

TITLE XI: BUSINESS REGULATIONS

Chapter

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CHAPTER 110: ADULT ORIENTED BUSINESSES

Section

110.01 Definitions

§ 110.01 DEFINITIONS.

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

ADULT BOOK OR VIDEO STORE. An activity a principal purpose or use of which is the selling, renting, transferring, loaning, disseminating or distributing of adult entertainment or material, including, but not limited to, any book, magazine, newspaper, video, DVD, CD or sound recording.

ADULT ENTERTAINMENT or MATERIAL. Any performance or depiction or text that is intended to cause or provide, or which reasonably may be expected to cause or provide, sexual stimulation, sexual excitement or sexual gratification; and

(1) In which an individual or individuals appear in a state of nudity or partial nudity;

(2) That consists, in whole or in part, of action, activity, poses, portrayal, depiction or description of:

(a) Human genitals in a discernable state of sexual stimulation or arousal;

(b) Any act, whether real or simulated, of masturbation, sexual intercourse anal intercourse, sodomy, fellatio, cunnilingus, fondling of the buttocks, anus, female breasts, pubic area or genital area, sadomasochistic activity, physical contact or attempted contact with clothed or unclothed genitals, pubic areas, buttocks, anus or female breasts; or

(3) Consists of contact with animals or inanimate objects.

ADULT ORIENTED BUSINESS. Any business, operation or activity, a significant amount of which consists of:

(1) The conduct, promotion, delivery, provision or performance of adult entertainment or material; including, but not limited to, that occurring in, at or in connection with a cabaret, lounge, night club, modeling studio, bar, restaurant, club or lodge, or other establishment; or

(2) The sale, provision, rental or promotion of adult entertainment or material, in any format, form or medium, including, but not limited to, books, videos, DVDs, CDs, movies, photographs and/or coin operated or pay-view viewing devices, including, but not limited to, the operation of an adult book or video store or viewing booth.

NUDITY.

(1) The showing of the human male or female genitals, pubic area or buttocks with less than fully opaque covering;

(2) The showing of the female breast with less than a fully opaque covering over any part below the top or uppermost part of the areola; or

(3) The depiction of covered male genitalia in a discernibly turgid or erect state.

PARTIAL NUDITY. A state of dress which reveals:

(1) The human male or female buttocks; or

(2) The female breasts below the top or

uppermost part of the areola, excluding portions of the human female cleavage exhibited by a dress, or other apparel, provided the areola is not exposed in whole or in part.

SADOMASOCHISTIC ABUSE.

(1) Flagellation or torture, whether real or simulated, by or upon an individual; or

(2) The condition of being, or causing oneself or another to be, fettered, bound or otherwise physically restrained, any performance or depiction or text that is intended to cause or provide, or which reasonably may be expected to cause or provide, sexual stimulation, sexual excitement or sexual gratification.

SIGNIFICANT AMOUNT.

(1) At least 20% of the stock in the establishment or on display consists of adult entertainment or material or houses or contains devices depicting, describing or relating to adult entertainment or material;

(2) At least 20% of the usable floor area is used for the display or storage of adult entertainment or material or houses or contains devices depicting, describing or relating to adult entertainment or material;

(3) At least 20% of the gross revenue is, or may reasonably be expected to be, derived from the provision of adult entertainment or material; or

(4) Any provision of live adult entertainment or material.

VIEWING BOOTH. A space or area in which a display device is located for purposes of viewing pictures, films, videotapes or other images.

CHAPTER 111: VENDORS, PEDDLERS AND THE LIKE

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- 111.01 Application for license
- 111.02 License fee
- 111.03 Other sales

- 111.99 Penalty

§ 111.03 OTHER SALES.

Nothing contained herein shall be construed to apply to sales made under judicial or court process, nor to any person selling at retail any fresh fish, fresh fruits, vegetables or other country produce, provided that the seller is the bona fide grower or producer thereof.

(Ord. 11, passed 7-10-1956)

§ 111.01 APPLICATION FOR LICENSE.

(A) No person shall hawk, peddle or vend any wares or merchandise upon the streets or highways of the city, nor shall any itinerant peddler or canvasser go from house to house to vend or sell any wares or merchandise, either by sample or otherwise, without first having applied to the Police Chief and obtained a license therefor.

