

Title 3 BUSINESS AND LICENSE REGULATIONS

CHAPTER 1 GENERAL LICENSE PROVISIONS

3-1-1: DEFINITIONS:

As used in this Title:

BUSINESS: Includes all activities engaged in within the City carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically provided.

EACH SEPARATE PLACE OF BUSINESS: Each separate establishment or place of operation, whether or not operating under the same name, within the City, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the City.

EMPLOYEE: The operator or manager of a place of business and any persons employed in the operation of said place of business in any capacity and also any salesman, agent or independent contractor engaged in the operation of the place of business in any capacity.

ENGAGING IN BUSINESS: Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.

PLACE OF BUSINESS: Each separate location maintained or operated by the licensee within the City from which business activity is conducted or transacted.

WHOLESALE: A sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.

WHOLESALE: A person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-1-2: LICENSE ASSESSOR AND COLLECTOR:

The City Recorder is designated and appointed as ex officio assessor of license fees for the City. On receipt of any application for a license, the City Recorder shall assess the amount due thereon and shall collect all license fees based upon the rate established by

resolution of the City Council. He/she shall enforce all provisions of this Title, and shall cause to be filed complaints against all persons violating any of the provisions of this Title. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-1-3: BUSINESS LICENSE REQUIRED; PENALTY:

It shall be a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for any person to transact, engage in or carry on any business, trade, profession, calling or to operate a vending, pinball or coin-operated machine without first receiving the class or type of license required by the City. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-1-4: APPLICATION FOR LICENSE:

- A. Required: All applications for a business license shall be made in writing to the City Recorder and filed for each place of business, service or profession within the City.
- B. Information: All applications shall be verified and contain the following information:
 - 1. The name of the person desiring a license; if a partnership, the names of all of the partners, and if a corporation, the names of the principal officers thereof.
 - 2. The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on.
 - 3. The class of license desired, if such licenses are divided into classes.
 - 4. The place where such business, calling, trade or profession is to be carried on, giving the street number if the business, calling, trade or profession is to be carried on in any building or enclosure having such number. (Ord. 10-4-95, 10-4-1995)
 - 5. The tax identification number and any other information that may be deemed pertinent for such application. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-1-5: LICENSE FEE LEVIED:

- A. Fixed By Resolution: The license fee payable by persons engaging in or carrying on any business within the City shall be periodically fixed by resolution of the City Council.
- B. Addition To Other Fees: Except as otherwise expressly provided, the license fee imposed by this Chapter shall be in addition to any and all other taxes or licenses imposed by any other provisions of the ordinances of the City.
- C. License Year: The license year herein shall be the calendar year. (Ord. 10-4-95, 10-4-1995)

3-1-6: PAYMENT DATES:

All license fees shall be due and payable as follows, except as may be otherwise provided: (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

- A. Annual Fees Due: All license fees provided for herein shall be due and payable on or before January 5 of any calendar year, or before commencing a new business.
- B. Delinquent; Penalty: In the event any fee is not paid on or before such date, a penalty of fifty percent (50%) of the amount due shall be imposed and shall become a part of the license fee imposed by this Chapter. The date of delinquency and the amount of the penalty may be amended periodically by resolution of the City Council;

provided, that the application of the amended date and penalty be prospective only, effective the next calendar year. (Ord. 10-4-95, 10-4-1995)

3-1-7: INTERSTATE COMMERCE:

None of the license taxes provided for by Chapters 1, 2, 5 and 6 of this Title shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license tax is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the license assessor and collector for an adjustment of the tax so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The license assessor and collector shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the tax fixed by Chapters 1, 2, 5 and 6 of this Title is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the City Council a license tax for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the City Council is satisfied that such license tax is the amount that the applicant should pay, it shall fix the license tax in such amount. If the regular license tax has already been paid, the City Council shall order a refund of the amount over and above the tax fixed by the City Council. In fixing the fee to be charged, the license assessor and collector shall have the power to base the fee upon a percentage of gross sales, or employees, or may use any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-1-8: CONTENTS OF CERTIFICATE OF LICENSE:

All certificates of license shall be signed by the City Recorder and shall contain the following information:

- A. Name: The name of the person to whom such certificate has been issued.
- B. Amount: The amount paid.
- C. Type: The type of license and the class of such license if licenses are divided into classes.
- D. Term: The term of the license with the commencing date and the date of its expiration.
- E. Location: The place where such business, calling, trade or profession is to be conducted. (Ord. 10-4-95, 10-4-1995)

3-1-9: DISPLAY CERTIFICATE OF LICENSE:

- A. Posted In Conspicuous Place: Every certificate of license issued under this Title shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place

in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person, ready to be shown upon request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

- B. Coin-Operated Machine: In the event the license is for a coin-operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued. (Ord. 10-4-95, 10-4-1995)

3-1-10: TRANSFER OF LICENSE PROHIBITED:

No license granted or issued under any ordinance of the City shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than therein named to do business or to authorize any other business, calling, trade or profession than is therein named unless by permission of the City Council. (Ord. 10-4-95, 10-4-1995)

3-1-11: BRANCH ESTABLISHMENTS:

A separate license must be obtained for each separate place of business in the City and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing places used in connection with or incident to a business licensed under this Title shall not be deemed to be separate places of business or branch establishments. (Ord. 10-4-95, 10-4-1995)

3-1-12: JOINT BUSINESS LICENSES:

Whenever any person is engaged in two (2) or more businesses at the same location within the City, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license which shall specify on its face all such businesses. The license tax to be paid shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license tax for such business. (Ord. 10-4-95, 10-4-1995)

3-1-13: RECIPROCAL RECOGNITION; DELIVERY OF GOODS:

- A. Exceptions: No license shall be required for operation of any vehicle or equipment in the City when:
 - 1. Such vehicle is merely passing through the City.
 - 2. Such vehicle is used exclusively in intercity or interstate commerce. (Ord. 10-4-95, 10-4-1995)
- B. Delivery Of Property: No license shall be required by Chapters 1 and 5 of this Title of any person whose only business activity in the City is the mere delivery in the

City of property sold by him at a regular place of business maintained by him outside the City where: (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

1. Such person's business is at the time of such delivery licensed by the Utah municipality or county in which such place of business is situated; and
 2. The authority licensing such business grants to licensees of the City making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this Section; and
 3. Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of the City for compliance with health or sanitary standards prescribed by the City; and
 4. The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the said licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.
- C. Certification Of Section: The City Recorder shall, at the request of any person, certify a copy of this Section to any municipality or county of the State to which a copy has not previously been certified. (Ord. 10-4-95, 10-4-1995)

3-1-14: EXEMPTIONS TO LICENSE:

- A. Tax Exempt Businesses: No license fee shall be imposed under Chapters 1, 2, 5 and 6 of this Title on any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly nonprofit purpose which is tax exempt in such activities under the laws of the United States and the State, nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State; nor shall any license fee be imposed upon any person not maintaining a place of business within the City who has paid a like or similar license tax or fee to some other taxing unit within the State and which taxing unit exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in the City and doing business in such taxing unit. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)
- B. Reciprocal Agreements With Other Agencies: The license assessor and collector may, with approval of the City Council, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper in effecting the exemption provided for in subsection A of this Section. (Ord. 10-4-95, 10-4-1995)

3-1-15: RECORDS REQUIRED BY LICENSEE:

- A. Records Maintained: It shall be the duty of every person liable for the payment of any license fee imposed by this Chapter to keep and preserve for a period of three (3) years such books and records as will allow the City to determine the amount of any license fee for which he may be liable under the provisions of this Chapter. This will include records accurately reflecting the amount of his gross annual receipts of goods and services and the number of persons employed by the business.
- B. Returns Not Public: Actual returns of gross receipts or gross income or the amounts

thereof made to the City Recorder as required by this Chapter shall not be made public nor shall such be subject to the inspection of any person except the City Recorder or his authorized agent, or those persons authorized by order of the City Council. It shall be unlawful for any person to make public or to inform any other person as to the contents of any return, except as is in this Section authorized.

- C. False Information; Unlawful: It shall be unlawful for any person to provide false information to the City in relation to the application for, issuance of, or continuation of, a business license, or to knowingly cause or permit the same to be done. (Ord. 10-4-95, 10-4-1995)

3-1-16: REVOCATION OR DENIAL OF LICENSE:

- A. Failure To Comply; Unlawful Activities: Any license issued pursuant to the provisions of this Code or of any ordinance of the City may be revoked and any application denied by the City Council because of:
 - 1. The failure of the licensee or applicant to comply with the conditions and requirements of this Code or any ordinance of the City.
 - 2. Unlawful activities conducted or permitted on the premises where the business is conducted.
- B. Notice To Licensee: Prior to the revocation of a license or denial of an application to renew business license, the licensee or applicant shall be given a notice which shall state in substance that the City Council intends to revoke the business license or deny the application to renew, together with the reason or reasons therefor, at a regular or special meeting of the City Council (which shall be at least 10 days and not more than 30 days from the date notice is sent), and that the licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against him, to cross-examine witnesses and to present evidence as to why the license should not be revoked or the application denied.
- C. Not Applicable To Businesses Not Previously Licensed: The preceding subsection shall not apply to applications for licenses for businesses which have not previously been licensed by the City, and such applicants need only be informed that their application has been denied. (Ord. 10-4-95, 10-4-1995)

**CHAPTER 2
LIQUOR CONTROL**

3-2-1: DEFINITIONS:

The words and phrases used in this Chapter shall have the meanings specified in the Alcoholic Beverage Control Act, Utah Code Annotated part 1, section 32A-1-105, unless a different meaning is clearly evident. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-2-2: QUALIFICATIONS OF APPLICANT:

No license shall be granted to any retailer to sell beer within the City unless he shall be of

good moral character, over the age of twenty one (21) years, and a citizen of the United States, or to anyone who has been convicted of a felony or of any violation of any law of the State or provision of the ordinances of the City relating to intoxicating liquors, or of keeping a gambling or disorderly house, or who has pleaded guilty to or has forfeited his bail on a charge of having committed a felony or of having violated any such law or ordinance, or to any partnership, any member of which lacks any of the qualifications set forth in this Section, or to any corporation, of which any director or officer lacks any such qualifications. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-2-3: APPLICATION FOR LICENSE AND RENEWAL LICENSE:

