECURITY SERVICE**

Sections:

**5.40.010 License--Required.**

**5.40.020 License--Application--Fee.**

**5.40.030 License--Issuance.**

**5.40.040 License--Payable in advance--Expiration.**

**5.40.050 License--Conditions--Revocation.**

**5.40.060 Violation--Penalty.**

#### **5.40.010 License--Required.**

No person, firm, or corporation shall engage in, conduct or carry on the business of a private detective service or private investigator service or private security service for the purpose of supplying either investigative or security help to any person, firm or corporation for fee or reward without first obtaining a license therefor from the governing body.

(Ord. 28 § 1, 1977)

#### **5.40.020 License--Application--Fee.**

Any person desiring to carry on such business shall make application to the governing body for license so to do, stating the names of all persons to be interested as owners in such business and such applicant shall pay into the treasury for such license the sum of fifty dollars per year.

(Ord. 28 § 2, 1977)

#### **5.40.030 License--Issuance.**

Upon the compliance with the foregoing conditions, approved by the governing body, the treasurer shall issue to said applicant a license to carry on such business within Butte-Silver Bow.

(Ord. 28 § 3, 1977)

#### **5.40.040 License--Payable in advance--Expiration.**

All licenses shall be payable yearly, in advance and on or before January 1st. Any license issued after July 1st of each year shall be issued at one-half the yearly rate. All licenses shall expire on December 31st in each year.

(Ord. 28 § 6, 1977)

#### **5.40.050 License--Conditions--Revocation.**

The governing body may revoke any license without notice. No license shall be assignable without permission from the governing body nor shall any assignee do business under the bond of his assignor. No person without consent of the governing body shall conduct such business under any name other than that in which the application for license was made.

(Ord. 28 § 4, 1977)

#### **5.40.060 Violation--Penalty.**

Every person carrying on or engaging in the transaction of any business for which a license is required by this chapter, without first procuring the proper license therefor, and any persons providing misleading

information upon application for license, shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.  
(Ord. 28 § 5, 1977)

## **Chapter 5.44**

### **SECONDHAND STORES AND DEALERS**

#### Sections:

- 5.44.010 License--Required.**
- 5.44.020 License--Fee.**
- 5.44.030 License--Payable in advance--Expiration.**
- 5.44.040 Application.**
- 5.44.050 Location change.**
- 5.44.060 Bond required--Report.**
- 5.44.070 Other businesses prohibited.**
- 5.44.080 Records to be kept.**
- 5.44.085 Inspection by sheriff.**
- 5.44.090 Copy of records to sheriff.**
- 5.44.100 Sheriff may demand articles.**
- 5.44.110 Business prohibited unless report filed.**
- 5.44.120 Hours and days of business restricted.**
- 5.44.130 Purchases restricted.**
- 5.44.140 Selling of articles within five days prohibited.**
- 5.44.150 Advertising information to be reported.**
- 5.44.160 Revocation.**
- 5.44.170 Licensee liable for other acts.**
- 5.44.180 Violation--Penalty.**

#### **5.44.010 License--Required.**

It is unlawful for any person to exercise or carry on the business of buying, selling or dealing in secondhand furniture, fixtures, household goods, jewelry, wearing apparel, tools, electrical apparatus, machinery, or any other secondhand article of any kind or character, including receiving such articles for sale on consignment, without first being specially licensed for such purpose; nor shall any person carry on any such business at any other place or house than the one designated in his license and under such regulations provided in this chapter.

(Ord. 459 § 1, 1993: Ord. 32 § 1, 1977)

#### **5.44.020 License--Fee.**

Every person engaged in the business of dealing in the articles mentioned in Section 5.44.010 shall pay a license fee to Butte-Silver Bow in the sum of fifty dollars per quarter, payable to the treasurer, in advance, and every such dealer shall post the certificate for such license in a conspicuous place at his place of business.

(Ord. 32 § 2, 1977)

#### **5.44.030 License--Payable in advance--Expiration.**

All licenses shall be payable yearly in advance, and on or before January 1st. Any issued after July 1st of each year shall be issued at one-half the yearly rate. All licenses shall expire on December 31st of each year.

(Ord. 32 § 3, 1977)

#### **5.44.040 Application.**

A. Any person desiring a license to carry on the business or deal in the articles mentioned in Section 5.44.010 shall make application in writing to the Council, setting out his full name and residence if an individual; if a corporation, the name and residence of each officer of the corporation; if a copartnership of persons, the name and residence of all partners; and if an association of persons, the name and residence of each member of the association. Such application shall also set out the location at which it is intended or desired to conduct such business. The application shall be accompanied by a petition signed by at least twenty freeholders residing within Butte-Silver Bow; certifying to his good character if it is an individual; or to the good character of the officers if it is a corporation; or to the good character of the partners if it is a copartnership; or to the good character of the members of the association if it is an association of persons.

B. No such person, company, corporation, copartnership or association of persons shall conduct, carry on or maintain the business mentioned above in this chapter until the council has first granted permission to do so. The treasurer of Butte-Silver Bow is prohibited from issuing a license for any such business until the council has first granted a permit to do so.

(Ord. 459 § 2, 1993: Ord. 32 § 4, 1977)

#### **5.44.050 Location change.**

If after the issuance and delivery of a license, as provided by this chapter, any changes be made in the location of the place of business designated therein, no business shall be carried on or engaged in at such new location until notice of such change has been given in writing to the treasurer, and such change of place or location shall be endorsed on the license issued by Butte-Silver Bow.

(Ord. 32 § 6, 1977)

#### **5.44.060 Bond required--Report.**

Every person shall at the time of receiving such license enter into, make and execute a bond to Butte-Silver Bow in the penal sum of twenty-five hundred dollars, conditioned upon the faithful compliance with all of the laws of Butte-Silver Bow enforced at the time of the issuance of said license or that may be thereafter passed respecting the conduction and maintenance of the business described in this chapter, and such bond shall be signed and executed by at least two sufficient sureties or by a bonding company authorized to do business in the state, which the bond shall, before acceptance, be approved by the county attorney and shall provide that a person engaged in the business described in this chapter shall furnish to the sheriff, within two hours after the close of business of each business day, a true and correct report showing the entries as provided for in Section 5.44.080, to be kept by the person.

