

CHAPTER 2¹

OFF TRACK BETTING (5100)

SECTION:

- 5-2-1: PURPOSE (5100)
- 5-2-2: DEFINITIONS (5100)
- 5-2-3: ADMINISTRATION; BUSINESS LICENSING AND REVENUE COLLECTIONS
ADMINISTRATOR; DUTIES, APPEALS (5100)
- 5-2-4: LICENSE APPLICATION; FEE; TIMELINE (5100)
- 5-2-5: OFF TRACK BETTING LICENSE REQUIRED (5100)
- 5-2-6: OFF TRACK BETTING LICENSE APPLICATION; CONTENTS (5100)
- 5-2-7: LOCATION OF OFF TRACK BETTING ESTABLISHMENT (5100)
- 5-2-8: PAYMENT OF FEES AND TAXES (5100)
- 5-2-9: FEES (5100)
- 5-2-10: TERM OF LICENSE (5100)
- 5-2-11: PUBLIC HEARING ON OFF TRACK BETTING LICENSE; NOTICE (5100)
- 5-2-12: INFORMATION UPDATE (5100)
- 5-2-13: SPECIAL PROVISIONS (5100)
- 5-2-14: RENEWAL (5100)
- 5-2-15: INSPECTION OF PREMISES, PROPERTY AND RECORDS (5100)
- 5-2-16: GROUNDS FOR DENIAL, REVOCATION, SUSPENSION, OR NON-RENEWAL OF
LICENSE (5100)
- 5-2-17: POSTING AND DISPLAY OF LICENSE (5100)
- 5-2-18: PENALTY (5100)

5-2-1: PURPOSE: (5100)
The purpose of this Chapter is to protect the health, safety and welfare of residents of the City of Mesa (“City”) by means of regulation of Off Track Betting operators. (5100)

5-2-2: DEFINITIONS: (5100)
For the purposes of this Chapter, the following words and phrases, wherever used in this Chapter, shall have the meaning as defined in this Section, Mesa City Code 11-86-4, Arizona Revised Statutes Section 5-101, and Arizona Administrative Code Section R19-2-401: (5100)

ADDITIONAL WAGERING FACILITY: A facility which is not the enclosure in which authorized racing takes place but which meets the requirements of Arizona Revised Statutes Section 5-111, Subsection (A) and is used by an Arizona racetrack permittee for handling pari-mutuel wagering. (5100)

DOG RACING: Racing in which Greyhound dogs chase a mechanical lure. (5100)

HARNESS RACING: Horse racing in which the horses are harnessed to a sulky, carriage or similar vehicle and driven by a driver. (5100)

¹ **Editor’s Note** – Former Chapter 2 Group Home for the Handicapped and Supervised Living Facility License was repealed by Ordinance 4844, which was adopted on May 19, 2008. Previous ordinances impacting Chapter 2: 1007, 1027, 1706, 1934, 2181, 2430, 2658, 3394, 3746.

HORSE RACING: Racing in which horses are mounted and ridden by jockeys. For purposes of county fair racing meetings, “horse racing” means racing in which horses or mules are mounted and ridden by jockeys. (5100)

OFF TRACK BETTING ESTABLISHMENT: An additional wagering facility which simulcasts horse, harness or dog racing events for the purpose of pari-mutuel wagering that is operated as an accessory use to an eating and drinking establishment as defined by Mesa City Code Section 11-86-4, and is authorized by issuance of a teletrack wagering permit in accordance with Arizona Revised Statutes Section 5-112 and Arizona Administrative Code Title 19, Chapter 2, Article 4. (5100)

OFF TRACK BETTING OPERATOR: Any person who holds a teletrack wagering permit for horse, harness or dog racing events within Arizona and who accepts bets or wagers on the results of any pari-mutuel race at a location which is not the enclosure in which authorized racing takes place. (5100)

PERSON: Any individual, partnership, limited partnership, firm, corporation, association, or any other group acting as a unit. (5100)

PARI-MUTUEL WAGERING: A system of betting which provides for the distribution among the winning patrons of at least the total amount wagered less the amount withheld under Arizona Revised Statutes Section 5-111. (5100)