- A. Verified: All applications for licenses authorized by this Chapter shall be verified and shall be filed with the City Recorder. The applications must state the applicant's name in full and that he understands and has read and complied with the requirements and possesses the qualifications specified in the Alcoholic Beverage Control Act and this Chapter. If the applicant is a copartnership, the names and addresses of all partners, and if a corporation, the names and addresses of all officers and directors, must be stated. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)
- B. Subscribed: The application must be subscribed by the applicant who shall state under oath that the facts therein contained are true.
- C. Renewal: All applications for renewal licenses filed by the holders of existing licenses shall be filed with the City Recorder at least thirty (30) days prior to the expiration date of the then issued license. Any person who fails to file such application within the time limit shall close his licensed premises on the expiration date of the then issued license and shall keep the premises closed for any and all business for the sale of beer until the date his new license is issued by the City Council. (Ord. 10-4-95, 10-4-1995)

3-2-4: FEES:

- A. Annual Regulatory License Fee: In addition to any other business license fee which any person or place of business may be required to pay, there is hereby imposed on the business location of every person engaged in the sale or dispensing of beer annual license fees which shall be periodically fixed by resolution or motion of the City Council. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)
- B. License Fee To Accompany Application: Applications provided for in this Chapter shall be accompanied by the fees provided in this Section. The fee shall be returned to the applicant if the application is denied. (Ord. 10-4-95, 10-4-1995)

3-2-5: REFERRAL TO CHIEF OF POLICE:

All applications filed in accordance with the provisions of this Chapter shall be referred to the Chief of Police for inspection and report. The Chief of Police shall, when possible, within ten (10) days after receiving such application, make a report to the City Council of the general reputation and character of the persons who habitually frequent such place; the nature and kind of business conducted at such place by the applicant, by any other person or by the applicant at any other place; whether the place is or has been conducted in a lawful, quiet and orderly manner; the nature and kind of entertainment, if any, at

such place; whether gambling is or has been permitted on the premises or by the applicant at any other place; and the proximity of such premises to any school or church. The Chief of Police shall also add to such report his recommendation as to whether or not the application should be granted. (Ord. 10-4-95, 10-4-1995)

3-2-6: BOND REQUIREMENT:

- A. Required: No license required by this Chapter shall be granted by the City Council until the applicant shall have filed with the City Recorder a bond in a sum and as required by Utah Code Annotated title 32A. The bond shall be made in favor of the City. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)
- B. Forfeiture: In the event any license is revoked, licensee shall forfeit any performance bond which may have been posted. In addition, after said license is revoked, the City Council will not consider a new application for the same licensee for a period of thirty (30) days from the date of revocation. (Ord. 10-4-95, 10-4-1995)

3-2-7: DEPARTMENT OF HEALTH PERMIT:

No license under this Chapter shall be issued until the applicant therefor shall have first procured from the Central Utah District Health Department a permit which shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage, distribution or sale of beer complies with all the health regulations of the City and the State. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-2-8: ALCOHOL TRAINING AND EDUCATION:

- A. Required: No person shall be granted a license to operate or maintain a trade, profession or calling, the transaction or carrying on of which requires a license, within the City if such person operates an establishment which, as part of its business, serves alcoholic beverages as defined in Utah Code Annotated section 32A-1-105(2), to the public for consumption on the premises, unless that person shall show by certificate granted by the Utah Department of Alcoholic Beverage Control, or by adequate proof of the existence of such certificate, that each employee of the business engaging in the serving, selling or furnishing of such alcohol on the premises has completed the Alcoholic Training and Education Seminar, as required in Utah Code Annotated section 62A-8-403.
- B. New Employees: Every new employee hired after the licensee has been licensed in compliance with subsection A of this Section, who is required to complete this seminar, shall complete the seminar within six (6) months of commencing employment. Violation of this Section will result in revocation of the license granted, unless compliance is completed within two (2) months of the time that licensee first became aware that such violation occurred. (1998 Code)

3-2-9: CLASSIFICATIONS OF LICENSES:

Retail licenses issued hereunder shall be of the following three (3) kinds and shall carry the following privileges, and shall be known as: Class A, Class B and Class C licenses.

- A. Class A License: Class A retail licenses shall entitle the licensee to sell beer on the premises licensed in original containers for consumption off the premises, in

- accordance with the Alcoholic Beverage Control Act and the ordinances of the City.
- B. Class B License: Class B retail licenses shall entitle the licensee to sell beer in the original containers on the premises for consumption on or off the premises in accordance with the Alcoholic Beverage Control Act and the ordinances of the City.
 - C. Class C License: Class C licenses for retail shall entitle the licensee to sell draft beer for consumption on or off the premises and to sell beer in accordance with the Alcoholic Beverage Control Act and the ordinances of the City. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-2-10: PURCHASE OF BEER FOR RESALE:

It is a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for any licensee to purchase or acquire, or to have or possess for the purpose of sale or distribution, any beer except that which he shall have lawfully purchased from a brewer or wholesaler licensed under the provisions of the Alcoholic Beverage Control Act. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-2-11: SEPARATE LICENSE FOR EACH PLACE OF BUSINESS; DISPLAY:

A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. All licensees shall comply with the Alcoholic Beverage Control Act and the regulations of the Alcoholic Beverage Control Commission. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-2-12: LICENSE NOT TRANSFERRABLE:

Licenses issued pursuant to this Chapter shall not be transferrable, and if revoked by the City Council, the fee paid by the licensee to the City for the license shall be forfeited to the City. (Ord. 10-4-95, 10-4-1995)

3-2-13: RESTRICTIONS:

- A. Sales; Places And Persons: It is unlawful for any person to sell beer at any public dance or to any person intoxicated, or under the influence of any intoxicating beverage. It is unlawful for any person to sell beer in any dance hall or theater.
- B. Dance Halls, Theaters, Churches And Schools: No license shall be granted to sell beer in any dance hall, theater, or within fifty (50) yards of any church or within one hundred (100) yards of any school.
- C. Minors; Unlicensed Premises: It shall be unlawful to sell beer to any person under the age of twenty one (21), or to sell beer for consumption on the premises unless so licensed, or to permit the drinking of liquor on such premises.
- D. Hours Of Sales, Consumption: It shall be unlawful to sell or otherwise furnish or dispose of beer, or allow it to be drunk or consumed on the premises or to allow beer out of original containers to remain on the licensed premises, whether or not open to the public, after the closing hour of twelve o'clock (12:00) midnight and before five o'clock (5:00) A.M. of any day, except that the closing hour on the day following

December 31 of any year shall be two o'clock (2:00) A.M.

E. Class B And C License:

1. Hours: Any person having a Class B or C beer license, or his agents or employees, shall remove or cause to be removed from the licensed premises all patrons, customers or individuals not employed on the premises by the time stated in subsection D of this Section.

2. Employees On Premises: It shall be unlawful for any person having a Class B or C beer license or for his agents or employees to permit any patron, customer or individual not employed on the premises to remain on such premises after the closing time above provided; provided however, no licensed premises may employ more than two (2) persons on the premises after the closing hour without the permission of the Chief of Police or the Mayor. (Ord. 10-4-95, 10-4-1995)

F. Illumination Of Premises: Licensed premises shall be kept brightly illuminated at all times while it is occupied or open for business, and no booth, or kind of stall shall be maintained unless all tables, chairs and occupants are kept open to full view from the main floor and the entrance of such licensed premises. It shall be unlawful to advertise the sale of beer except under such regulations as are made by the Alcoholic Beverage Control Commission of the State; provided, that a simple designation of the fact that beer is sold under a City license may be placed in or upon the window or front of the licensed premises. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

G. Unlawful Sales: It shall be unlawful for any person to sell beer except in the manner for which he has been so licensed pursuant to the provisions of this Chapter. (Ord. 10-4-95, 10-4-1995)

H. Nuisance: It shall be unlawful to keep or maintain a nuisance. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

I. Number Of Business: The total number of businesses licensed to sell beer in the City shall not exceed five (5) Class A, four (4) Class B, and two (2) Class C licenses; provided, that this subsection shall not operate to reduce the number of businesses now licensed to sell beer whether issued by this City or by the County if such business is annexed, nor shall it affect reapplication for such licenses.

J. Bowling Alley: Any premises known as a "bowling alley" shall be considered the premises in entirety and may be licensed as an on-premises retail beer establishment. (Ord. 10-4-95, 10-4-1995)

3-2-14: SUNDAYS SALES PROHIBITED:

It shall be unlawful for any person having a license for the sale of beer to sell, barter, distribute, give away, exchange, dispense or serve beer on the first day of the week commonly known as Sunday. (Ord. 10-4-95, 10-4-1995)

3-2-15: INSPECTION OF PREMISES:

A. Premises Subject To Inspection: All licensed premises shall be subject to inspection by any officer, agent, or peace officer of the City or the Alcoholic Beverage Control Commission, or the State Board of Health, and every licensee shall, at the request of the State Board of Health, furnish to it samples of beer which he shall have for sale.

B. Revocation Of License For Violation: Any license granted pursuant to this Chapter

may be revoked on a finding by the City Council that the licensee has had ten (10) days' or more notice from the State Board of Health that the licensee is violating one or more health ordinances, rules or regulations of the City or of the Utah Division of Health and has failed to comply with such health ordinance, rules or regulations.

