

## CHAPTER 110: GENERAL LICENSING PROVISIONS

### Section

110.01	Definitions
110.02	Construction and interpretation
110.03	License requirements
110.04	Fees
110.05	Procedure for obtaining license
110.06	Business license application
110.07	Issuance and display of license
110.08	Examination of business premises
110.09	Violations
110.99	Penalty
Appendix A:	Business License Application Form

### § 110.01 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AUCTIONEERS** and **AUCTIONS**. Every person who shall at public outcry offer for sale, either as a principal or agent, to the highest bidder on the spot, any article or property, shall be deemed an **AUCTIONEER**, and every such sell shall be deemed an **AUCTION**; provided, however, that nothing in this section shall apply to judicial sales, sales by executors, administrators, or trustees under court order.

**BUSINESS**. Any trade, profession, occupation, pursuit, or business conducted in the city for profit, excluding any corporation or organization conducted solely for charitable, religious, fraternal, educational, community, or public purposes, and delivery services where no orders are taken nor solicited within the city.

**HAWKER**. Any person who for him- or herself, or as a agent of another, carries for sale and offers or exposes for sale of goods, wares, merchandise, or produce, or any article or thing for which a price is asked, in or on the streets to customers in or on the streets, or who offers or exposes for sale any such commodity from a doorway, recess, alleyway, vacant lot, or other place facing a street, whether that person is making an outcry or not.

## Merrill – Business Regulations

**PEDDLER.** Any person who for him or herself or as an agent for another goes from house to house or from place to place within the city, carrying for sale and offering or exposing for sale at retail any goods, wares, merchandise, produce, or any article or thing for which a price is asked.

**PEDDLING.** Any sale, offering for sale or exposing for the sale by a peddler in pursuance of his or her occupation as a peddler. The term **PEDDLING** shall not be construed to include delivery of goods upon a bona fide order, placed prior to the time the goods leave the place of business of the seller, specifying the exact kind and quantity of goods to be delivered; provided, that no person without the license hereinafter specified, while engaged in making such a delivery, shall upon his or her vehicle or person any goods for which he or she does not have a bona fide order given as herein specified.

**PERSON.** All domestic and foreign corporations, associates, syndicates, partnerships of every kind, joint ventures, societies, or individuals, except individuals whose income is based solely upon an hourly, daily, weekly, monthly, or annual wage or salary; provided, however, any agent or agents in the city of nonresident proprietors engaged in any business for which a license is required by this chapter shall be liable for the license fee required hereby, and shall be subject to the penalties hereof, for the failure to pay those license fees as are provided herein to the same extent as if they were themselves the proprietors of the business.

**SOLICITOR.** Any person who for him or herself, or as an agent for another, goes from house to house or place to place within the city seeking or taking goods, wares, or merchandise for future delivery.  
(Ord. 252, passed 10-1-1985)

### § 110.02 CONSTRUCTION AND INTERPRETATION.

(A) This chapter is enacted to provide revenue for municipal purposes, to provide revenue to pay for the necessary expense required to issue the license herein provided for, and to regulate the businesses licensed.

(B) The license fee levied by the chapter shall be independent of and separate from any license or permit fee now or hereafter required of any person to engage in any business by any other ordinance of the city regulating any business herein required to be licensed; and all such business shall remain subject to the regulatory provisions of any such other ordinances now or hereafter in effect; and the persons engaged therein shall be liable for the payment of any license fees therein provided for, in addition to the fees provided for herein.

## General Licensing Provisions

(C) The levy or collection of a license fee upon any business shall not be construed to be a license or permit of the city to the person engaged therein to engage therein in the event the business shall be unlawful, illegal, or prohibited by the laws of the state, the U.S., or the city.

(D) Each brand establishment of a business shall be considered, for the purposes of this chapter a separate business and subject to the license fee herein provided; but warehouses used solely incidentally in connection with a business licensed pursuant to the provisions of this chapter and operated by the person conducting that business shall not be deemed a separate place of business or branch establishment. Segregated portions of a business, the use of which portions is a necessary function toward the complete operation of the business, shall not be considered a branch establishment.

(E) It is the intention of the City Council that all license fees levied by this chapter shall be borne by the employers or proprietors of businesses for the privilege of doing business in the city, or for the regulation of the business where so provided.

(F) Nothing herein contained shall be taken or constructed as vesting any right in any license of a contract obligation on the part of the city as to the amount or character of license fees hereunder, and the license fees may be increased or decreased in any or all instances at any time by the city.