RACING PROGRAM: Live races conducted at an authorized track, approved dark-day simulcasts and any simulcast races shown to the public in conjunction with live racing on which pari-mutuel wagering is allowed. (5100)

TELETRACKING: Telecast of live audio and visual signals of live or simulcast horse, mule, or Greyhound racing programs conducted at an authorized enclosure within Arizona to an authorized additional wagering facility within Arizona, by an Arizona racetrack permittee for the purpose of pari-mutuel wagering. (5100)

TELETRACK FACILITY: An additional wagering facility owned or leased by an Arizona racetrack permittee which is used for handling legal wagers. (5100)

TELETRACK WAGERING: Pari-mutuel wagering conducted at a teletrack facility within Arizona on a racing program which is conducted at an authorized track within Arizona. (5100)

TELETRACK WAGERING PERMIT: Permit issued by the Arizona Racing Commission authorizing an Arizona racetrack permittee to telecast a racing program to single or multiple teletrack wagering facilities within the state of Arizona for the purpose of pari-mutuel wagering. (5100)

**5-2-3: ADMINISTRATION; BUSINESS LICENSING AND REVENUE COLLECTIONS
ADMINISTRATOR; DUTIES, APPEALS: (5100)**

- (A) It is the duty and responsibility of the Business Licensing and Revenue Collections Administrator to administer the provisions of this Chapter. Pursuant to this duty, the Business Licensing and Revenue Collections Administrator will issue, renew, suspend, or revoke the off track betting license in accordance with this Chapter, provided the decision to issue an off track betting license will be made by City Council following the hearing provided in Section 5-2-11. (5100)
- (B) Any party aggrieved by a decision of the Business Licensing and Revenue Collections Administrator to revoke, suspend or deny renewal of a license under this Chapter may appeal within ten (10) calendar days after being sent, by registered or certified mail, notice of such decision. The appeal must be in writing, state the grounds for the appeal, and be sent to the Business Services Director, or designated representative, within thirty (30) calendar days of receipt of the appeal. A hearing officer designated by the City will render a decision within sixty (60) calendar days of the hearing. (5100)

5-2-4: LICENSE APPLICATION; FEE; TIMELINE: (5100)

- (A) Any off track betting operator desiring to obtain an off track betting license must apply to the licensing office. Each application must be accompanied by all required application fees in accordance with the current Schedule of Fees and Charges. (5100)
- (B) Upon approval, and prior to issuance of the off track betting license, the applicant must pay all required fees in accordance with the current Schedule of Fees and Charges. (5100)
- (C) An application will be granted or denied within the schedule of administrative and substantive review timeframes, as established by the Business Licensing and Revenue Collections Administrator. (5100)

5-2-5: OFF TRACK BETTING LICENSE REQUIRED: (5100)

- (A) It is unlawful for any person to conduct or operate as an off track betting operator or off track betting establishment in the City without first obtaining and maintaining in effect a current, unrevoked and unsuspended off track betting license as required by this Chapter. (5100)
- (B) It is unlawful for any person to conduct or operate as an off track betting operator or off track betting establishment without obtaining and maintaining in effect a current, unrevoked and unsuspended teletrack wagering permit as required by the Arizona Racing Commission in accordance with Arizona Revised Statutes Section 5-112 and Arizona Administrative Code Title 19, Chapter 2, Article 4. (5100)
- (C) The license required by this Chapter is in addition to any other licenses or permits required by any governmental authority necessary to lawfully conduct business. (5100)
- (D) It is unlawful for any person licensed as provided in this Chapter to conduct business at any location not specified on such license. (5100)
- (E) It is unlawful for any person licensed as provided in this Chapter to conduct teletrack wagering on any type of racing not specified on such license. (5100)
- (F) Licenses issued pursuant to this Chapter are nontransferable. (5100)

5-2-6: OFF TRACK BETTING LICENSE APPLICATION; CONTENTS: (5100)

Each application for an off track betting license must, at a minimum, contain all of the information contained in this section. (5100)