(Ord. 459 § 3, 1993: Ord. 32 § 6, 1977)

#### **5.44.070 Other businesses prohibited.**

It is unlawful for any secondhand dealer or any person directly or indirectly interested in any secondhand store or secondhand business to engage in or be interested in any pawnbroking or loan brokering business or to conduct or operate what is commonly known as a junk shop.

(Ord. 32 § 7, 1977)

**5.44.080 Records to be kept.**

A. Every person engaged in the business mentioned in this chapter shall keep a book in which shall be legibly written in ink at the time of each purchase or receipt on consignment an accurate account and description in the English language of the article or item purchased or received on consignment, which description shall include:

1. The commonly used name of the group, class or category of property which describes the article;
2. The brand name of the article or the name of the manufacture if the article does not have a brand name;
3. The model or designation number of the article;
4. The serial number of the article;
5. The amount of money paid for the article;
6. The time of the purchase or acceptance for consignment of the article;
7. A description of the person selling or placing for consignment the article, which description shall include the person's:
  - a. Name,
  - b. Residence,
  - c. Date of birth,
  - d. Social Security number,
  - e. Sex,
  - f. Race,
  - g. Height,
  - h. Weight.

B. No entry made in the book described in subsection A shall be erased, obliterated or defaced.

C. Every person selling or placing for consignment any article shall be required to present some form of positive identification to the licensed person engaged in buying and selling articles described in this chapter, and such identification shall include the information required by subsection (A)(8) of this section.

(Ord. 459 § 4, 1993: Ord. 32 § 8, 1977)

**5.44.085 Inspection by sheriff.**

The book or records, as well as each article purchased or placed for consignment, shall at all reasonable times be open to the inspection of the sheriff or any member of the law enforcement department.

(Ord. 459 § 5, 1993)

**5.44.090 Copy of records to sheriff.**

A. It shall be the duty of every licensed person engaged in buying and selling articles or items described in this chapter, or receiving such articles or items on consignment, to make out and deliver to the sheriff every day within one hour after the place of business is closed for the day, a legible and correct copy from the book required in Section 5.44.080 of all articles received during the preceding twenty-four hours, which copy shall include the following information:

1. The time, amount and hour when such article was received or purchased;
2. A description of the person selling or consigning the article, which description shall include the person's:
  - a. Name,
  - b. Residence,
  - c. Date of birth,
  - d. Social Security number,
  - e. Sex,
  - f. Race,
  - g. Height,
  - h. Weight.

B. No article purchased or received on consignment shall be sold or permitted to be removed from the place of business of such licensed person for the period of five days after the copy and statement required to be delivered to the sheriff has been delivered as required by this section.

(Ord. 459 § 6, 1993: Ord. 32 § 9, 1977)

**5.44.100 Sheriff may demand articles.**

Every such person who receives or is in possession of any goods, article or thing which may have been lost or stolen, shall forthwith, on demand to view the same, present the same to the sheriff or to any member of

the law enforcement department, and no goods, article or thing reported lost or stolen shall be sold, offered for sale, transferred or disposed of in any manner within three months thereafter except upon permission of the sheriff.

(Ord. 32 § 10, 1977)

#### **5.44.110 Business prohibited unless report filed.**

It is hereafter unlawful for any person or any of his servants, agents or employees to open, conduct or maintain any business as secondhand dealers on any day unless the report provided for in Section 5.44.080 has first been delivered to the sheriff.

(Ord. 32 § 11, 1977)

#### **5.44.120 Hours and days of business restricted.**

It is unlawful for any person to conduct or maintain any such business, or to transact or purchase, sell, trade, transfer, deliver or receive on consignment any of the articles mentioned in this chapter before the hour of eight a.m. or after the hour of six p.m. during the day, upon Sunday or any legal holiday.

(Ord. 459 § 7, 1993: Ord. 32 § 12, 1977)

#### **5.44.130 Purchases restricted.**

It is unlawful for any person licensed as provided in this chapter to purchase any goods, article or thing whatsoever from a minor without the written consent of the parents or guardian of such minor or from any person or persons who are intoxicated, or from any person known to be a thief or from any person known to have been convicted of a felony.

(Ord. 32 § 13, 1977)

#### **5.44.140 Selling of articles within five days prohibited.**

It is unlawful for any person to offer for sale or sell, transfer or dispose of any article or articles within five days from the time of the purchase or consignment thereof, or until after the same has been within the building where offered or exposed for sale for at least five days. All articles purchased or consigned shall be arranged daily in separate groups for each day of purchase or consignment, in a manner satisfactory to the sheriff and shall remain so grouped for a period of at least five days.

(Ord. 459 § 8, 1993: Ord. 32 § 14, 1977)

#### **5.44.150 Advertising information to be reported.**

If any goods, article or thing are advertised in any newspaper printed in Butte-Silver Bow as having been lost or stolen, and if any of the said goods, article or thing, or anything answering to their description, then or thereafter come into the possession of said licensed person, he shall forthwith file information thereof in writing at the office of the sheriff, and shall also state through whom the same was received, giving therewith the description required to be given in Section 5.44.080.

(Ord. 32 § 15, 1977)

#### **5.44.160 Revocation.**

A. It shall be the duty of the sheriff and the members of his department to report to the chief executive and the county attorney any failure to comply with the provisions of this chapter, and the chief executive, upon review of such report and upon satisfactory proof to him that the licensed person conducting the secondhand store and engaged in buying and selling articles described in this chapter has failed to comply with the provisions of this chapter, shall suspend such license and after ordering such suspension, shall recommend to the council that such license be revoked.

B. Upon receiving the order of suspension from the chief executive:

1. The council shall schedule a hearing on the recommendation for revocation of the license;
2. Such hearing shall be scheduled within thirty days after receipt of the order of suspension;
3. Notice of such hearing shall be personally given to the license holder at least ten days prior to the hearing.

C. It shall be the duty of the county attorney to prepare the order enforcing the decision of the council.

(Ord. 459 § 9, 1993: Ord. 32 § 16, 1977)

#### **5.44.170 Licensee liable for other acts.**

The holder of a license as provided for in this chapter is declared to be, and may be liable for any and all acts of his employees, agents and servants, and for the violation by them of any of the provisions of this chapter. (Ord. 32 § 17, 1977)

#### **5.44.180 Violation--Penalty.**

Every person carrying on or engaging in the transaction of any business for which a license is required by this chapter, without first procuring the proper license therefor, and any persons providing misleading information upon application for license, shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.