(G) The City Council finds that certain businesses and occupations require police regulation; and in all instances where the fees set herein provide for "by permit only" the city reserves the right to refuse to issue a permit or license until and unless the applicant therefor agrees to pay, in addition to the fees prescribed herein, the reasonable cost of extraordinary police supervision and also agrees to indemnify the city or any of its citizens for damages resulting from those business and occupations; and the city may require a surety bond to be posted by the applicant to insure the payment of the costs and damages.

(H) for reasons of the public policy, the provisions of this chapter shall not apply to the delivery within the city of daily and Sunday newspaper.

(I) Producers of farm products raised in this state, produced by themselves or their immediate families shall not be subject to the license fees prescribed herein.

(J) The licenses and fees provided for herein for taverns and lounges are based upon recreational facilities, services, and sales other than the serving of alcoholic beverages; and those licenses and fees are required for revenue purposes only and not for the purpose of regulation.

## Merrill – Business Regulations

### § 110.03 LICENSE REQUIREMENTS

(A) There are hereby imposed upon all businesses, trades, shops, professions, callings, and occupations specified in this chapter license fees in the amount hereinafter prescribed; and it shall be unlawful for any person to transact and carry on any such business in the city without first having obtained the license therefor for the current calendar year as herein provided, or without complying with any and all application provisions of this chapter; provided, that public utilities or private businesses covered by franchise ordinances and making payment of fees under those franchises are hereby exempted.

(B) The license fees herein required shall be due and payable on January of each year for the calendar year commencing January 1, 1986 and shall be delinquent on or after February 1. License fees for persons engaging for the first time in any trade, shop, business, occupation, profession, or calling in the city after January 1 in any year shall be due and payable upon the opening of the business or shop or engagement in that trade, occupation, profession, or calling and shall be delinquent immediately if not so paid.

(C) All licenses required by this chapter shall expire on December 31 of the year issued; and in case any person shall commence any business, trade, profession, or calling as herein specified within the city after July 1 of any year, the license fee therefor shall be one-half the annual rate.

*(Ord. 252, passed 10-1-1985) Penalty, see § 110.99*

### § 110.4 SCHEDULE OF FEES

(A) The Trades, shops, businesses, occupations, professions, and callings required to be licensed and the amounts of the license fees imposed by this chapter are as follows:

## General Licensing Provisions

<i>Fee</i>	<i>Business</i>
<b>\$100.00 per calendar year</b>	<b>Permanent Businesses, <u>covers all in one location</u></b> <b>Change of Business Ownership</b>
<b>\$55.00 per calendar year</b>	<b>Duplex Rental</b>
<b>\$50.00 per calendar year</b>	<b>House Rental</b> ( <i>separate business application per additional rental location</i> )
<b>\$50.00 + \$5 per additional unit per calendar year</b> not to exceed \$100 annual maximum	<b>Rental units</b> <i>3 or more attached rental units or apartment complex</i>
<b>\$50.00 per calendar year</b>	<b>Home Based Business</b> <i>Home occupations earning less than \$1500 are exempt</i>
<b>\$50.00 Annually</b>	<b>Delivery Service Only Non-Resident</b>
<b>\$10.00 Weekdays or \$5.00 per day Weekends</b>	<b>Transient Business-Day License</b> <i>Fees cannot be applied towards annual fee</i>
<i>Exempt- Home Occupations earning less than \$1500.00 annually, resident yard sales, weekly farmer market participants, festival vendors, minors 18 years or under (no notification needed)</i>	

All other Resolutions or Ordinances or parts of Resolutions or Ordinances in conflict with §110.04, Schedule of Fees, herewith are hereby repealed.

(Am. Ord. 252 passed 10-1-1985; Ord. 624 passed 1-9-2007; Am. Ord. 252 A passed 10-8-2015)

(B) Any person operating any trade, shop, business, profession, or calling of a business nature in the city, not otherwise classified herein and not licensed in any other ordinance of the city, shall obtain a license and pay a fee of \$25 annually or for any fraction of a year, with the exception of businesses which are specifically exempt from payment of municipal license fees by state law.

(Ord. 252, passed 10-1-1985) Penalty, see § 110.99

### § 110.05 PROCEDURE FOR OBTAINING LICENSE.

(A) All licenses shall be issued by the City Recorder, on the order of the City Council upon written application therefor, and not otherwise, except for renewals, and excepting that when the council is not in session, the Recorder is authorized to issue a permit to any

## Merrill – Business Regulations

applicant for permission to operate or to do business until the next regular Council meeting and no longer. All licenses and permits are subject to revocation at any time by the Council for cause.