- C. Closing Of Business: The City Council may direct the Chief of Police to close down any business licensed under this Chapter where the State Board of Health has determined that continued operation of the business presents an imminent danger to the health of the community or persons who may eat or drink at the business. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-2-16: BEER IN KEGS:

- A. Purpose: The purpose of this Section is to promote the health, safety and welfare of the inhabitants of the City, decreasing neighborhood disturbances and the offensive and disorderly conduct generally caused by beer keg parties or gatherings. It is intended that beer be dispensed for consumption from kegs only by current holders of licenses from the City. This Section shall be liberally construed to the end that the aforesaid purposes may be realized.
- B. Manufactures, Wholesalers And Retailers; Valid License Required: It shall be unlawful for any manufacturer, distributor, wholesaler, or retailer of beer, or any of its agent or employees or for any person or persons, corporation, association, or entity of any nature, to sell, dispense, trade, give or otherwise dispose of beer in kegs or other bulk containers to anyone except persons, businesses, corporations or other entities holding a current valid beer license issued by the City.
- C. Possession; Valid License Required: It shall be unlawful for any person or persons, corporation, business or entity of any kind to have in his or its possession or in his or its automobile or in his or its house, apartment, or other premises any beer keg where the same contains beer or any trace of beer, unless that person, corporation, association, business or entity possesses a valid City beer license or a valid State beer manufacturer's or wholesaler's license.
- D. Penalties:
 - 1. Any person, business, corporation, association, or agent or employee of the same who or which shall violate either subsection B or C of this Section shall be guilty of a Class B misdemeanor and upon conviction thereof, subject to penalty as provided in Section 1-4-1 of this Code. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)
 - 2. Any person, business, corporation, association or other entity who or which is found to have violated any of the provisions of subsection B or C of this Section and who or which possesses a City beer license of any kind or nature, or who or which possesses a City consent to a State liquor license of any kind shall have that license or consent suspended for a period of not less than thirty (30) days. A person, business, corporation, association or other entity who or which violates this Section or whose agents or employees violate this Section more than once shall have his or its beer license or consent to a State liquor license permanently revoked. (Ord. 10-4-95, 10-4-1995)

3-2-17: REVOCATION OR SUSPENSION:

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- A. Violations Related To Operation Of Business: The City Council may, after a hearing, revoke or suspend any beer license on a finding by it that the licensee or his officers, agents or employees have violated any provision of this Chapter or any ordinance of the City whether now or hereafter enacted which in any way relates to the operation of the business or the safety of the public.
- B. Hearing: A hearing may be requested by any person:
 - 1. That is denied or refused a beer license by any officer, agent or employee of the City.
 - 2. Whose beer license is revoked, restricted, qualified, or limited from that for which it was first issued.
- C. Request For Hearing: The request for hearing must be made in writing to the Mayor or City Recorder and made within thirty (30) days following the date notice denying, refusing, revoking, qualifying, restricting or revoking the beer license is mailed by the City to the applicant or license holder at his address as it appears on the application or license.
- D. Notification Of Hearing: Following receipt of a request for hearing, the City Council shall inform the person requesting a hearing of the time and place the hearing is to be held. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the City may produce to support its decision and to present his own evidence in support of his contention. The City Council shall, within ten (10) days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the City Council. (Ord. 10-4-95, 10-4-1995)
- E. No More Than One Hearing: This Section shall not be construed so as to afford any aggrieved party more than one hearing before the City Council nor shall the hearing provided in this Chapter apply to any criminal complaint or proceeding. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-2-18: PENALTY:

- A. Sales Without License: It shall be a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for any person to engage in the business of selling beer at retail, in bottles or draft, without first having procured a license therefor from the City Council and paid the license fee required by this Chapter.
- B. Sales After Revocation Of License: It shall be a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for any person to sell beer after the revocation of the license issued pursuant to this Chapter. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

**CHAPTER 5
SOLICITORS, CANVASSERS, PEDDLERS AND
ITINERANT MERCHANTS**

3-5-1: DEFINITIONS:

CANVASSER OR SOLICITOR: Any individual traveling either by foot, wagon, motor vehicle or other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales; provided, that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, hotel or motel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

PEDDLER: Shall include any person, traveling by foot, wagon, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall see or offer the same for sale from a wagon, motor vehicle, railroad car, or other vehicle or conveyance; and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this Chapter shall be deemed a peddler subject to the provisions of this Chapter. The word "peddler" shall include the words "hawker" and "huckster".

TRANSIENT MERCHANT, ITINERANT MERCHANT OR ITINERANT VENDOR: Any person, firm or corporation, whether as owner, agent, cosignee or employee, who engages in a temporary business of selling and delivering goods, wares and merchandise within the City, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, public room in any hotel, motel, lodging house, apartment, shop or any street, alley, or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or a public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this Chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. (Ord. 10-4-95, 10-4-1995)

3-5-2: LICENSE REQUIRED:

It shall be unlawful for:

- A. Transient Merchant, Itinerant Merchant Or Vendor: A transient merchant, itinerant merchant or itinerant vendor to engage in such business without first obtaining a license therefor in compliance with the provisions of this Chapter. (Ord. 10-4-95, 10-4-1995)
- B. Peddler: Any person to engage in the business of peddler without first obtaining a license therefor as provided in this Chapter.
- C. Solicitor Or Canvasser: Any solicitor or canvasser to engage in such business without first obtaining a license therefor in compliance with the provisions of this Chapter. (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)

3-5-3: APPLICATION FOR LICENSE; FEE:

- A. Required; Contents: No business shall be conducted without first making application and obtaining a license. Applicants for licenses to conduct business as a solicitor, canvasser, peddler or itinerant merchant shall provide the following information to the City Recorder: (Ord. 10-4-95, 10-4-1995; amd. 1998 Code)
 - 1. The name of the applicant and if the applicant is an employee or agent of a corporation, the name of the corporation.
 - 2. The address of the applicant and if the applicant is an agent or employee of a corporation, the address of the corporation.
 - 3. A brief description of the nature of the business and the goods to be sold and from whom or where the applicant obtains the goods to be sold.
 - 4. If the applicant is employed by or an agent of another person, the name and permanent address of such other person or persons.
 - 5. The length of time for which the applicant desires to engage in business within the City.
 - 6. The place or places within the City where the applicant proposes to carry on his or her business.
 - 7. A list of the other municipalities in which the applicant has engaged in business within the six (6) month period preceding the date of the application.
 - 8. A statement as to whether or not the applicant, or any of his employers have been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.
 - 9. If the applicant is employed by another person, firm or corporation, documents showing that the person, firm or corporation for which the applicant proposes to do business is authorized to do business within the State.
- B. Fee: At the time of filing the application, a fee of fifty dollars (\$50.00) for each day, which shall be deposited with the City Recorder, is required. (Ord. 10-4-95, 10-4-1995)

3-5-4: INVESTIGATION AND ISSUANCE OF LICENSE:

- A. Referral To Chief Of Police: On receiving the application, the City Recorder shall refer it to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems reasonable and necessary for the protection of the public good.
- B. Unsatisfactory Result Of Investigation: If, as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse such upon the application, together with a statement of his reasons therefor, and return the application to the City Recorder who shall notify the applicant that his application has been disapproved and that no permit and license will be issued.
- C. Satisfactory Result Of Investigation: If, as a result of such investigation, the character and business responsibility of the applicant is found to be satisfactory, the Chief of Police shall endorse such upon the application and return it to the City Recorder who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature of

the issuing officer and shall show the name, address and photograph of the licensee and the kind of goods to be sold pursuant to the application together with an expiration date. (1983 Code § 9-454)

3-5-5: LICENSES AND BADGES:

- A. Issuance: The City Recorder shall issue to each licensee at the time of delivery of his license, a badge which shall contain the words "Licensed Solicitor", "Licensed Transient Merchant", or "Licensed Peddler", as the case may be, for which the application was made and the license issued, and the number of the license, in letters and figures easily discernible from a distance of five feet (5'). Such badge shall, during the time peddlers or solicitors are engaged in the business for which they are licensed, be worn constantly by them on the front of their outer garment in such a way as to be conspicuous.
- B. Exhibit License: Any person licensed pursuant to this Chapter shall exhibit such license at the request of any citizen of the City.
- C. Produce License Upon Request: It shall be the duty of any peace officer of the City to require any person seen soliciting, canvassing or peddling, and who is not known by such officer to be duly licensed, to produce his or her license and to enforce the provisions of this Chapter.
- D. Expiration Of License: All licenses issued pursuant to this Chapter shall expire on the date specified on the license. (1983 Code § 9-456)

3-5-6: NOTICE OF REVOCATION:

Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address or at the address shown on his application. The hearing and notice shall in all other aspects substantially comply with Title 1, Chapter 7 of this Code. (1983 Code § 9-456)

3-5-7: REVOCATION AFTER HEARING:

Permits and licenses issued pursuant to this Chapter may be revoked by the Chief of Police or the City Recorder, after notice and hearing, for any of the following causes:

- A. Fraud, misrepresentation or a false statement contained in the application for the license. (1983 Code § 9-456)
- B. Fraud, misrepresentation for false statement made in the course of carrying on his business as solicitor, canvasser, peddler or itinerant merchant. (1983 Code § 9-456; amd. 1998 Code)
- C. Any violation of this Chapter.
- D. Conviction of any crime or misdemeanor involving moral turpitude. (1983 Code § 9-456)
- E. Conducting the business of a solicitor, canvasser, peddler or itinerant merchant in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public. (1983 Code § 9-456; amd. 1998 Code)

3-5-8: APPEAL:

Any person aggrieved by the action of the Chief of Police or the City Recorder in the denial of a permit or a license issued pursuant to this Chapter, or by the action of the City Council, may file an appeal. Such appeal shall be taken by filing with the City Council within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address or address on the business application, a written statement setting forth fully the grounds for the appeal. A time and place for the hearing on such appeal and notice of such hearing shall be set and given to the applicant in the same manner as provided in Section 3-5-6 of this Chapter. (1983 Code § 9-456)

3-5-9: ADDITIONAL REQUIREMENTS:

This Chapter shall not be construed so as to waive the provisions and requirements of any other ordinance of the City and the requirements and fees required herein shall be in addition to any other requirements and fees of any other ordinance of the City. (1983 Code § 9-457)

3-5-10: EXCEPTIONS:

The provisions of this Chapter shall not apply to any individual who is, at the time he is engaged in any activity which would otherwise require licensing by this Chapter, engaged in an activity which is authorized by any church or charity which has a permanent structure located within the State, provided such church or charity has had such permanent structure for at least six (6) months prior to the date when the individual engaged in the activity would otherwise require licensing by this Chapter. (1983 Code § 9-458)

**CHAPTER 6
PAWNBROKERS**

3-6-1: DEFINITION OF PAWNBROKER:

Pawnbroker is defined to be any person who loans money or deal in the purchase or exchange of personal property, on condition of selling the same back again to the pledger or depositor; or who loans or advances money on personal property or other indicia of title into his possession; or any person who sells unredeemed pledges with or without the contemporary sale of new merchandise to facilitate the sale of merchandise. (Ord. 4-7-93, 4-7-1993)

3-6-2: LICENSE REQUIRED; FEE:

It shall be unlawful for any person to be in the business of pawnbroker in the incorporated areas of the City, without having previously obtained a license to operate as a pawnbroker in accordance with the provisions of this Chapter. The license fee for pawnbroker shall be as established by resolution of the City Council. The license, after

being issued, shall be displayed prominently in the place of business and a copy of all ordinances pertaining to the conduct of transaction of pawnbroker business, shall be posted in a conspicuous place in the place of business with the pawnbroker. The fee provided above shall be in addition to any other fee or charge required by this Code. (Ord. 4-7-93, 4-7-1993; amd. 1998 Code)

3-6-3: BOND REQUIRED:

Before any license shall be issued to a pawnbroker under the provisions of this Chapter, the applicant for the license shall execute and deliver to the City a bond in the principal amount of one thousand dollars (\$1,000.00) executed by a corporate surety authorized to do business in the State, and conditioned upon the faithful performance of the licensee of all requirements under this Chapter. (Ord. 4-7-93, 4-7-1993)

3-6-4: DISCLOSURE PROVISIONS:

- A. Records; Contents: All pawnbrokers shall keep a complete ledger-type record containing an account of each and every transaction concerning the buying, selling, pawning and redemption of articles, which record shall be written in the English language in legible printing at the time of the receipt, loan, purchase, sale or redemption, and shall set forth the following information:
1. The date and time;
 2. The name, date and birth, and full description of the pledgor or seller, with his street address, city and state of residence. The name, date of birth and description of the seller or pledgor shall be taken from the type of identification card containing his or her photograph. The type of identification card used for this purpose, together with the identifying numbers thereon shall be noted on the form. If the property is jointly owned, information for both owners must be given as described above in this subsection;
 3. An accurate description of the goods, articles or things pawned purchase, including the serial number, model number, name of the manufacturer, and dimensional description (e.g. Zenith color TV, 23-inch, Model No. _____, Serial No. _____);
 4. The amount of money loaned or advanced thereon or paid therefor;
 5. The date and hour of the transaction, and in the case of the items pawned, the period of time within which the pledge must be honored;
 6. The right thumbprint of the pledgor or seller;
 7. The number of the pawn ticket.
- B. Pawn Ticket: The pawnbroker shall make out, in connection with each article pawned, purchased, or received pursuant to a transaction of any nature, a serially numbered pawn ticket. (Ord. 4-7-93, 4-7-1993)
- C. Multiple Copies; Distribution: Each ticket shall be issued in multiple copies so that one copy can be retained by the pawnbroker, one copy referred to the person delivering the article, one copy at the close of each week (Friday) or as often as the City requests, mailed by the pawnbroker to the Police Department of the City. It shall be a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for the pawnbroker to issue any pawn tickets which are not serially

numbered in sequence as shown in the ledger book in subsection A of this Section, or to intentionally falsify any information on either the ledger or a three (3) part ticket. The copies delivered to the City Police Department shall be clear, legible, and shall contain all signatures. It shall be unlawful and a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for any pawnbroker, whether acting for himself or acting by or through any agent or employee, to transact any business with respect to a pawn, redemption, purchase, sale, consignment, or any other transaction of goods, other than in conformance with the requirements set forth. (Ord. 4-7-93, 4-7-1993; amd. 1998 Code)

3-6-5: RECORD KEEPING AND ACCESS TO RECORDS:

- A. Inspection: All records of pawnbrokers shall be open to inspection by any category one peace officer at any time. The category one peace officer shall also be permitted to have access to the premises licensed under this Chapter for the purpose of the inspection of such premises during normal business hours.
- B. Retention Of Goods: If requested to do so by a category one peace officer, all goods, articles, or things pawned, pledged, sold, or delivered to such dealer must be retained and held until released by the category one peace officer's agency or delivered to the peace officer to be placed in evidence if requested. (Ord. 4-7-93, 4-7-1993)

3-6-6: RULES AND REGULATIONS:

- A. Hours: It shall be unlawful for any pawnbroker to receive any goods by way of pawn or pledge, or to keep his place of business open before the hour of seven o'clock (7:00) A.M. or after seven o'clock (7:00) P.M.; provided however, that on Saturday of each week and on days preceding legal Federal holidays, and the last fifteen (15) days of December of each year, it shall be lawful for said pawnbroker to keep his place of business open until ten o'clock (10:00) P.M.
- B. Protection Of Minors: It shall be unlawful for any pawnbroker to sell or trade any gun, knife with a blade in excess of four inches (4") long to any person under the age of eighteen (18) years of age, unless the said person is accompanied by their legal guardian or parent.
- C. Dealing With Proscribed Persons: It shall be unlawful for any pawnbroker to receive any goods, articles or things in pawn, in pledge or to loan or allow to be redeemed any article by any person who at the time of the transaction is intoxicated or who is known to be a habitual drunkard; or any person who is known to be a thief, insane or incompetent. (Ord. 4-7-93, 4-7-1993)
- D. Ownership Of Pawned Property:
 - 1. It shall be unlawful for any pawnbroker to accept goods or articles in pawn from other than the lawful owner thereof, except with written permission of the owner. Any articles pawned by other than the owner, taken by a pawnbroker, shall be surrendered to the owner thereof upon presentation of proof of ownership of the pawned article by the owner, and failure of a pawnbroker to surrender such materials forthwith upon demand by the true owner, and after exhibition of proof of ownership, shall be a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code. (Ord. 4-7-93, 4-7-1993; amd. 1998 Code)

2. This provision shall apply to outright purchases and all other applicable transactions of any nature. (Ord. 4-7-93, 4-7-1993)
- E. Stolen Goods Report: It shall be the duty of every pawnbroker to report to the Police Department any article pledged with or sold, or which it is sought to be pledged with him or sold, if he shall have reason to believe that the article was stolen or lost or found by the person attempting to pledge it, or sell it in the case of a lost article. (Ord. 4-7-93, 4-7-1993; amd. 1998 Code)
- F. Location Restriction Regarding Alcoholic Beverages: It shall be unlawful for any pawnbroker to contain his pawnbroking business in the same room, or in the same building with interconnected rooms with any business dealing in alcoholic beverages.
- G. Liability Of Principal: The holder of a pawnbrokers license is liable for any and all acts of his employees in violation of this Chapter. (Ord. 4-7-93, 4-7-1993)

3-6-7: COMPUTER REPORTING; AUTHORITY:

The Police Department is authorized to transfer the information received pursuant to this Chapter into a computer information system and report the information in such form as the Police Department may determine is useful in law enforcement purposes. (Ord. 4-7-93, 4-7-1993; amd. 1998 Code)

CHAPTER 8 LANDLORD REGISTRY LICENSE

3-8-1: DEFINITIONS:

DWELLING UNIT: One or more rooms in a structure, designed for occupation by one family, individual, or group of individuals for living or sleeping purposes and may have kitchen facilities.

FAMILY: An individual, or two (2) or more persons related by blood, marriage or adoption living together as a single housekeeping unit in a dwelling unit.

LANDLORD: The owner of a dwelling unit, units or part thereof that is leased, rented or sublet.

LONG TERM: A term of not less than one year.

SHORT TERM: A term of less than one year. (Ord. 7-20-94, 7-20-1994)

3-8-2: LICENSE REQUIRED:

It shall be a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for any person to rent, lease, or sublet any dwelling unit or part thereof without first receiving the class of type of license required by the City. Registry licenses are to be renewed annually by January 1. (Ord. 7-20-94, 7-20-1994; amd. 1998 Code)

3-8-3: APPLICATION FOR LICENSE:

- A. Information Required: No occupancy shall be allowed without first making

application and obtaining a license. Applications for licenses to conduct business shall provide the following information to the City Treasurer:

1. The name of the applicant and if the applicant is an employee or agent of a corporation, the name of the corporation.
 2. The address of the applicant and if the applicant is an agent or employee of a corporation, the address of the corporation.
 3. A brief description of the nature of the business.
 4. The place or places within the City where the applicant proposes to carry on his or her business.
- B. Inspection: Prior to the issuance of any initial license, each place or places where the applicant proposes to carry on their business must be inspected by a City-approved official to certify the structure meets all current building and fire codes for the health, safety and welfare of said structure and occupants.
1. Any dwelling unit that a person utilizes to rent, lease, or sublet on a short term basis for the purpose of gain or economic profit shall be inspected initially and every third year thereafter.
 2. Any dwelling unit that a person utilizes to rent, lease, or sublet on a long term basis for the purpose of gain or economic profit shall be inspected initially and every five (5) years thereafter. (Ord. 7-20-94, 7-20-1994)

3-8-4: FEE SCHEDULE:

There is levied upon the business, location, trade or calling of every person engaged in business in the City a license fee based upon the type or class of said business as set by motion or resolution of the City Council. (Ord. 7-20-94, 7-20-1994)

3-8-5: TIME SCHEDULE:

- A. All landlords that rent, lease, or sublet a dwelling unit or units or part thereof to an individual or individuals on a short-term basis must obtain the licenses for said units by September 1, 1994.
- B. All landlords that rent, lease, or sublet a dwelling unit or units or part thereof to a family or families on a long-term basis must obtain the licenses for said units by January 1, 1995. (Ord. 7-20-94, 7-20-1994)

**CHAPTER 9
CONSTRUCTION CONTRACTORS**

3-9-1: PURPOSE:

The purpose of this Chapter is to establish a system of imposing license fees upon persons engaging in business within the limits of the City as contractors. The licenses are designed to be determined upon the basis of each contract or job being performed. It is the opinion of the City Council that this method of determining the amount of fee will result in fair taxation and will not discriminate against the contractor who performs only a

few jobs within the City limits as distinguished from the contractor who performs many. (1983 Code § 9-431)

3-9-2: DEFINITIONS:

CONTRACTOR: Any person, firm, copartnership, corporation, association, or other organization, or any combination thereof, who for a fixed sum, price, fee, percentage, or other compensation other than wages, undertakes any building, highway, road, railroad, excavation or other structure, project, development, or improvement, other than to personalty, or any part thereof; provided, that the term "contractor", as used in this Chapter, shall include anyone who builds more than one structure on his own property during any one year for the purpose of sale and shall include subcontractors, but shall not include anyone who merely furnishes materials or supplies without fabricating the same into, or consuming the same in the performance of the work of the "contractors" as herein defined.