(Ord. 32 § 18, 1977)

### **Chapter 5.48**

#### **TRAILER COURTS AND COACHES**

Sections:

**5.48.010 Definitions.**

**5.48.020 Trailer court--License required--Fee.**

**5.48.030 Trailer court--License application.**

**5.48.040 Trailer court--Licenses payable in advance.**

**5.48.050 Trailer court--Register of trailer coaches.**

**5.48.060 Trailer court--Domestic animals restricted.**

**5.48.070 Trailer coach--License application.**

- 5.48.080 Trailer coach--Fee.
- 5.48.090 Trailer coach--Surrounding yards to comply with zoning regulations.
- 5.48.100 Trailer coach--Placement and occupancy--Permit required.
- 5.48.110 Trailer coach--Placement on other than approved courts.
- 5.48.120 Licenses--Transfer.
- 5.48.130 Licenses--Posting.
- 5.48.140 Licenses--Revocation or suspension.
- 5.48.150 Tourist park license fee.
- 5.48.160 Violation--Penalty.

#### **5.48.010 Definitions.**

For the purposes of this chapter, the following words shall have the meanings ascribed to them as follows:

- A. "Dependent trailer coach" means a trailer coach that does not have a water closet and bathtub or shower.
- B. "Independent trailer coach" means a trailer coach that has a water closet and a bathtub or shower.
- C. "Trailer coach" means a vehicle without means of self-propulsion, but licensable as a conveyance on public streets or highways, and which is constructed to permit occupancy as a dwelling or sleeping place for one or more persons.
- D. "Trailer coach space" means a plot of ground within a trailer court designated for the accommodation of one trailer coach.
- E. "Trailer court" means any plot of ground upon which two or more occupied trailer coaches are located.
- F. "Service building" means a building housing communal toilet, laundry and other sanitary facilities necessary for the health and convenience of the trailer occupants.

(Ord. 30 § 1, 1977)

#### **5.48.020 Trailer court--License required--Fee.**

Any person who maintains or operates a trailer court must first obtain a license from the treasurer which license must be approved by the council. The fee for such trailer court shall be twenty-five dollars per year or portion thereof.

(Ord. 30 § 3, 1977)

#### **5.48.030 Trailer court--License application.**

Applications for a trailer court license shall be filed with and issued by the treasurer. Application shall be in writing signed by the applicant and shall contain the following:

- A. The name and address of the applicant;
- B. The location and legal description of the trailer court;

- C. Such further information as may be requested by the council to enable it to determine if the proposed location will comply with legal requirements, including a sketch or plot plan designating numbered trailer spaces. No change or alteration in the plot plan shall be made without first making a written application for such change or alteration to the council and receiving a written permit therefrom. The council shall investigate the location and, if it is found to be in compliance with all provisions of this chapter and all other applicable ordinances or statutes, the application may be approved.

(Ord. 30 § 2, 1977)

**5.48.040 Trailer court--Licenses payable in advance.**

All licenses shall be payable yearly in advance, and on or before January 1st. Any license issued after July 1st of each year shall be issued at one-half the yearly rate. All licenses shall expire on December 31st of each year.

(Ord. 30 § 4, 1977)

**5.48.050 Trailer court--Register of trailer coaches.**

It shall be the duty of the licensee to keep a register containing a record of all trailer coaches occupying space within the court. The register shall contain the following information:

- A. Name and address of each occupant in each trailer coach;
- B. Make, model and year of all automobiles and trailer coaches;
- C. License numbers and owner of each trailer coach and automobile by which it is towed;
- D. The state issuing such license;
- E. The date of arrival and departure of each trailer coach and the number or other identification of the space or spaces occupied. The court shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed until after a period of three years following the date of registration.

(Ord. 30 § 5, 1977)

**5.48.060 Trailer court--Domestic animals restricted.**

No domestic animals or house pets shall be allowed to run at large or commit any nuisances within the limits of a trailer court.

(Ord. 30 § 6, 1977)

**5.48.070 Trailer coach--License application.**

Applications for a trailer coach license shall be filed with and issued by the treasurer. Application shall

be in writing signed by the applicant and shall contain the following:

- A. The name and address of the applicant;
- B. The location and description where the trailer coach is to be parked;
- C. Such further information as may be requested by the council.

(Ord. 30 § 8, 1977)

**5.48.080 Trailer coach--Fee.**

A trailer coach fee shall be charged each space, which fee shall be three dollars per year and shall be paid in advance to the treasurer.

(Ord. 30 § 9, 1977)

**5.48.090 Trailer coach--Surrounding yards to comply with zoning regulations.**

The use of trailer coaches as trailers or otherwise occupied by one or more persons except in an approved public or private trailer court shall be considered as a public nuisance unless the yards surrounding it agree with the requirements for a dwelling as established by the zoning regulations of Butte-Silver Bow.

(Ord. 30 § 10, 1977)

**5.48.100 Trailer coach--Placement and occupancy--Permit required.**

A. It is unlawful for any person to occupy a trailer coach or for any person who is the owner, renter or lessee of any property within Butte-Silver Bow to erect or to give consent for the placement and occupancy of any trailer house within Butte-Silver Bow for more than one business day, except in an approved public or private trailer court.

B. It is unlawful to park a trailer coach, whether occupied or not, on any public thoroughfare or public place other than an approved trailer court for more than six hours. Trailer coaches may be parked on private property and occupied by a person for a period of time not to exceed thirty days but a permit for such use and occupancy must be obtained within twenty-four hours after the trailer is parked. Said permit may be renewed at the end of thirty days, provided the total period of time for such location and use of the same property does not exceed sixty days.

(Ord. 30 § 11, 1977)

**5.48.110 Trailer coach--Placement on other than approved courts.**

Placement and use of trailer coaches occupied by any person on other than approved public or private courts must be so arranged as not to interfere with the rights and privileges of adjacent property owners, each occupied trailer coach being considered as a separate dwelling house under the laws of Butte-Silver Bow.