- (A) Applicant Information: legal name, physical address, mailing address, email address, business telephone number, fax number, type of ownership and statutory agent, if applicable. (5100)
- (B) Information on the Mesa eating and drinking establishment that is the proposed location for which off track betting will be an accessory use: physical address, name of primary business at proposed location, and name and telephone number of representative of proposed location. (5100)
- (C) If the applicant is a business entity, the full legal name, date of birth and residence address of all persons who participate in management, control or policy direction of the applicant, including, with respect to a corporation, the corporation's officers, directors and stockholders holding twenty (20) percent or more of the outstanding shares of the corporation's stock. (5100)
- (D) Disclosure of information regarding the persons identified pursuant to subsections (A) and (C) of this section as to any:
 - 1. Felony conviction of such persons within the preceding five (5) years; (5100)
 - 2. Judicial ruling or administrative finding of violation of any law or regulation relating to racing, wagering or gaming, in any jurisdiction; and (5100)
 - 3. Any revocation or suspension of a license or permit relating to pari-mutuel betting or teletracking activities. (5100)
- (E) Proof the applicant holds a valid permit from the Arizona Racing Commission to conduct pari-mutuel races within the state of Arizona. (5100)
- (F) Accurate drawings to scale indicating the floor plan of the proposed location for which off track betting will be an accessory use that include the precise location of all off track betting facilities and activities. (5100)
- (G) Copy of the plan of operation submitted to the Arizona Racing Commission, in accordance with the specifications of Arizona Administrative Code Section R19-2-404. (5100)
- (H) If applicant is an individual, proof the applicant's presence in the United States is authorized under federal law, pursuant to Arizona Revised Statutes Section 41-1080. (5100)
- (I) Any other identification and information as stated in the application. (5100)

5-2-7: LOCATION OF OFF TRACK BETTING ESTABLISHMENT: (5100)

- (A) An off track betting license will not be granted unless located in an eating a drinking establishment in an approved commercial district in accordance with Mesa City Code Section 11-6-2 and 11-7-2. (5100)
- (B) The provisions of this Section will not be construed as permitting any use or activity which is otherwise prohibited or made punishable by law. (5100)

5-2-8: PAYMENT OF FEES AND TAXES: (5100)

An application for the off track betting license will not be processed or renewed if the applicant is delinquent in payment of any City taxes, fees, renewals or other City payments due in accordance with Mesa City Code Section 1-32-400. (5100)

5-2-9: FEES: (5100)

- (A) An application for an off track betting license must be accompanied by an application fee in accordance with the current Schedule of Fees and Charges and any other fees required by this Chapter. (5100)
- (B) In order for an application to be administratively complete, all fees must be submitted according to the current Schedule of Fees and Charges. (5100)
- (C) Submission of the annual renewal form must include the annual fee in accordance with the current Schedule of Fees and Charges before it will be processed. (5100)
- (D) Fees are not prorated, transferable or refundable unless otherwise provided by law. (5100)

5-2-10: TERM OF LICENSE: (5100)

The off track betting license, issued pursuant to the provisions of this Chapter, will be issued for a term of one (1) year from the issue date. (5100)

5-2-11: PUBLIC HEARING ON OFF TRACK BETTING LICENSE; NOTICE: (5100)

- (A) The City Council will hold a public hearing on an application for an off track betting license. Notice of the hearing will be given at least twenty (20) calendar days prior to the hearing and will be posted on the property of the proposed off track betting location. (5100)
- (B) Council's decision to approve or deny the application will be based on the criteria set forth in Section 16 of this Chapter. (5100)
- (C) Within seven (7) calendar days of the public hearing the applicant will be notified in writing of the Council's decision to approve or deny the application. The applicant must communicate the decision to the Arizona Racing Commission. (5100)

5-2-12: INFORMATION UPDATE: (5100)

- (A) Except as otherwise provided herein, any change in the information provided in the application required to be submitted for the issuance of a license in accordance with this Chapter must be submitted to the licensing office in writing within ten (10) calendar days of such change. (5100)
- (B) Altering the services offered, the site plan, number or pari-mutuel windows or tote machines, or type of racing conducted without written approval from the licensing office is unlawful. (5100)