TYPES OF CONTRACTORS: As an illustrative list of contractors subject to the provisions of this Chapter, but not in limitation thereof, the following occupations are subject to this Chapter: general contractors, specialty contractors of all kinds, such as, but not limited to those engaged in the business of installing, repairing or otherwise performing services in connection with: acoustical tile and roof decking; awnings, storm doors and windows; air conditioning, dry heating, sheet metal; boilers, steam fitting; carpentry; cement and concrete; ceramic tile; cabinet and millwork; composition floor, countertops, tile; carpet; drywall; elevator installation; electrical; excavating and grading; fencing; floor coverings; fire prevention (structural); furnaces and burners; glazing; industrial piping; iron and bronze (ornamental); insulation; landscaping; lathing; lawn sprinklers; masonry; mosaic tile and terazzo; overhead doors; painting and paper hanging; pest control (structural); plastering; plumbing and wet heating; roofing and siding; swimming pool; signs, stone masonry; sewer installation; steel reinforcing and erection; tanks (structural); waterproofing; weatherstripping; welding; wrecking and demolition; wood floor laying and finishing. (1983 Code § 9-432)

3-9-3: REQUIREMENTS:

Any person desiring to engage in business as a contractor within the corporate limits of the City must comply with the two (2) following requirements:

- A. **Registration:** Prior to engaging in any subject business activity during any calendar year, he must register for the calendar year as a contractor by completing and filing a registration form in the office of the City Recorder.
- B. **License:** Prior to the performance of any services in connection with any specific contract or job, the person shall secure a license to engage in the performance of service connected with said specific job or contract from the office of the City Recorder. (1983 Code § 9-433)

3-9-4: REGISTRATION TO ENGAGE IN BUSINESS:

- A. **Form; Information Requested:** Any person desiring to engage in business as a contractor shall complete and file in the office of the City Recorder a registration form provided to him by the City which shall show:

1. The name of the contractor.
 2. The address and telephone number of the contractor.
 3. The type of organization, e.g., corporation, partnership, or sole proprietor.
 4. If a partnership or a corporation or other artificial person, the name, address, and telephone number of the person responsible for the functions of the organization:
 - a. Whether or not licensed under the contractor's license law of the State; if so, the license number of the contractor.
 - b. Type of business in which registrant seeks to engage, e.g., general contractor or one of the specialty contractors.
 - c. Such other information as the City Council may by regulation require.
- B. Annual Fee: Any person seeking to register for the privilege of doing business as a contractor within the limits of the City for any calendar year, or any part thereof, shall pay an annual registration fee of thirty one dollars (\$31.00). (1983 Code § 9-434)

3-9-5: JOB LICENSE FOR EACH CONTRACT:

- A. Required: Any person desiring to perform services as a contractor shall, in addition to registering, as above required, secure a job license granting to him the privilege of performing the services required of him for each contract or job which he proposes to complete.
- B. Form; Information Requested: Any person seeking said job license for a contractor job shall complete an application therefor, on forms provided him by the City. The application shall set forth:
1. The name and address of the contractor.
 2. His City registration number.
 3. The number of his State contractor's license.
 4. The person by whom he is engaged to perform services as a contractor.
 5. The address of said person.
 6. The location at which the said contractor's services are to be performed.
 7. The type of services that are to be performed, e.g., as a general contractor, as one of the specialty contractors.
 8. The contract amount. (1983 Code § 9-435)

3-9-6: REGULATIONS:

The City Council may adopt such regulations as in its opinion are necessary to implement this Chapter and the objectives thereof. (1983 Code § 9-438)

3-9-7: RECORDS TO BE MAINTAINED; INSPECTION:

All persons registered pursuant to this Chapter for the privilege of doing business as contractors, and all persons who engage in doing business as contractors, shall maintain records of all services performed by them as contractors within the corporate limits of the City. The records shall disclose the person for whom the services are performed and the contract price or charge made for the services and such other information as the City Council may, by regulation, require. The persons shall maintain such records at their office or principal place of business and shall permit officials or agents of the City to

inspect said records for the purpose of determining whether or not said persons have complied with the requirements of this Chapter. (1983 Code § 9-437)

CHAPTER 10 CIGARETTE AND TOBACCO SALES

3-10-1: DEFINITIONS:

BUSINESS: Any sole proprietorship, joint venture, corporation or other business entity formed for profit making, or not profit making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

EMPLOYEE: Any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.

EMPLOYER: Any person, partnership, corporation, including a municipal corporation or nonprofit entity, who employs the services of one or more individual persons.

MINOR: For the purpose of this Chapter only, shall mean any individual who is less than nineteen (19) years old.

PERSON: Any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or any other legal entity.

PLACE OF BUSINESS: Any and all places such as shops, stores, factories, public garages, offices, theaters, recreation and dance halls, pool rooms, cafes, cafeterias, cabarets, restaurants, hotels, lodging houses, buses and waiting rooms.

RETAIL TOBACCO STORE: A retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

RETAILER: A person who owns or is responsible for supervising the day-to-day operation of a business where tobacco products are displayed or otherwise offered for sale.

SELF-SERVICE MERCHANDISING: Open display of tobacco products and point of sale tobacco promotional products to which the public has access without the intervention of an employee.

TOBACCO PRODUCT: Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco that may be utilized for smoking, chewing, inhaling or other manner of ingestion.

VENDOR-ASSISTED MERCHANDISING: A. The retailer restricts or ensures the restriction of access to tobacco products by placing or displaying the products in a manner so that only an employee of the business has access to the tobacco products; and

B. Customers do not have direct access to the tobacco products, so that business employees must assist customers by supplying the tobacco product to the customers; and

C. Customers do not take possession of the product until it is purchased. (Ord. 02-98, 5-20-1998, eff. 7-1-1998)

3-10-2: LICENSE REQUIRED; EXCEPTION:

It is unlawful to sell, give away or otherwise dispose of tobacco in any form in the City without first being licensed to do so by the City. No license shall be required for sales at wholesale. (Ord. 02-98, 5-20-1998, eff. 7-1-1998)

3-10-3: APPLICATION:

Applications for a license to sell or otherwise deal in tobacco or tobacco products shall be made in writing to the City Recorder. The application shall contain the name of the applicant, the address at which such sales are to be made and a consent to the revocation of such license in event the holder thereof shall violate any ordinance of the City or statute of the State governing the sale, gift or other disposition or delivery of tobacco in any form to a person under the age of nineteen (19) years. The application shall be filed in the office of the City Recorder. The application shall be accompanied with the fee required in Section 3-10-4 of this Chapter. (Ord. 02-98, 5-20-1998, eff. 7-1-1998)

3-10-4: FEE FOR LICENSE:

Besides all other license fees that may be required of a business location or person, there is levied an annual license fee as set by resolution of the City Council if such person or business enterprise makes sales of cigarettes or tobacco. (Ord. 02-98, 5-20-1998, eff. 7-1-1998)

3-10-5: BOND REQUIRED:

No license shall be issued until the applicant files a bond with the City. The Mayor and City Council shall decide the form and the amount of the bond, the minimum amount of which shall be five hundred dollars (\$500.00). The bond shall be duly executed by the applicant as principal, with a corporate surety, payable to the City and conditioned upon the faithful performance of all of the requirements of this Chapter, including the payment of all taxes, penalties and other obligations. (Ord. 02-98, 5-20-1998, eff. 7-1-1998)

3-10-6: RULES AND REGULATIONS:

- A. Specifically Packaged Products; Exemption, Conditions:
 - 1. Standard ten (10) pack cartons of cigarettes and multi-packages of smokeless tobacco are exempt from this Chapter so long as these tobacco products are under constant direct sight surveillance of a store employee.
 - 2. These tobacco products shall be deemed to be under constant, direct sight surveillance of an employee only if the tobacco products themselves (and not just the displays, racks, shelves, kiosks, etc., where the products are displayed) are in plain and full view of a store employee.
- B. Manner Of Sales; Exemption:
 - 1. It shall be unlawful for any person, business or tobacco retailer to sell, permit to be sold or offer for sale any tobacco products by means of self-service merchandising, or by any means other than vendor-assisted sales.
 - 2. It is unlawful for a retailer to display tobacco products or otherwise make them available for sale through nonvendor-assisted merchandising methods, or by any

self-service merchandising method.