(Ord. 30 § 12, 1977)

**5.48.120 Licenses--Transfer.**

All licenses issued under this chapter for a trailer court and trailer coach shall be personal to the licensee and be nontransferable without the written consent of the council first being obtained.  
(Ord. 30 § 7, 1977)

#### **5.48.130 Licenses--Posting.**

A license issued under this chapter shall be conspicuously posted on the individual trailer coach not located within a trailer court or in the office of or on the premises of the trailer court.  
(Ord. 30 § 14, 1977)

#### **5.48.140 Licenses--Revocation or suspension.**

The council may revoke or suspend any license issued in accordance with the provisions of this chapter when such licensee has been found guilty of a violation of this chapter or any of the ordinances of Butte-Silver Bow.  
(Ord. 30 § 13, 1977)

#### **5.48.150 Tourist park license fee.**

The license fee for a tourist park when in conjunction with a trailer court shall be fifty cents per cabin per year.  
(Ord. 30 § 15, 1977)

#### **5.48.160 Violation--Penalty.**

Every person carrying on or engaging in the transaction of any business for which a license is required by this chapter, without first procuring the proper license therefor, and any persons providing misleading information upon application for license, shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.  
(Ord. 30 § 16, 1977)

## **Chapter 5.52**

### **GOING-OUT-OF-BUSINESS SALE**

#### Sections:

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### **5.52.010 Definitions.**

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- A. "Fire and other altered goods sale" is a sale held out in such a manner as to reasonably cause the public to believe that the seller will offer goods damaged or altered by fire, smoke, water, or other disaster.
- B. "Going-out-of-business" is a sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock of goods on hand the business will cease and be discontinued, including but not limited to the following sales: adjuster's; adjustment; alteration; assignee; bankrupt; benefit of creditor's; benefit of trustees; building coming down; closing; creditor's committee; creditor's; end; executor's; final days; forced out; forced out of business; insolvent's; last days; lease expires; liquidation; loss of lease; mortgage sale; receiver's; trustee's; quitting business.
- C. "Goods" is meant to include any goods, wares, merchandise or other property capable of being the object of a sale regulated under this chapter.
- D. "License officer" means the treasurer of Butte-Silver Bow.
- E. "Local trade commission" is the duly appointed and acting license and zoning committee of the Butte-Silver Bow council of commissioners.
- F. "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
- G. "Relocation of business sale" is a sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock of goods on hand and will then move to and resume business at a new location within Butte-Silver Bow or will then continue business from other existing locations within Butte-Silver Bow.

(Ord. 77 § 1, 1979)

### **5.52.020 License required.**

A license issued by the treasurer shall be obtained by any person before offering to sell any goods at a sale to be advertised or held out by any means to be one of the following kind:

- A. Going-out-of-business sale;
- B. Relocation of business sale; and
- C. Fire and other altered stock sale.

The provisions of this chapter shall not be construed to apply to the sale of fixtures by any person having first obtained a license in accordance with the provisions of this chapter.

(Ord. 77 § 2, 1979)

#### **5.52.030 Established business requisite.**

Any person who has not been the owner of a business advertised or described in the application for a license under this chapter for a period of at least twelve months prior to the date of the proposed sale shall not be granted a license, without having first obtained a favorable recommendation of the local trade commission and following proper application of the owner of such business when such application shows that a hardship exists.

(Ord. 77 § 3, 1979)

#### **5.52.040 Exception for survivors of businessmen.**

Upon the death of a person doing business within Butte-Silver Bow, his or her heirs, devisees or legatees, shall have the right to apply at any time for a license under this chapter.

(Ord. 77 § 4, 1979)

#### **5.52.050 Interval between sales.**

Any person who has held a sale, as regulated under this chapter, within one year past from the date of such application, shall not be granted a license without approval of the council of commissioners.

(Ord. 77 § 5, 1979)

#### **5.52.060 Restricted location.**

Where a person applying for a license under this chapter operates more than one place of business, the license issued shall apply only to the one store or branch specified in the application and no other store or branch shall advertise or represent that it is cooperating with it, or in any way participating in the licensed sale, nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.

(Ord. 77 § 6, 1979)

#### **5.52.070 Persons exempted.**

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

- A. Persons acting pursuant to an order or process of a court of competent jurisdiction;

- B. Persons acting in accordance with their powers and duties as public officials;
- C. Duly licensed auctioneer, selling at auction;
- D. Persons conducting a sale of the type regulated in this chapter on the effective date of the ordinance codified in this chapter, unless such sale is continued for a period of more than thirty days from and after such effective date. After thirty days a license provided for under this chapter will be issued by the treasurer upon application in payment of fee notwithstanding any other provisions of this chapter. After the expiration of the thirty-day period during which the license was effective under this section, all other provisions of this chapter shall apply;
- E. Any publisher of a newspaper, magazine or other publication who publishes in good faith, any advertisement without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this chapter have not been complied with.

(Ord. 77 § 7, 1979)

#### **5.52.080 Application requirements.**

A person desiring to conduct a sale regulated by this chapter shall make a written application to the treasurer setting forth the following information:

- A. The true name and address of the owner of the goods to be the object of the sale;
- B. A description of the place where such sale is to be held;
- C. The nature of the occupancy, whether by lease or sublease and the effective date of termination of such occupancy;
- D. The dates of the period of time in which the sale is to be conducted;
- E. A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted;
- F.
  - 1. A complete and detailed inventory of the goods to be sold at such sale as disclosed by the applicant's records. Said inventory shall be attached to and become part of the required application.
  - 2. Bona Fide Orders. All goods included in such inventory shall have been purchased by the applicant in the normal course of business for resale on bona fide orders and shall not comprise goods purchased on consignment.
  - 3. Goods Purchased for Sale Hereunder. Such inventory shall not include goods ordered in contemplation of conducting a sale regulated under this chapter. Any unusual purchase, or additions to the stock of goods of the business hereby affected within ninety days

before the filing of an application under this chapter shall be deemed to be of such character.

4. All goods ordered for resale prior to either the date of application or the date of disaster, whichever occurs first, and which are received after date of application shall be submitted to the treasurer as an amendment to the list of inventory required by subdivision 1 of this subsection.