5-2-13: SPECIAL PROVISIONS: (5100)

- (A) Any person employed by an off track betting establishment in Mesa must be at least eighteen (18) years of age. (5100)
- (B) A licensee will not knowingly allow a person who is under twenty one (21) years of age to be a patron of the pari-mutuel system of wagering. (5100)
- (C) The licensee of the off track betting establishment must take all reasonable measures, including but not limited to requiring identification from persons placing bets or wagers at an off track betting establishment, to prevent unlawful gambling by anyone under the age of twenty one (21) years of age. (5100)
- (D) Teletrack wagering may be conducted only between the hours of 7:00 A.M. and 12:00 A.M. (5100)
- (E) Revocation or suspension of a state permit from the Arizona Racing Commission to conduct pari-mutuel races within the state of Arizona will constitute automatic revocation or suspension of the corresponding City license. (5100)
- (F) It is unlawful for an off track betting establishment to receive a simulcast race from an unlicensed teletrack operator. (5100)

5-2-14: RENEWAL: (5100)

- (A) Within one (1) year of the issue date for the previously effective license, all licensees under this Chapter wishing to remain licensed must apply for renewal on a form established by the licensing office. The renewal form must be submitted no later than forty five (45) calendar days prior to the expiration date with the applicable renewal fee, as set forth in the current Schedule of Fees and Charges. No license shall be renewed unless the licensee complies with all provisions of this Chapter. (5100)
- (B) A licensee who fails to timely apply for renewal shall be subject to a penalty in accordance with the current Schedule of Fees and Charges. If the licensee fails to start the renewal process at least thirty (30) calendar days prior to the license expiration date, the license shall expire and become null and void. Licensees who fail to apply to renew their license, yet wish to continue operating an off track betting establishment, must file a new application for license and may not operate an establishment until a new license is issued. Granting of a license under this Chapter does not confer an entitlement to or presumption of renewal of the license. (5100)

5-2-15: INSPECTION OF PREMISES, PROPERTY AND RECORDS (5100)

To ensure compliance with this Chapter and other applicable laws, the business premises of any person required to be licensed under this Chapter, including any property on the premises related to the off track betting license, must be open to inspection by representatives of the City upon request at any time during the licensee's regular business hours, or reasonable hours as agreed upon by the licensee and the City. (5100)

5-2-16: GROUNDS FOR DENIAL, REVOCATION, SUSPENSION, OR NON-RENEWAL OF LICENSE: (5100)

The City Council may deny a license application and the Business Licensing and Revenue Collections Administrator may revoke, suspend or deny renewal of a license in accordance with this Chapter for the following grounds: (5100)

- (A) Violation of the laws governing wagering within the state of Arizona, in accordance with Arizona Administrative Code Title 19, Chapter 2; (5100)
- (B) Repeated acts of violence or disorderly conduct on the off track betting premise; (5100)
- (C) False or misleading testimony by the licensee in an investigation or other proceeding related to wagering; (5100)
- (D) Delinquency for more than thirty (30) calendar days in the payment of any taxes or fees owed to the City; (5100)
- (E) Failure to operate an off track betting establishment in compliance with the plans submitted and approved pursuant to Section 5-2-6(G) of this Chapter. (5100)
- (F) Failure to maintain a current Arizona teletrack wagering permit; (5100)
- (G) Falsification of information submitted on an off track betting license application or renewal application; (5100)
- (H) Violation of any of the provisions of this Chapter; or (5100)
- (I) Violation of any Mesa City Code. (5100)

5-2-17: POSTING AND DISPLAY OF LICENSE: (5100)

Any off track betting operator licenses under this Chapter must have the City Off Track Betting License and the state Teletrack Wagering Establishment Permit posted in public view at the licensed Mesa location. (5100)

5-2-18: PENALTY: (5100)

Whenever in this Chapter any act or the failure to do any act is declared to be unlawful, the violation of any such provision of this Chapter is a class one misdemeanor. Each day any such violation continues shall constitute a separate offense. Revocation or suspension of a license shall not be a defense against prosecution. (5100)

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