3. Refer to exemption in subsection A of this Section. (Ord. 02-98, 5-20-1998, eff. 7-1-1998)

3-10-7: PENALTY:

Violation of this Chapter is considered an infraction and shall be penalized as follows:

- A. First occurrence; seven (7) day suspension of license and fifty dollar (\$50.00) fine.
- B. Second occurrence; thirty (30) day suspension of license and one hundred dollar (\$100.00) fine.
- C. Third occurrence; revocation of license and apply Utah Code Annotated section 76-10-104. (Ord. 02-98, 5-20-1998, eff. 7-1-1998)

CHAPTER 11 SEXUALLY-ORIENTED BUSINESSES AND EMPLOYEES

3-11-1: TITLE:

The provisions codified in this Chapter shall be known and may be referred to as the SEXUALLY-ORIENTED BUSINESS AND EMPLOYEE LICENSING ORDINANCE. (Ord., 11-19-1997)

3-11-2: PURPOSE AND APPLICATION:

- A. Reasonable And Uniform Regulations: It is the purpose and object of this Chapter that the City establish reasonable and uniform regulations governing the time, place and manner of operation of sexually-oriented businesses and their employees in the City. This Chapter shall be construed to protect the governmental interests recognized by this Chapter in a manner consistent with constitutional protection provided by the United States and Utah Constitutions. (Ord., 11-19-1997)
- B. Certain Business Activities: This Chapter imposes regulatory standards and license requirements on certain business activities, which are characterized as sexually-oriented businesses, and certain employees of those businesses characterized as sexually-oriented business employees. (Ord., 11-19-1997; amd. 1998 Code)

3-11-3: DEFINITIONS:

For the purpose of this Chapter, the following words shall have the following meanings:

ADULT BOOKSTORE OR ADULT VIDEO STORE: A commercial establishment:

- A. Which excludes minors from more than fifteen percent (15%) of the retail floor or shelf space of the premises; or
- B. Which, as one of its principal purposes, offers for sale or rental, for any form of consideration, any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations, the central theme of which depicts or describes "specified sexual activities" or "specified anatomical areas"; or

instruments, devices or paraphernalia which are designated for use in connection with "specified sexual activities", except for legitimate medically recognized contraceptives.

ADULT BUSINESS: An adult motion picture theater, adult bookstore or adult video store.

ADULT MOTION PICTURE THEATER: A commercial establishment which:

- A. Excludes minors from the showing of two (2) consecutive exhibitions (repeated showings of any single presentation shall not be considered a consecutive exhibition); or
- B. As its principal business, shows, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions which are primarily characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT THEATER: A theater, concert hall, auditorium or similar commercial establishment which:

- A. Holds itself out as such a business; or
- B. Excludes minors from the showing of two (2) consecutive exhibitions (repeated performance of the same presentation shall not be considered a consecutive exhibition); or
- C. As its principal business, features persons who appear in live performances in a state of semi-nudity or which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

EMPLOY: Hiring an individual to work for pecuniary or any other form of compensation, whether such person is hired on the payroll of the employer, as an independent contractor, as an agent or in any other form of employment relationship.

ESCORT: Any person who, for pecuniary compensation, dates, socializes, visits, consorts with or accompanies or offers to date, consort, socialize, visit or accompany another or others to or about social affairs, entertainment or places of amusement, or within any place of public or private resort or any business or commercial establishment or any private quarters. Escort shall not be construed to include persons who provide business or personal services such as licensed private nurses, aides for the elderly or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve (12) hours and who provide a service not principally characterized as dating or socializing. Escort shall also not be construed to include persons providing services such as singing telegrams, birthday greetings or similar activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed and of a duration not longer than one hour.

ESCORT SERVICE: An individual or entity who, for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.

ESCORT SERVICE RUNNER: Any third person, not an escort, who, for pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort or patron by contacting or meeting with escort services, escorts or patrons at any location within the City, whether or not such third person is employed by such escort service, escort, patron, or by another business, or is an independent contractor or self-employed.

NUDITY: A state of dress in which the areola of the female breast or male or female

genitals, pubic region or anus are covered by less than the covering required in the definition of semi-nude.

OPERATOR: The manager or other natural person principally in charge of a sexually-oriented business.

OUTCALL SERVICES: Services of a type performed by a sexually-oriented business employee outside of the premises of the licensed sexually-oriented business, including, but not limited to, escorts, models, dancers and other similar employees.

PATRON: Any person who contracts with or employs any escort services or escort or the customer of any business licensed pursuant to this Chapter.

PECUNIARY COMPENSATION: Any commission, fee, salary, tip, gratuity, hire, profit, reward or any other form of consideration.

PERSON: Any person, unincorporated association, corporation, partnership or other legal entity.

SEMI-NUDE: A state of dress in which opaque clothing covers no more than the areola of the female breast and the male or female genitals, pubic region and anus shall be fully covered by an opaque covering no narrower than four inches (4") wide in the front and five inches (5") wide in the back, which shall not taper to less than one inch (1") wide at the narrowest point.

SEMI-NUDE DANCING AGENCY: Any person, agency, firm, corporation, partnership or any other entity or individual which furnishes, books or otherwise engages or offers to furnish, book or otherwise engage the service of a professional dancer licensed pursuant to this Chapter for performance or appearance at a business licensed for adult theaters.

SEMI-NUDE ENTERTAINMENT BUSINESS: A business, including adult theater, where employees perform or appear in the presence of patrons of the business in a state of semi-nudity. A business shall also be presumed to be a semi-nude entertainment business if the business holds itself out as such a business.

SEXUALLY-ORIENTED BUSINESS: "Semi-nude entertainment businesses", sexually-oriented "outcall services", "adult businesses" and "semi-nude dancing agencies", as defined by this Chapter.

SEXUALLY-ORIENTED BUSINESS EMPLOYEES: Those employees who work on the premises of the sexually-oriented business in activities related to the sexually-oriented portion of the business. This includes all managing employees, dancers, escorts, models and other similar employees whether or not hired as employees, agents or as independent contractors. Employees shall not include individuals whose work is unrelated to the sexually-oriented portion of the business, such as janitors, bookkeepers and similar employees. Sexually-oriented business employees shall not include cooks, serving persons and similar employees, except where they may be managers or supervisors of the business. All persons making outcall meetings under this Chapter, including escorts, models, guards, escort runners, drivers, chauffeurs and other similar employees, shall be considered sexually-oriented business employees.

SPECIFIED ANATOMICAL AREAS: The human male or female pubic area or anus with less than a full opaque covering, or the female breast below a point immediately above the top of the areola, with less than full opaque covering.

SPECIFIED SEXUAL ACTIVITIES: A. Acts of:

1. Masturbation,
2. Human sexual intercourse,

3. Sexual copulation between a person and a beast,
 4. Fellatio,
 5. Cunnilingus,
 6. Bestiality,
 7. Pederasty,
 8. Buggery, or
 9. Any anal copulation between a human male and another human male, human female, or beast;
- B. Manipulating or caressing or fondling by any person of:
1. The genitals of a human,
 2. The pubic area of a human,
 3. The breast or breasts of a human female;
- C. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed. (Ord., 11-19-1997)

3-11-4: BUSINESS LICENSES:

- A. Sexually-Oriented Business: It is unlawful for any person to operate a sexually-oriented business, as specified herein, without first obtaining a general business license and a sexually-oriented business license. The sexually-oriented business license shall specify the type of business for which it is obtained.
- B. Sexually-Oriented Business Employee: It is unlawful for any sexually-oriented business to employ or for any individual to be employed by a sexually-oriented business in the capacity of a sexually-oriented business employee, unless that employee first obtains a sexually-oriented business employee license.
- C. Semi-Nude Dancing Agencies:
1. It is unlawful for any individual or entity to furnish, book or otherwise engage the services of a professional dancer, model or performer to appear in a state of semi-nudity for pecuniary compensation in or for any semi-nude entertainment business or adult theater licensed pursuant to this Chapter, unless such agency is licensed pursuant to this Chapter.
 2. It is unlawful for any individual or entity to furnish, book or otherwise engage or permit any person to perform as a professional dancer, model or performer in a state of semi-nudity or nudity, either gratuitously or for compensation, in or for any business licensed pursuant to this Chapter, unless such person is licensed pursuant to this Chapter.
- D. Exemptions: The provisions of this Chapter shall not apply to any sex therapist or similar individual licensed by the State to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist or psychologist, nor shall it apply to any educator licensed by the State for activities in the classroom. (Ord., 11-19-1997)

3-11-5: LEGITIMATE ARTISTIC MODELING:

- A. Intent: The City does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First

Amendment or similar State protections. The City does intend to prohibit prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding the provisions of subsection 3-11-14D11 of this Chapter, a licensed outcall employee may appear in a state of nudity before a customer or patron; providing, that a written contract for such appearance was entered into between the customer or patron and the employee and signed at least twenty four (24) hours before the nude appearance. All of the other applicable provisions of this Chapter shall still apply to such nude appearance.

- B. Contract; Unlawful Activities: In the event of a contract for nude modeling or appearance signed more than forty eight (48) hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this Chapter. During such unlicensed nude appearance, it is unlawful to:
1. Appear nude or semi-nude in the presence of persons under the age of eighteen (18);
 2. Allow, offer or agree to any touching of the contracting party or other person by the individual appearing nude;
 3. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or committing activities harmful to a minor;
 4. Allow, offer, commit or agree to any sex act as validly defined by City ordinances or State statute;
 5. Allow, offer or agree or permit the contracting party or other person to masturbate in the presence of the individual contracted to appear nude;
 6. Allow, offer or agree for the individual appearing nude to be within five feet (5') of any other person while performing or while nude or semi-nude. (Ord., 11-19-1997)

3-11-6: CATEGORIES; NUMBER OF LICENSES:

- A. Scope: It is unlawful for any business premises to operate or be licensed for more than one category of sexually-oriented business, except that a business may have a license for both outcall services and a semi-nude dancing agency on the same premises.
- B. Categories: The categories of sexually-oriented businesses are:
1. Outcall services;
 2. Adult businesses;
 3. Semi-nude entertainment businesses;
 4. Semi-nude dancing agency. (Ord., 11-19-1997)

3-11-7: APPLICATION FOR LICENSE:

- A. Content; Required Information: Before any applicant may be licensed to operate a sexually-oriented business or as a sexually-oriented business employee pursuant to this Chapter, the applicant shall submit, on a form to be supplied by the City license authority, the following:
1. Correct Legal Name: The correct legal name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name. (Ord., 11-19-1997)