(Ord. 77 § 8, 1979)

#### **5.52.090 License fee.**

Any applicant for a license under this chapter shall submit to the treasurer, with his application, a license fee of fifty dollars. There shall not be an additional license charge for any renewal granted under the provisions of Section 5.52.120.

(Ord. 77 § 9, 1979)

#### **5.52.100 Effect of license.**

A license shall be issued under this chapter on the following terms:

- A. After application has been made to the treasurer and the treasurer has determined that the applicant has been in business for at least twelve months prior to application and has not applied for and received a license or extension thereof under the provisions of this chapter. In all other instances, application shall be submitted by the treasurer to the local trade commission;
- B. When recommended to the treasurer by the local trade commission, but only after such original application has been referred to the local trade commission by the treasurer for a proper hearing. At the time of such hearing the local trade commission shall verify the facts of the application, and shall permit the applicant for any license which may be granted under this chapter to be heard, and shall admit any evidence for or against such a sale to become a part of the application;
- C. When recommended and passed by the council of commissioners, but only after an appeal has been made to the council following an adverse recommendation by the local trade commission;
- D. When ordered by a court of competent jurisdiction following the denial of a license by the council of commissioners.

(Ord. 77 § 10, 1979)

#### **5.52.110 Licensing period.**

The license shall authorize the sale described in the application for a period of not more than thirty consecutive days, Sundays and legal holidays included, following the issuance thereof.

(Ord. 77 § 11, 1979)

#### **5.52.120 Renewal procedure.**

The license officer shall renew a license for two thirty-day periods of time only, each such period to be in addition to the thirty days permitted in the original license and total renewal time not to exceed sixty consecutive days, Sundays and holidays included. Each such request for renewal (except those persons exempted under subsection D of Section 5.52.070) shall be referred to the local trade commission for their recommendation, and the same procedures shall govern all renewal licenses that apply to the original licenses, and the following criteria shall be considered:

- A. That the licensee has filed an application renewal;
- B. That the licensee has submitted with the application for renewal a revised inventory showing the items listed on the original inventory remaining unsold and separately listing any goods not included in the original application and inventory;
  - 1. For the purposes of this section, any application for a license under the provisions of this chapter covering any goods previously inventoried as required under this chapter, shall be deemed to be an application for renewal, whether presented by the original applicant, or by any other person.
  - 2. All goods ordered for resale prior to either the date of application or the date of disaster, whichever occurs first, and which are received after date of application for renewal shall be submitted to the treasurer as an amendment to the list of inventory required by subsection B of this section. All such goods shall be physically segregated from other items of inventory and shall be identified as such.

(Ord. 77 § 12, 1979)

#### **5.52.130 Nature of sale.**

The license shall authorize only the one type of sale described in the application at the location named therein.

(Ord. 77 § 13, 1979)

#### **5.52.140 Saleable goods.**

The license shall authorize only the sale of goods provided for in this chapter whether included as inventory in the original application or added by amendments and shall not regulate the sale of fixtures.

(Ord. 77 § 14, 1979)

#### **5.52.150 Nontransferability.**

Any license provided for in this chapter shall not be assignable or transferable.

(Ord. 77 § 15, 1979)

#### **5.52.160 Duties of licensee.**

A licensee shall:

- A. Adhere to Inventory. Make no additions whatsoever, during the period of the licensed sale, to the stock of goods set forth in the inventory attached to the application for license except as provided in subdivision 4 of subsection F of Section 5.52.080 and subdivision 2 of subsection B of Section 5.52.120.
- B. Adhere to Advertising. Conduct the licensed sale in strict conformity with any advertising or holding out incident thereto.
- C. Keep Duplicate Inventory. Keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicate to inspecting officials upon request.
- D. Segregate Noninventoried Goods. Keep any other goods separate and apart from the goods listed in the filed inventory as being objects of sale and shall make such distinction clear to the public by placing tags on all inventoried goods in and about the place of sale apprising the public of the status of all such goods.

(Ord. 77 § 16, 1979)

#### **5.52.170 Enforcement.**

A. The local trade commission shall serve in a recommending capacity for licenses issued under this chapter, and in addition shall serve in an advisory capacity to Butte-Silver Bow officials as regard to proper use of any license issued under this chapter. It shall be the duty of the local trade commission to specify in writing violations of any of the provisions of this chapter and notify the proper Butte-Silver Bow officials.

B. The local trade commission shall not have the power to deny licensing under any of the provisions of this chapter, but may recommend that no license be granted, in which case the treasurer shall not issue any license under this chapter, but such license shall be issued under the provisions of subsections C or D of Section 5.52.100.

(Ord. 77 § 17, 1979)

#### **5.52.180 Display of license--Examination permitted.**

On commencement of any sale as defined in Section 5.52.010, the license issued by the treasurer shall be prominently displayed near the entrance to the premises. A duplicate original of the application and stock list pursuant to which the license was issued shall at all times be on the premises and available to the treasurer and the members of the local trade commission and the licensee shall permit the treasurer and the members of the local trade commission to examine all merchandise in the premises at any time during the period of the sale for comparison with such stock list. All advertisements and advertising and the language contained therein shall be in accordance with the purpose of the sale as stated in the application pursuant to which the license was issued and the wording of such advertisements shall not vary from the wording as indicated in the application. Such advertising shall in no manner or form whatsoever, either directly or indirectly, indicate that such sale is held with the approval of the treasurer. Such advertising shall contain a statement in the following words: "Sale held pursuant to License No. issued by the Treasurer of Butte-Silver Bow on the day of \_\_\_\_\_, 19\_\_\_\_\_,," and in such blank spaces shall be indicated the license number and the date of issuance of the license.