(B) The applicant for the license shall furnish references as to character, past conduct and financial responsibility as shall be determined by the Police Chief.

(Ord. 11, passed 7-10-1956) Penalty, see § 111.99

§ 111.99 PENALTY.

Any person violating any provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than \$5 or more than \$25 for each offense, and shall stand committed to the county jail until the fine and costs are paid.

(Ord. 11, passed 7-10-1956)

§ 111.02 LICENSE FEE.

Any person who shall hawk, peddle or vend any wares or merchandise of any description upon the streets or highways of the city, and every person selling goods as provided in the preceding section hereof shall pay for the license the sum of \$15 annually; provided, however, that any person who may desire a license for a period less than one year may obtain same by paying therefor the sum of \$5 per day for each day the person may desire to hawk, peddle or sell as aforesaid.

(Ord. 11, passed 7-10-1956) Penalty, see § 111.99

CHAPTER 112: FORTUNE-TELLING AND THE LIKE

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112.01 Permission; application

112.02 Residency

112.99 Penalty

Cross-reference:

*Trailer camps, carnivals and the like, see
§ 150.02*

that the City Commissioners reserve the right to refuse to grant the new licenses.

(E) The license fee required to be paid at the time of the issuance of any license under this chapter shall cover a period of one year and shall be \$1,000 for any such licenses.

(Ord. 19, passed 7-2-1959) Penalty, see § 112.99

§ 112.01 PERMISSION; APPLICATION.

(A) Any person or persons desiring to practice fortune-telling, palmistry, phrenology or the telling or revealing of future fortune or events or pretending to tell or reveal future fortune or events, within the corporate limits of the city, shall be required to first obtain permission from the Council members of the city.

(B) Application therefor shall be made at least ten days in advance of the granting of the permission. Applications shall furnish the references as to character, past conduct and financial responsibility, as shall be required by the City Commissioners.

(C) The Commissioners reserve the right to refuse to grant any permission. If and when the permission is granted, it shall be given in the form of a license, which license shall show the date of issue, the period covered by the license, the name of the person or persons to whom issued, the location to which the same shall be applicable, and the fee paid the city at the date of issuance of the license.

(D) No license shall be issued for a period longer than or less than one year. Renewals of licenses may be had for additional one-year periods, upon compliance with the same terms and conditions and upon payment of the same license fee, providing

§ 112.02 RESIDENCY.

Applicants for licenses shall be bona fide residents, owners of real estate and registered voters in the county for a period of five years immediately preceding the application; providing, however, that the requirements of this section shall not apply to any person who presently holds a license issued by the city.

(Ord. 19, passed 7-2-1959)

§ 112.99 PENALTY.

From and after the date of the final passage of this chapter, any person who shall engage in the practice of fortune-telling, palmistry, phrenology or telling, or revealing, or pretending to tell or reveal future fortune or events by any means or device whatsoever within the city, without having first obtained a license as required by §§ 112.01 and 112.02 shall, upon conviction thereof, before any trial magistrate or Justice of the Peace of the county, be subject to a fine of not less than \$1,000 or not more than \$2,500 for each such offense.

(Ord. 19, passed 7-2-1959)

CHAPTER 113: COIN-OPERATED AMUSEMENT

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- 113.03 Gambling prohibited
- 113.04 Form, display of license
- 113.05 Conditions of operations
- 113.06 Transfer of license

- 113.99 Penalty

by the city, shall answer each question contained thereon, and in the event the applicant is a corporation or partnership, shall state the name, address, title and ownership interest of the officer or partner who will be responsible for the operation of the licensed premises; and the application shall be signed by five residents of the city, stating the length of time each one has known the applicant or agent thereof and that the person is believed to be of good character.

§ 113.01 DEFINITIONS.

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

COIN-OPERATED AMUSEMENT MACHINE. A machine that may be played or operated by the insertion of a coin, slug or token and on which games or tests of skill, chance or ability are played, including pinball machines, video machines and any machine initiating games of amusement or relaxation, but not including automatic machines for vending food, drink and tobacco products, music playing or any shuffleboard or pool table in a licensed pool room.