2. Corporations; Partnerships:
 - a. If the applicant is a corporation, partnership or limited partnership or individual or entity doing business under an assumed name, the information required below for individual applicants shall be submitted for each partner and each principal of an applicant and for each officer, director and any shareholder (corporate or personal) of more than ten percent (10%) of the stock of any applicant. Any holding company or any entity holding more than ten percent (10%) of an applicant's stock shall be considered an applicant for purposes of disclosure under this Chapter. (Ord., 11-19-1997; amd. 1998 Code)
 - b. The shareholder disclosure requirements above shall only be applicable for outcall service licenses.
3. Identify Authorized Signatories: All corporations, partnerships or noncorporate entities included on the application shall also identify each individual authorized by the corporation, partnership or noncorporate entity to sign the checks for such corporation, partnership or noncorporate entity.
4. Personal Information: For all applicants or individuals, the application must also state:
 - a. Any other names or aliases used by the individual;
 - b. The age, date and place of birth;
 - c. Height;
 - d. Weight;
 - e. Color of hair;
 - f. Color of eyes;
 - g. Present business address and telephone number;
 - h. Present residence and telephone number;
 - i. Utah drivers license or identification number; and
 - j. Social security number.
5. Proof Of Age: Acceptable written proof that any individual is at least eighteen (18) years of age;
6. Photographs: Attached to the form as provided above, two (2) color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the Police Department. For persons not residing in the City, the photographs and fingerprints may be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency;
7. Health Department Certificate: For any individual applicant required to obtain a sexually-oriented business employee license as an escort or as a semi-nude entertainer, a certificate from the County Health Department stating that the individual has, within thirty (30) days immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable disease;
8. Employment History: A statement of the business, occupation or employment history of the applicant for three (3) years immediately preceding the date of the filing of the application;
9. License And Permit History: A statement detailing the business license and permit history of the applicant for the five (5) year period immediately preceding the date of

the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state or territory, has ever had a license, permit or authorization to do business denied, revoked or suspended, or has had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the date, the name of the issuing or denying jurisdiction, and state in full the reasons for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application;

10. Criminal Convictions: All criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests for the applicant, individual or other entity subject to disclosure under this Chapter, for five (5) years prior to the date of application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction or plea of nolo contendere and sentence of each conviction or other disposition, identifying the convicting jurisdiction and sentencing court and providing the court identifying case numbers or docket numbers. Application for a sexually-oriented business or employee license shall constitute a waiver of disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the business or employee license;

11. Owner Of Property: In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located;

12. Description Of Services: A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee, and any rules, regulations or employment guidelines under or by which the business intends to operate. This description shall also include:

- a. The hours that the business or service will be open to the public, and the methods of promoting the health and safety of the employees and patrons and preventing them from engaging in illegal activity;
- b. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities;
- c. The methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this Chapter or other statutes or ordinances;
- d. The methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of

disease and prevent the commission of acts of prostitution or other criminal activity.

- B. False Or Misleading Information Prohibited: It is unlawful to knowingly submit false or materially misleading information on or with a sexually-oriented business license application or to fail to disclose or omit information for the purpose of obtaining a sexually-oriented business or employee license. (Ord., 11-19-1997)

3-11-8: FEES:

Each applicant for a sexually-oriented business or employee license shall be required to pay regulatory license fees as set forth in the consolidated fee schedule. An application is not complete until all appropriate fees have been paid. (Ord., 11-19-1997)

3-11-9: BOND REQUIRED:

Each application for a sexually-oriented business license shall post with the Business and Economic Services Administrator, a cash or corporate surety bond payable to the City in the amount of two thousand dollars (\$2,000.00). Any fines assessed against the business, officers or managers for violations of City ordinances shall be taken from this bond if not paid in cash within ten (10) days after notice of the fine, unless an appeal is filed as provided by this Chapter. In the event that funds are drawn against the cash or surety bond to pay such fines, the bond shall be replenished to two thousand dollars (\$2,000.00) within fifteen (15) days of the date of notice of any draw against it. (Ord., 11-19-1997)

3-11-10: ISSUANCE OF LICENSE:

- A. Within Thirty Days; Exceptions: The Business and Economic Services Administrator shall approve the issuance of a license to the applicant within thirty (30) days after receipt of a completed application, unless the official finds one or more of the following:

1. An applicant is under eighteen (18) years of age.
2. The applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a sexually-oriented business.
3. The applicant has falsely answered a material question or request for information as authorized by this Chapter.
4. The applicant has violated a provision of this Chapter or similar provisions found in statutes or ordinances from any jurisdiction within two (2) years immediately preceding the application; a criminal conviction for a violation of a provision of this Chapter or similar provisions from any jurisdiction, whether or not it is being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation.
5. The premises to be used for the business have been disapproved by the County Health Department, the Fire Department, the Police Department, the building officials or the zoning officials as not being in compliance with applicable laws and ordinances of the City. If any of the foregoing reviewing agencies cannot complete their review within the thirty (30) day approval or denial period, the agency or department may obtain from the Business and Economic Services Administrator an

extension of time of no more than fifteen (15) days for their review. The total time for the City to approve or deny a license shall not exceed forty five (45) days from the receipt of a completed application and payment of all fees. Businesses located outside of the corporate boundaries of the City, but requiring a license under this Chapter, may be denied a license pursuant to this Chapter if the business does not have a valid business license to conduct business at the business location from the appropriate jurisdiction for that location;

- a. Upon receipt of an application, all departments required to review the application shall determine within seven (7) days whether or not the application is incomplete in items needed for processing. Incomplete applications shall immediately be returned to the applicant with a specification of the items which are incomplete.
 - b. The time for processing applications specified in this Section shall begin to run from the receipt of a complete application.
 - c. In the event that a license for a semi-nude entertainment, semi-nude dancing agencies, adult businesses or semi-nude entertainment businesses has not been disapproved within thirty (30) days or the forty five (45) days allowed after an extension, the City shall issue the license pending completion of the City's review.
 - d. Any license issued pursuant to subsection A5c of this Section may be revoked by the City pursuant to the revocation procedures provided for herein, if the completed review determines that the license should have been denied.
6. The required license fees have not been paid.
 7. All applicable sales and use taxes have not been paid.
 8. An applicant for the proposed business is in violation of or not in compliance with this Chapter or similar provisions found in statutes or ordinances from any jurisdiction.
 9. An applicant has been convicted of or pled nolo contendere to a crime:
 - a. Involving prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution or display of material harmful to minors; sexual performance by minors; possession of child pornography; lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction regardless of the exact title of the offense for which:
 - (1) Less than two (2) years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than five (5) years, if the convictions are of two (2) or more misdemeanors within the five (5) years; or
 - (2) Less than five (5) years have elapsed from the date of conviction, if the offense was a felony.
 - b. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Section.
- B. License Term: Sexually-oriented business and employee licenses issued pursuant to this Chapter shall be valid from the date of issuance through July 1 of each

succeeding year. The license fees required under the consolidated fee schedule shall not be prorated for any portion of a year, but shall be paid in full for whatever portion of the year the license is applied for. (Ord., 11-19-1997)

3-11-11: LOCATION RESTRICTIONS:

- A. Semi-Nude Entertainment Businesses: It is unlawful for any business licensed for semi-nude entertainment to be located within three hundred thirty feet (330') of a business licensed for the sale or consumption of alcohol.
- B. Zoning: It is unlawful for any sexually-oriented business to do business at any location within the City not zoned for such business. Sexually-oriented businesses licensed as adult businesses or semi-nude entertainment businesses pursuant to this Chapter shall only be allowed in areas zoned for their use pursuant to Title 10, Chapter 18 of this Code. (Ord., 11-19-1997)

3-11-12: DESIGN OF PREMISES:

- A. Adult Businesses
 - 1. Diagram: In addition to the general requirements of disclosure for a sexually-oriented business, any applicant for a license as an adult business or nude entertainment business shall also submit a diagram, drawn to scale, of the premises. The design and construction, prior to granting a license or opening for business, shall conform to the following: (Ord., 11-19-1997; amd. 1998 Code)
 - a. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 - b. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person being allowed in the restroom per stall, and only one person in any stall at a time, and requiring that patrons shall not be allowed access to the manager's station areas.
 - c. For businesses which exclude minors from the entire premises, all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded.
 - d. The diagram required shall not necessarily be a professional engineer's or architect's blueprint; however, the diagram must show marked internal dimensions, all overhead lighting fixtures and ratings for illumination capacity.
 - 2. Manager's Station; Unobstructed View: It shall be the duty of the licensee and the licensee's employees to ensure that the views from the manager's station in subsection A1 of this Section remain unobstructed by any doors, walls, merchandise, display racks or any other materials at all times that any patron is present in the premises, and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
 - 3. Lighting Fixtures: The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which

patrons are permitted access at an illumination of not less than one foot-candle, measured at floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.

B. Semi-Nude Entertainment Business:

1. It is unlawful for business premises licensed for semi-nude entertainment to:
 - a. Permit a bed, sofa, mattress or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an adult theater, such items may be on the stage as part of a performance.
 - b. Allow any door on any room used for the business, except for the door to an office to which patrons shall not be admitted, outside doors and restroom doors, to be lockable from the inside.
 - c. Provide any room in which the employee or employees and the patron or patrons are alone together without separation by a solid physical barrier at least three feet high and six inches wide (3' x 6"). The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.
2. Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of three feet (3'), which separation shall be delineated by a physical barrier at least three feet (3') high. (Ord., 11-19-1997)

3-11-13: LICENSE; SPECIFIC REGULATIONS:

- A. Notice Of Change Of Information: Any change in the information required to be submitted under this Chapter for either a sexually-oriented business license or sexually-oriented business employee license shall be given, in writing, to the Business and Economic Services Administrator and the Police Department within fourteen (14) days after such change.
- B. Transfer Limitations: Sexually-oriented business licenses granted under this Chapter shall not be transferable. It is unlawful for a license held by an individual to be transferred. It is unlawful for a license held by a corporation, partnership or other noncorporate entity to transfer any part in excess of ten percent (10%) thereof, without filing a new application and obtaining prior City approval. If any transfer of the controlling interest in a business licensee occurs, the license is immediately null and void, and the business shall not operate until a separate new license has been properly issued by the City as provided in this Chapter.
- C. Display Of License: It is unlawful for any sexually-oriented business location within the boundaries of the City to fail to display the license granted pursuant to this Chapter in a prominent location within the business premises. It is unlawful for any individual licensed pursuant to this Chapter to fail to carry, at all times while engaged in licensed activities within the corporate boundaries of the City, their employee license on their person. If the individual is nude, such license shall be visibly displayed within the same room the employee is performing. When requested by police, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City.