(Ord. 77 § 18, 1979)

### **5.52.190 Violation--Penalty.**

Any person violating any section of this chapter shall be guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow.  
(Ord. 77 § 19, 1979)

## **Chapter 5.56**

### **ITINERANT PRODUCE MERCHANT**

Sections:

**5.56.010 Definitions.**

**5.56.020 License--Required.**

**5.56.030 License--Fee.**

**5.56.040 License--Application.**

**5.56.050 License--Issuance--Nontransferability--Filing of application.**

**5.56.060 Inspection of agricultural products.**

**5.56.070 Exhibition of license for inspection.**

**5.56.080 Interstate commerce.**

**5.56.090 Violation--Penalty.**

### **5.56.010 Definitions.**

For the purposes of this chapter, the following words shall have the meaning ascribed to them as follows:

- A. Itinerant produce merchant. Every person, firm or corporation, acting for himself or itself, or representing any other person, firm or corporation, who or which shall bring into temporary premises within Butte-Silver Bow any goods, wares, or articles or merchandise, which are the natural products of the farm, or the natural products of the orchard, vineyard, garden or apiary, raw or manufactured, and who or which solicits, sells or offers to sell, or exhibits for sale, such goods, wares or articles of merchandise, which are the natural products of the farm, or the natural products of the orchard, vineyard, garden, or apiary, raw or manufactured, at retail, is, within the meaning of this chapter, an "itinerant produce merchant," any such definition shall continue to apply until such person, firm or corporation shall be continuously engaged at such particular place within Butte-Silver Bow for a period of one year.
- B. "Person" means any individual or group or persons, exchange, firm, partnership, corporation or association.
- C. "Temporary premises" means any hotel, motel, rooming house, store room building, or any part of any building whatsoever, tent, vacant lot, freight station, railroad car, motor vehicle, and/or trailer, or any public or quasi-public place, temporarily occupied for such business.

(Ord. 222 § 2, 1984; Ord. 78 § 2, 1979)

### **5.56.020 License--Required.**

It is declared unlawful for any itinerant produce merchant, as defined in Section 5.56.010, to engage in

business within Butte-Silver Bow before having made application for and having received a license as provided in this chapter.

(Ord. 222 § 1, 1984: Ord. 78 § 1, 1979)

#### **5.56.030 License--Fee.**

The amount to be paid for the license to conduct the business of itinerant product merchant shall be the sum of one-hundred and fifty dollars per year, to be paid in advance to the treasurer. A separate license is required for each place of business. Each truck used for assembling and distributing produce, other than from a permanently established place of business through which all business of sales and accounts is handled, is a separate place of business through which all business of sales and accounts is handled, is a separate place of business and must be licensed.

(Ord. 222 § 3, 1984: Ord. 78 § 3, 1979)

#### **5.56.040 License--Application.**

Every itinerant produce merchant desiring to do business within Butte-Silver Bow must, before commencing such business, file with the treasurer, on a form to be provided by the treasurer, an application in writing subscribed and sworn to by such applicant before an officer in this state authorized to take oaths, which application shall set forth:

- A. Name of applicant;
- B. Applicant's place of permanent residence;
- C. Applicant's local headquarters, if any;
- D. Date of arrival in Butte-Silver Bow;
- E. City or county from which last license, if any, received;
- F. Whether acting as principal, agent or employee;
- G. If acting as agent or employee, the name of place business of his principal or employer;
- H. If an agent, as part of application, principal's acknowledgement of such agency must accompany application;
- I. Brief descriptive list of articles to be offered for sale;
- J. Whether he is the grower or raiser of the product carried, offered or exposed for sale;
- K. Whether payments or deposits of money are collected when orders are taken, or in advance of final delivery;
- L. If natural products of the farm, orchard, vineyard, garden or apiary are brought from outside the

state of Montana the serial number of a currently valid state of Montana itinerant produce merchant license;

M. Every itinerant produce merchant is required to follow all zoning health and safety codes. (Ord. 222 § 4, 1984: Ord. 78 § 4, 1979)

#### **5.56.050 License--Issuance--Nontransferability--Filing of application.**

A. Upon filing the application prescribed in Section 5.56.040, and the payment of the fee prescribed in Section 5.56.030, the treasurer shall issue and deliver to the applicant a license to carry on the business described in such application within the city-county of Butte-Silver Bow. The treasurer shall notify the health department upon issuance of the license.

B. Upon filing of the application prescribed in Section 5.56.040, the applicant shall pay the fee therefor and be subject to all the other provisions therein contained.

C. Such licenses shall be nontransferable and shall have printed on the face thereof in bold type and words "not transferable."

D. The treasurer shall endorse upon each application the date of issuance of the license and the duration thereof and shall immediately file such application in his office and keep an appropriate index thereof, which shall show the date filed, the name of applicant, and an appropriate reference to the file number by which said application may be found. (Ord. 222 § 5, 1984: Ord. 78 § 5, 1979)

#### **5.56.060 Inspection of agricultural products.**

Whenever any person applies for a license, as provided in this chapter, and such license is for the sale at retail of any of the natural products of the farm, or the natural products of the orchard, vineyard, garden, or apiary, as defined in Section 5.56.010, which have been or are brought into the city and county of Butte-Silver Bow for sale, as provided in this chapter, from outside the state of Montana, such person shall exhibit and show to the treasurer a certificate of inspection of such products by the Department of Agriculture of the state of Montana, setting forth that the said natural products have been inspected upon entering the state, as required by the laws of the state of Montana, and no license shall be issued unless such inspection has been made and certificate issued. (Ord. 222 § 6, 1984: Ord. 78 § 6, 1979)

#### **5.56.070 Exhibition of license for inspection.**

Every itinerant produce merchant doing business under the provisions of this chapter shall, at all times, keep said license for inspection by any person with whom he may be dealing. (Ord. 222 § 7, 1984: Ord. 78 § 7, 1979)

#### **5.56.080 Interstate commerce.**

Nothing contained in this chapter is intended to operate so as to interfere with the power of the United

States to regulate commerce between the states, as such power is defined by the Supreme Court of the United States.

(Ord. 222 § 9, 1984: Ord. 78 § 9, 1979)

### **5.56.090 Violation--Penalty.**

Every itinerant produce merchant as defined in Section 5.56.010, doing business without procuring the license therefor as required in this chapter, shall be deemed guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow upon written complaint of the treasurer, sheriff, any law enforcement officer of Butte-Silver Bow, or of any citizen of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.