COIN-OPERATED AMUSEMENT MACHINE ARCADE. A place of business which is licensed to have operating in the business premises one or more coin-operated amusement machines.
(Ord. 115, passed 10-12-1982)

§ 113.02 LICENSE REQUIREMENTS; FEES.

(A) Every applicant for a coin-operated amusement machine license shall file with the City Manager an application on the form furnished

(B) Each applicant shall submit with the application a check made payable to the city in the amount of \$10, which shall be a nonrefundable application fee, and shall in addition thereto submit a check for the applicable license fees for the machines contained in his or her premises, prorated on a quarterly basis for a license year beginning on July 1 of each year.

(C) (1) The holder of a coin-operated amusement machine license shall pay an annual license fee of \$50 for each machine contained in the premises; there shall be no refund for any machine removed from the licensed premises during the fiscal year, but a prorated additional license fee shall be paid for any increase in the total number of machines located on a licensed premise, prorated quarterly from the time the additional machine is placed on the licensed premises.

(2) This additional license fee must be paid within 15 days from the time the additional machine is placed on the licensed premises.
(Ord. 115, passed 10-12-1982)

§ 113.03 GAMBLING PROHIBITED.

Coin-operated amusement machines that may be played or operated by insertion of a coin, slug or token, and on which games or tests of skill, chance or ability are played, including pinball machines, video machines and any machine initiating games of amusement or relaxation, shall be kept, maintained or operated within the city only for the purpose of public entertainment and shall not be used by any person for gaming or gambling purposes, and no such machines shall be kept, maintained or operated for public entertainment purpose within the city, unless an operator and machines license has been previously obtained from the city.

(Ord. 115, passed 10-12-1982)

§ 113.04 FORM, DISPLAY OF LICENSE.

(A) Only one operator's license will be issued for each location and must be displayed in a frame, in a conspicuous place, showing the fee for the current year has been paid. The license shall contain the name and address of the licensed operator and designate and describe the number of machines allowed on the premises.

(B) All machine licenses shall expire on the last day of June in each year, shall be transferable to a like machine at the same location, and the fee shall be prorated on a quarterly basis; provided, however, that no part of any license fee shall be refundable for any portion of the license year.

(Ord. 115, passed 10-12-1982)

§ 113.05 CONDITIONS OF OPERATIONS.

(A) It shall be a condition to the issuance of any and all licenses under this chapter that the businesses licensed shall be used and operated only for lawful purposes.

(B) The right is reserved to the City Council to refuse to grant any license and to revoke any license previously granted which is determined by the City Council to adversely affect the health, safety, morals and general welfare of the public.

(C) No license shall be approved for any

premises located less than 100 yards from the grounds of any public or private school offering classes from the first grade through high school.

(Ord. 115, passed 10-12-1982)

§ 113.06 TRANSFER OF LICENSE.

(A) No license may be assigned or transferred, or the agent of a licensee be changed, without filing a new application with the city.

(B) A fee of \$10 shall be paid with the application and the premises may continue to be operated for 30 days under the original license.

(C) If the transfer is not approved, the original license will then terminate.

(Ord. 115, passed 10-12-1982)

§ 113.99 PENALTY.

(A) *Operating without a license.*

(1) Any person keeping, maintaining, possessing or operating any amusement machine or establishment therefor without the appropriate licenses as provided in this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$200 for each offense; and further provided that each day of operation without the proper licenses shall constitute a separate offense.

(2) Provided, however, that any person or organization which at the time of the effective date of this chapter, has any coin-operated amusement machines in operation on his or her or its premises may continue to keep the same in operation until his or her or its application for a license has been acted upon by the City Council or the City Manager if authorized by the City Council to issue the licenses, provided an application in proper form has been filed and fees paid within ten business days after the effective date of this chapter.

(B) *Conviction of a violation of the gambling or controlled dangerous substance laws of the state.* Any holder of a coin-operated amusement machine

license
who shall, while the holder of the license be
convicted of a violation of the gaming or controlled
dangerous
substance laws, which violation occurred on the
licensed premises, shall be guilty of a misdemeanor
and, upon conviction thereof, shall be fined not more
than \$200 for each offense, and upon the conviction,
the licenses for the premises shall be revoked.
(Ord. 115, passed 10-12-1982)