- D. Advertisements; Statement: It is unlawful for any advertisement by the sexually-oriented business or employee to fail to state that the business or employee is licensed by the City and shall include the City license number. (Ord., 11-19-1997)

3-11-14: GENERAL REGULATIONS:

- A. Obscenity; Lewdness: Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow the showing or display of any matter which is contrary to applicable Federal or State statutes prohibiting obscenity or lewdness. (Ord., 11-19-1997; amd. 1998 Code)
- B. Premises Location: It is unlawful to conduct business under a license issued pursuant to this Chapter at any location other than the licensed premises. Any location to which telephone calls are automatically forwarded by such business shall require a separate license.
- C. Business Name: It is unlawful for any sexually-oriented business to do business in the City under any name other than the business name specified in the application.
- D. Unlawful Activities: It is unlawful for any sexually-oriented business or sexually-oriented business employee to:
 - 1. Allow persons under the age of eighteen (18) years on the licensed premises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;
 - 2. Allow, offer or agree to conduct any outcall business with persons under the age of eighteen (18) years;
 - 3. To allow, offer or agree to allow any alcohol to be stored, used or consumed on or in the licensed premises;
 - 4. Allow the outside door to the premises to be locked while any customer is in the premises;
 - 5. Allow, offer or agree to gambling on the licensed premises;
 - 6. Allow, offer or agree to any sexually-oriented business employee touching or being touched by any patron or customer; except that outcall employees and customers may touch, except that any touching of specified anatomical areas, whether clothed or unclothed, is prohibited;
 - 7. Allow, offer or agree to illegal possession, use, sale or distribution of controlled substances on the licensed premises;
 - 8. Allow sexually-oriented business employees to possess, use, sell or distribute controlled substances while engaged in the activities of the business;
 - 9. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or committing activities harmful to a minor to occur on the licensed premises or, in the event of an outcall employee or business, the outcall employee committing, offering or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor or committing activities harmful to a minor;
 - 10. Allow, offer, commit or agree to any specified sexual activity as validly defined by City ordinances or State statute in the presence of any customer or patron;
 - 11. Allow, offer or agree to any outcall employee appearing before any customer or patron in a state of nudity;
 - 12. Allow, offer or agree to allow a patron or customer to masturbate in the presence

of the sexually-oriented business employee or on the premises of a sexually-oriented business;

13. Allow, offer or agree to commit an act of lewdness, as defined in this Title. (Ord., 11-19-1997)

3-11-15: PROHIBITED ACTIVITIES:

- A. Performers: It is unlawful for any professional dancer, model or performer, while performing in any business licensed pursuant to this Chapter, to:
 - 1. Touch in any manner any other person;
 - 2. Throw any object or clothing off the stage area;
 - 3. Accept any money, drink or any other object directly from any person;
 - 4. Allow another person to touch such performer or to place any money or object on the performer or within the costume or person of the performer; or
 - 5. Place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity.
- B. Patrons: It is unlawful for any person, or any patron of any business, to touch in any manner any performer; to place any money or object on or within the costume or person of any performer; or to give or offer to give to any such performer any drinks, money or object while such performer is performing, except that money may be placed on the stage, which shall not be picked up by the performer except by hand.
- C. Alcoholic Beverages:
 - 1. It is unlawful for any business licensed pursuant to this Chapter to allow the sale, storage, supply or consumption of alcoholic beverages on the premises.
 - 2. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any sexually-oriented business. (Ord., 11-19-1997)

3-11-16: OUTCALL SERVICES; OPERATION REQUIREMENTS:

It is unlawful for any business or employee providing outcall services contracted for in the City, to fail to comply with the following requirements:

- A. Written Contract: All businesses licensed to provide outcall services pursuant to this Chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount such services shall cost the patron, and any special terms or conditions relating to the services to be performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract entered into pursuant to this Section for a period of not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract and pecuniary compensation paid.
- B. Maintain Office Or Telephone: All outcall businesses licensed pursuant to this Chapter shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours outcall employees are working. The address and phone number of the licensed location shall appear and be included in all patron contracts and published advertisements. For outcall businesses

which premises are licensed within the corporate limits of the City, private rooms or booths where the patrons may meet with the outcall employee shall not be provided at the open office or any other location by the service, nor shall patrons meet outcall employees at the business premises.

- C. Advertise; Manner: Outcall services shall not advertise in such a manner that would lead a reasonably prudent person to conclude that specified sexual activities would be performed by the outcall employee.
- D. Licensing Requirement: All employees of outcall services who provide outcall services within the City shall be licensed in accordance with this Chapter, regardless of the primary location of the business. (Ord., 11-19-1997)

3-11-17: NUDITY; DEFENSES TO PROSECUTION:

It is a defense to prosecution or violation under this Chapter that a person appearing in a state of nudity did so in a modeling class operated:

- A. Proprietary School: By a proprietary school licensed by the State, or a college, junior college or university supported entirely or partly by taxation;
- B. Private College Or University: By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation. (Ord., 11-19-1997)

3-11-18: VIOLATIONS:

- A. Injunction: An entity or individual who operates or causes a sexually-oriented business to be operated without a valid license, or who employs or is employed as an employee of a sexually-oriented business, or who operates such a business or functions as such an employee in violation of the provisions of this Chapter, is subject to a suit for injunction in addition to the civil and criminal violations provided herein, and any other remedy available at law or in equity.
- B. Suspension Or Revocation:
 1. The City may issue a notice suspending or revoking a sexually-oriented business or employee license granted under this Chapter if a licensee, or an employee of the licensee has:
 - a. Violated or is not in compliance with the provisions of this Chapter;
 - b. Refused to allow any inspection of the premises of the sexually-oriented business specifically authorized by this Chapter, or by any other statute or ordinance;
 - c. Failed to replenish the cost bond as provided in this Chapter (such a suspension shall extend until the bond has been replenished);
 - d. Given materially false or misleading information in obtaining the license;
 - e. Knowingly operated the sexually-oriented business or worked under the employee license during the period when the business licensee or employee licensee's license was suspended;
 - f. A licensee has committed an offense which would be grounds for denial of a license for which the time period required has not elapsed;
 - g. On two (2) or more occasions within a twelve (12) month period, a person

- committed in or on, or solicited in or on the licensed premises, or an outcall employee solicited or committed on or off the premises, an offense which would be grounds for denial of a license for which a conviction has been obtained, and the person or persons were employees, whether or not licensed, of the sexually-oriented business at the time the offenses were committed;
- h. A licensee is delinquent in payment to the City for ad valorem taxes or sales taxes related to the sexually-oriented business.
2. Suspension or revocation shall take effect within fifteen (15) days of the issuance of notice, unless an appeal is filed as provided by this Chapter.
 3. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
 4. Term Of Revocation: When a license issued pursuant to this Chapter is revoked, the revocation shall continue for one year from its effective date, and the licensee shall not be issued a sexually-oriented business or employee license for one year from the date of such revocation. (Ord., 11-19-1997)

3-11-19: APPEAL PROCEDURE:

The denial, suspension or revocation of any license issued pursuant to this Chapter may be appealed as set forth in Title 1, Chapter 7 of this Code. (Ord., 11-19-1997)

3-11-20: VIOLATION; PENALTY:

- A. In addition to revocation or suspension of a license, as provided in this Chapter, each violation of this Chapter shall, upon citation by the Business and Economic Services Administrator, require the licensee to pay a civil penalty in the amount of five hundred dollars (\$500.00). Such fine shall be deducted from the cost bond posted pursuant to this Chapter, unless paid within ten (10) days of notice of the fine or the final determination after any appeal. In addition to the civil fines provided in this Chapter, the violation of any provision of this Chapter shall be a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code. Each day of a violation shall be considered a separate offense. (Ord., 11-19-1997; amd. 1998 Code)
- B. Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the sexually-oriented business licensee and/or operator, if such act or omission occurs either with the authorization, knowledge or approval of the licensee and/or operator, or as a result of the licensee's and/or operator's negligent failure to supervise the conduct of the employee, and the sexually-oriented business licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.
- C. A sexually-oriented business licensee and/or operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the licensee and/or operator for the purposes of determining whether the license's license shall be revoked, suspended or renewed. (Ord., 11-19-1997)

3-11-21: EXISTING BUSINESS; COMPLIANCE TIME LIMITS:

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- A. Applicability: The provisions of this Chapter shall be applicable to all persons and businesses described herein, whether the herein described activities were established before or after the effective date hereof, and regardless of whether such persons and businesses are currently licensed to do business in the City.
1. All such persons and businesses requiring outcall service licenses shall have forty five (45) days from the effective date hereof, or until their current license expires, whichever is first in time, to comply with the provisions of this Chapter.
 2. All semi-nude dancing agency licensees shall have seventy five (75) days from the effective date hereof, or until their license must be renewed, whichever is first, to comply with the provisions of this Chapter.
 3. All adult businesses and semi-nude entertainment businesses shall have one hundred thirty five (135) days from the effective date hereof, or until their current license must be renewed, whichever is first, to comply with the provisions of this Chapter.
- B. Fees; Credit: For the year 1997-1998, all businesses required by this Chapter to be licensed as sexually-oriented businesses shall be credited against the fees required in the consolidated fee schedule with the regulatory license fees paid for the current 1997-1998 license. (Ord., 11-19-1997)