(Ord. 222 § 8, 1984: Ord. 78 § 8, 1979)

## **Chapter 5.60**

### **ITINERANT VENDOR**

Sections:

**5.60.003 Purpose.**

**5.60.005 Scope/exception.**

**5.60.010 Definitions.**

**5.60.020 License--Required.**

**5.60.030 License--Fee--Duration.**

**5.60.040 License--Application.**

**5.60.050 License--Bond required--Recourse against bond.**

**5.60.060 License--Issuance--Filing of application.**

**5.60.070 Exhibition of license upon demand.**

**5.60.080 Interstate commerce.**

**5.60.090 Violation--Penalty.**

### **5.60.003 Purpose.**

The purpose of this chapter is to protect local consumers by requiring that itinerant sales persons who engage in the business of going from consumer to consumer, whether on the streets or at their place of residence or employment, purchase a local business license and obtain a bond to protect local consumers against deceptive practices and defective products sold by itinerants.

(Ord. 582 § 1, 1997)

### **5.60.005 Scope/exception.**

This chapter is intended to protect local consumers by regulating itinerant sales persons. This chapter shall in no way affect any person, firm, partnership or corporation who maintains a permanent residence within the city and county of Butte-Silver Bow, state of Montana.

(Ord. 582 § 2, 1997)

### **5.60.010 Definitions.**

For the purposes of this chapter, the following words shall have the meanings ascribed to them as

follows:

A. "Itinerant vendor" means any person engaged or employed in the business of retailing to consumers by going from consumer to consumer, either on the streets or to their places of residence or employment, and there soliciting, selling, or offering to sell, or exhibiting for sale, by sample, by catalogue, or otherwise, or taking orders for future delivery of any goods, wares or merchandise, or for services to be performed in the future.

B. "Consumer" is one who uses, and by using destroys, the value of the article purchased.  
(Ord. 582 § 3, 1997; Ord. 223 § 2, 1984; Ord. 79 § 2, 1979)

#### **5.60.020 License--Required.**

Under and by virtue of the power and authority vested in Butte-Silver Bow by the laws of the state of Montana, and in aid of the police power and regulations of Butte-Silver Bow, every itinerant vendor before doing any business within Butte-Silver Bow shall first procure a license therefor as provided in this chapter.  
(Ord. 223 § 1, 1984; Ord. 79 § 1, 1979)

#### **5.60.030 License--Fee--Duration.**

For the purpose of defraying the expenses of law enforcement under this chapter, and other ordinances and regulations of Butte-Silver Bow, every itinerant vendor desiring to do business within Butte-Silver Bow must, before commencing such business, pay to the treasurer of Butte-Silver Bow the sum of three hundred dollars for a license to conduct such business for a period of ninety days from the date such license is issued.  
(Ord. 223 § 3, 1984; Ord. 79 § 3, 1979)

#### **5.60.040 License--Application.**

Every itinerant vendor desiring to do business within Butte-Silver Bow must, before commencing such business, file with the treasurer, on a form to be provided by the treasurer, an application in writing subscribed and sworn to by such applicant before an officer in this state authorized to take oaths, which application shall set forth:

- A. Name of applicant;
- B. His place of permanent residence;
- C. His local headquarters, if any;
- D. Date of his arrival within Butte-Silver Bow;
- E. City or county from which last license, if any, received;
- F. Whether acting as principal, agent, or employee;
- G. If acting as agent or employee, the name and place of business of his principal or employer;

- H. If an agent, as part of application, principal's acknowledgement of each agency must accompany application;
- I. Brief descriptive list of articles to be offered for sale, or service to be performed;
- J. Whether payments or deposits of money are collected when orders are taken, or in advance of final delivery. At the time of filing the application, the sum specified in Section 5.60.030 shall accompany the application as a license fee, in addition to the bond required in Section 5.60.050.  
(Ord. 223 § 4, 1984: Ord. 79 § 4, 1979)

**5.60.050 License--Bond required--Recourse against bond.**

Every application made by an itinerant vendor, under the terms of the preceding sections, shall be accompanied by a bond in the penal sum of five thousand dollars to said treasurer, executed by a surety company licensed to do business in this state, or by two responsible freeholders residing within Butte-Silver Bow and whose names appear upon the assessment roll of Butte-Silver Bow (or in lieu thereof a cash bond of equal amount) and to be approved by the treasurer. Any person aggrieved by the action or misrepresentation of any such itinerant vendor shall have a right to action on the bond for the recovery of his money advanced or damages and costs. Such bond shall remain in full force and effect for a period of one year after the expiration of any such license, and shall be held to assure only business transacted under the authority of the license issued pursuant to the application which such bond accompanied.  
(Ord. 223 § 5, 1984: Ord. 79 § 5, 1979)

**5.60.060 License--Issuance--Filing of application.**

Upon filing of the application prescribed in Section 5.60.040 or the filing of such application and the bond prescribed in Section 5.60.050, in proper form, and upon the payment to the treasurer of the sum required by Section 5.60.030, the treasurer shall issue and deliver to the applicant, a license to carry on the business, described in such application, within Butte-Silver Bow, for a period of ninety days from the date of such license. Such license shall be nontransferable and shall have printed on the face thereof in bold type the words "not transferable."

**5.60.070 Exhibition of license upon demand.**

Every such itinerant vendor including agents of said vendor doing business under the provisions of this chapter must upon demand of any person exhibit his itinerant vendor license or photocopy thereof and permit the same to then and there be read by the person making such demand; and any such itinerant vendor who knowingly refuses or fails to exhibit his license as above provided is guilty of a violation of this chapter.  
(Ord. 223 § 7, 1984: Ord. 79 § 7, 1979)

**5.60.080 Interstate commerce.**

Nothing contained in this chapter is intended to operate so as to interfere with the power of the United States to regulate commerce between the states as such power is defined by the Supreme Court of the United States.

(Ord. 223 § 9, 1984: Ord. 79 § 9, 1979)

### **5.60.090 Violation--Penalty.**

Every itinerant vendor as defined in Section 5.60.010, doing business without procuring the license therefor as required in this chapter, shall be deemed guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow upon written complaint of the treasurer, sheriff, any law enforcement officer of Butte-Silver Bow, or of any citizen of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.