(B) The application for the license shall contain the following information

1. A description of the trade, shop, business, profession, occupation, or calling to be carried on within the city;
2. The name of the applicant, with a statement of all person having an interest in the business wither as proprietors or owners of the business;
3. The location of the place where the business is carried on;
4. The date of the application
5. The amount of money tendered with the application; and
6. the signature of the applicant.

(Ord. 252, passed 10-1-1985)

### § 110.06 BUSINESS LICENSE APPLICATION

The business license application as set forth in Appendix A of this Chapter shall be in effect for the city.

(Ord. 274, passed 5---1991)

### § 110.07 ISSUANCE AND DISPLAY OF LICENSE

(A) the City Recorder shall issue his or her license receipt when payment of the fee therefor is made; and every person shall keep and retain that license receipt on the premises or place where that person customarily transact or engage in the business, trade, profession, or occupation so license and shall exhibit the same to the Chief of Police or other pole official of the city upon demand.

(B) The license issued in each case, when properly signed by the City Recorder, shall be prima facie evidence of the payment of the proper fee; and the license so issued shall specify the date issued, the name of the person, firm, associate, or corporation to whom issued and the business, trade, profession, or occupation for which issued, together with the location thereof and the amount of license fee paid.

(Ord. 252, passed 10-1-1985)

## **General Licensing Provisions**

### **§ 110.08 EXAMINATION OF BUSINESS PREMISES.**

The city law enforcement officer and his or her subordinates are hereby empowered to investigate and examine all places of business licensed or subject to license under the terms of this chapter at any and all reasonable times for the purpose of determining whether that place of business is complying with the terms of this chapter.

(Ord. 252, passed 10-1-1985)

### **§ 110.09 VIOLATIONS**

(A) It shall be unlawful for any person to willfully make any false or misleading statement to the City Recorder or City Council for the purpose of securing a permit or license or determining the amount of any license herein provided to be paid by that person, or fail, or refuse to comply with any of the provisions of this chapter to be complied with or observed by that person, or to fail or refuse to pay before the same shall be delinquent any license fee or penalty hereby required to be paid by that person.

(B) In the event any person hereby required to obtain a license shall fail or neglect to obtain the same before it shall become delinquent, the City Recorder shall collect upon payment of the fee therefor an additional penalty of 5% of that fee for each calendar month or fraction thereof the same shall be delinquent.

(C) Any business may be reclassified or sub-classified at any time and other or additional fees levied thereupon.

(D) The conviction of any person for violation of any of the provisions of this chapter shall not operate to relieve that person from paying any fee or penalty for which that person shall be liable, nor shall the payment of any such fee be a bar to or prevent any prosecution on the court of the competent jurisdiction on any complaint for the violation of any of the provisions of this chapter.

Penalty, see § 110.99

(Ord 252, passed 10-1-1985)

### **§ 110.99 PENALTY.**

Any person violating and the provision of this chapter shall, upon conviction thereof in a court of competent jurisdiction, be punished by a fine of not to exceed \$1000.00. In addition to the fine and as a separate and distinct remedy, the city may sue in any court of competent jurisdiction to obtain judgement and enforce collection thereof by attachment or execution any license fee and delinquency penalties due under this chapter and may also sue for an injunction against any person conducting any business, trade, profession, or occupation as in

## **Merrill – Business Regulations**

this chapter provided. Each day any person conducts any business mentioned herein in violation of the provisions of this chapter shall be deemed a separate offense and shall be punished accordingly.

*(Am. Ord. 252, passed 10-1-1985; Ord. 626 passed 2-14-2012)*



**General Licensing Provisions**

**APPENDIX A: BUSINESS LICENSE APPLICATION FORM**

City of Merrill

Business License Application

Name of Business \_\_\_\_\_ Date \_\_\_\_\_

Name of Owner \_\_\_\_\_ Type of Business \_\_\_\_\_

Address of Owner \_\_\_\_\_

Address of Business \_\_\_\_\_

Phone Number \_\_\_\_\_ Name of Business Manager \_\_\_\_\_

Owner's Social Security Number \_\_\_\_\_

Federal Tax ID Number \_\_\_\_\_

Proof of Insurance \_\_\_\_\_

Signature of Applicant \_\_\_\_\_

State Fire Marshal \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_  
Approved Denied

County Building Dept. \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_  
Approved Denied

Planning Department \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_  
Approved Denied

Public Works Dept. \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_  
Approved Denied

Merrill City Council \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_  
Approved Denied

License Fee \$ \_\_\_\_\_

Expires December 31, 20\_\_\_\_.

Note. This application is not deemed approved until approved by the City Council and a copy mailed to the applicant.

*(Ord. 274, Attachment, passed 5---1991)*