(Ord. 223 § 8, 1984: Ord. 79 § 8, 1979)

## **Chapter 5.64**

### **TRANSIENT RETAIL MERCHANT**

Sections:

**5.64.010 Definitions.**

**5.64.020 License--Required.**

**5.64.030 License--Fee.**

**5.64.040 License--Application.**

**5.64.050 License--Bond required--Recourse against bond.**

**5.64.060 License--Issuance--Nontransferability--Filing of application.**

**5.64.070 License--Posting.**

**5.64.080 Interstate commerce.**

**5.64.090 Violation--Penalty.**

### **5.64.010 Definitions.**

For the purposes of this chapter, the following words shall have the meanings ascribed to them as follows:

- A. "Temporary premises" within the meaning of this chapter includes any hotel, motel, roominghouse, warehouse, building or any part of any building whatsoever, tent, vacant lot, freight station, railroad car, motor vehicle, or any public or quasi-public place, temporarily occupied for such business.
  
- B. "Transient retail merchant" means every person, firm or corporation, acting for himself or itself, or representing any other person, firm or corporation who or which brings into temporary premises within Butte-Silver Bow a stock of goods, wares or articles of merchandise or notions or other articles of trade, including fish and meat, and who or which solicits, sells or offers to sell, or exhibit for sale, such stock of goods, wares or articles of merchandise or notions or other articles of trade, including fish and meat, produce at retail.

(Ord. 221 § 2, 1984: Ord. 80 § 2, 1979)

### **5.64.020 License--Required.**

It is unlawful for any transient retail merchant to engage in business within Butte-Silver Bow before having made application for and having received a license as provided in this chapter.

(Ord. 221 § 1, 1984: Ord. 80 § 1, 1979)

#### **5.64.030 License--Fee.**

The amount to be paid for the license to conduct the business of a transient retail merchant shall be the sum of two hundred dollars for the first week or fraction thereof, and fifty dollars for each week thereafter or fraction thereof, not prorated, to be paid in advance to the treasurer. Failure to obtain a transient retail merchant license, prior to establishment of said transient retail business shall cause the license fee to double.

(Ord. 234 § 1, 1985: Ord. 221 § 3, 1984: Ord. 80 § 3, 1979)

#### **5.64.040 License--Application.**

Every transient retail or produce merchant desiring to do business within Butte-Silver Bow must, before commencing such business, file with the treasurer, on a form to be provided by the treasurer, an application in writing subscribed and sworn to by such applicant before an officer in this state authorized to take oaths, which application shall set forth:

- A. Name of applicant;
- B. Applicant's place of permanent residence;
- C. Applicant's local headquarters, if any;
- D. Date of his arrival in Butte-Silver Bow;
- E. City or county from which last license, if any, received;
- F. Whether acting as principal, agent, or employee;
- G. If acting as agent or employee, the name and place of business of his principal or employer;
- H. If an agent, as part of application, principal's acknowledgment of such agency must accompany application;
- I. Brief descriptive list of articles to be offered for sale, or services to be performed;
- J. Whether payments or deposits of money are collected in advance of final delivery;
- K. The number of persons engaged in the business;
- L. The agent must fully comply with all zoning health and safety codes and with the mechanical and plumbing code.

At the time of filing the application, the sum specified in Section 5.64.030 as a license fee must accompany the application; except as provided in Section 5.64.050.

(Ord. 221 § 4, 1984; Ord. 80 § 4, 1979)

#### **5.64.050 License--Bond required--Recourse against bond.**

Every transient retail merchant who filed the application required in Section 5.64.040 shall, upon filing and approval of the bond provided for in this section and paying the license fee required by Section 5.64.040, receive from the treasurer a license permitting the conduct of such business for the period indicated on the license form. Such bond shall be a surety bond in the penal sum of five thousand dollars to the local government of Butte-Silver Bow, executed by a surety company licensed to do business in this state or by two responsible freeholders residing within the city and county of Butte-Silver Bow or in lieu thereof, a cash bond of equal amount. The bond is to be approved by the treasurer conditioned upon the delivery of goods ordered or sold in accordance with the terms of such order or sale. Any person aggrieved by any action or misrepresentation of any such transient retail merchant shall have a right to action on the bond for the recovery of his money advanced or damage, and costs.

(Ord. 234 § 2, 1985: Ord. 221 § 5, 1984: Ord. 80 § 5, 1979)

#### **5.64.060 License--Issuance--Nontransferability--Filing of application.**

A. Upon filing the application prescribed in Section 5.64.040, and the payment of the fee prescribed in Section 5.64.030, the treasurer shall issue and deliver to the applicant a license to carry on the business described in such application within Butte-Silver Bow, for a period for which such license is requested.

B. Upon filing the application prescribed in Section 5.64.040 and the bond prescribed in Section 5.64.050, the applicant shall pay the fee therefor and be subject to all the other provisions therein contained.

C. Such licenses shall be nontransferable and shall have printed on the face thereof in bold type the words "not transferable."

D. The treasurer shall endorse upon each application the date of issuance of the license and the duration thereof and shall immediately file such application in his office and keep an appropriate index thereof, which shall show the date filed, the name of applicant, and an appropriate reference to the file number by which the application may be found and the expiration date. The treasurer shall notify the health department and sheriff department upon issuing the license.

(Ord. 221 § 6, 1984: Ord. 80 § 6, 1979)

#### **5.64.070 License--Posting.**

Every transient retail merchant doing business under the provisions of this chapter shall at all times keep the license conspicuously posted in the place of business, and any such transient retail merchant who fails to post and keep posted his license as provided in this section is guilty of a violation of this chapter.

(Ord. 221 § 7, 1984: Ord. 80 § 7, 1979)

#### **5.64.080 Interstate commerce.**

Nothing contained in this chapter is intended to operate so as to interfere with the power of the United States to regulate commerce between the states as such power is defined by the Supreme Court of the United States.

(Ord. 221 § 9, 1984: Ord. 80 § 9, 1979)

**5.64.090 Violation--Penalty.**

Every transient retail merchant as defined in Section 5.64.010, doing business without procuring the license therefor as required in this chapter, shall be deemed guilty of a misdemeanor and jurisdiction for such violations shall be in the city court of Butte-Silver Bow upon written complaint of the treasurer, sheriff, any law enforcement officer of Butte-Silver Bow, or of any citizen of Butte-Silver Bow. Every day business is conducted without a license shall constitute a separate offense. All licenses containing misleading information shall be automatically revoked.

(Ord. 221 § 8, 1984: Ord. 80 § 8, 1979)