

(c) It shall be unlawful for any driver of any vehicle to drive a vehicle between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade; provided, however, that this provision shall not apply to police, fire or ambulance vehicles when engaged in police, fire or ambulance functions.

(d) The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street, or part thereof constituting a part of the route of a parade and to post signs to such effect. It shall be unlawful for any person to remove the signs before the event is completed. It shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

(e) It shall be unlawful for any person to engage in, participate in, aid, form, or start any parade without first obtaining a permit therefor as provided for herein, or who shall otherwise violate any of the provisions of this chapter. (Ord. 94-88 § 2, 1994.)

5.05.130 Rules And Regulations. The City Manager is hereby authorized to promulgate such reasonable rules and regulations as are necessary to carry out the provisions or the intent of this chapter. (Ord. 94-88 § 2, 1994.)

5.05.140 Penalty For Violations - Actions. The violation of any of the provisions of this chapter is a misdemeanor, and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00); and the city of Olathe, Kansas, shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provision of this chapter; and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the set-up, erection, construction, reconstruction, alteration, maintenance or use of a special event, or to correct or abate such violations. Each and every day any violation of this chapter continues shall constitute a separate offense. (Ord. 94-88 § 2, 1994.)

CHAPTER 5.08. Alcoholic Liquor. Repealed -- See Chapter 7. (Ord. 87-139; Prior Code § 3-101.)

CHAPTER 5.17. Nude Entertainment at Private Clubs. Repealed -- See Chapter 7. (Ord. 87-139; Ord. 529 § 2, 1976; Ord. 529 § 3, 1976; Ord. 529 § 4, 1976.)

CHAPTER 5.10

WAREHOUSE ENTERTAINMENT CLUBS

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5.10.010 Definitions. As used in this chapter, the words and phrases defined in this section shall have the following meanings.

A. "Club premises" means any place where an entertainment club is operated or maintained and includes all hallways, bathrooms, parking areas and other adjacent portions of the premises which are accessible to the public during operating hours.

B. "Entertainment" means a single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which patrons are invited or allowed to watch, listen, or participate, and is conducted for the purpose of holding the attention of, gaining the attention of, or diverting or amusing guests or patrons, including:

1. Presentations by single or multiple performers, such as musical song and dance acts, plays, concerts, demonstrations of talent, shows, reviews and other such activities;
2. Dancing to live or recorded music;
3. Prerecorded music played on equipment which is operated by an agent or contractor, commonly known as "DJ" or "disc jockey."

C. "Loiter" means remaining idle in essentially one location, to be dilatory, to tarry, to dawdle and shall include but be not limited to standing around, hanging out, sitting, kneeling, sauntering and prowling.

D. "Patron(s)" means a member or members of the public who enter an entertainment club, except:

1. Any agent, owner, employee or contractor of a warehouse entertainment club. Any person who indirectly or directly receives anything of value in exchange for his or her services rendered on behalf of such establishment shall be considered an "employee" hereunder;
2. Any agent or representative of any governmental entity of any description whatsoever, including ad hoc boards, task forces, and commissions, provided that such agent or representative enters an establishment acting in his or her official capacity on behalf of said governmental entity;
3. Persons who perform or conduct entertainment at warehouse entertainment clubs.

E. "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

F. "Photo identification" means a valid driver's license or photo identification issued by the person's state of residence or current school identification card showing the age of the person.

G. "Probable cause" means reasonable grounds for belief in the existence of facts warranting proceedings to suspend or revoke a license.

H. "Private entertainment event" means any music, singing, dancing or other similar entertainment event, or series of events, which is not open to the public, but is conducted in a warehouse entertainment club.

I. "Specified anatomical areas" shall be defined as in Section 9.13.020(2)(b) of this Municipal Code.

J. "Specified sexual activities" shall be defined as in Section 9.13.020(2)(a) of this Municipal Code.

K. "Warehouse entertainment club" means a commercial premise offering entertainment to patrons with a maximum occupancy load exceeding 350 people. Maximum occupancy shall be determined by the Director of Development Services by consulting the City's building codes, fire and life safety codes, and the Unified Development Ordinance. (Ord. 01-41 § 1, 2001.)

5.10.020 Authority; Findings; Purpose; Intent.

A. Authority: This chapter is created pursuant to Article 12, Section 5 of the Constitution of the State of Kansas.

B. Findings: The City Council of the City of Olathe encourages the development of art and culture and recognizes that many entertainment venues provide a means for such development. The City Council further recognizes that the variety of entertainment venues in the City provide a rich and diverse cultural experience for the residents of the City and visitors to the City.

The City Council finds that the operations of warehouse entertainment clubs present an environment with a demonstrated potential for:

1. Increased criminal activities including, but not limited to: loitering; littering; disorderly conduct; possession and or sale of controlled substances; assaults; batteries; carrying of concealed weapons; homicides; violation of liquor laws; and sexual misconduct.
2. Public nuisances including, but not limited to: excessive noise, litter and trash, damage to parking lot islands and landscaping, traffic congestion, and fire lane/emergency access obstruction.
3. The need for increased police presence to keep the public peace, including the calling of other police agencies in Johnson County for help in quelling disturbances.
4. Increased public expenditures in keeping the public peace.

C. Purpose: It is the purpose of this chapter to regulate the operations of warehouse entertainment clubs for the public safety. All licensees will be held responsible for controlling patrons conduct in and around the clubs, making adequate provisions for security and crowd control, protecting the City's youth from criminal activity and minimizing disturbances as a result of the operation of the establishment.

D. Intent: It is the intent of this chapter to provide options regulating the variety of businesses and events which provide entertainment. The City Council finds that the imposition of conditions tailored to the particular establishment will allow the business to flourish while meeting the City's public safety needs and avoiding unnecessary conditions on existing businesses or organizations which would change the mode of operations of a law-abiding business or organization with a history of compliance with the City laws. (Ord. 01-41 § 1, 2001.)

5.10.030 License Required. It is unlawful and prohibited for any person to own, lease, operate, manage or maintain a warehouse entertainment club, in the City without first obtaining a warehouse entertainment club license from the City. (Ord. 01-41 § 1, 2001.)

5.10.040 Exemptions from License. The following types of entertainment and events are exempt from the license required by this chapter. This exemption does not relieve any of the establishments from complying with all other applicable laws, including the laws related to noise levels.

A. Entertainment sponsored by any agency of the City of Olathe, the County of Johnson County, the various Boards of Education, or of any other political subdivision of the State of Kansas;

B. A teen entertainment club licensed under the provisions of Chapter 5.15 of the Olathe Municipal Code;

C. Entertainment in a full service restaurant or bar limited to the use of a radio, music recording machine, juke box, television, video games, video programs, or recorded music which is incidental to the primary function of serving food or drink;

D. Entertainment provided for members and their guests at a Class A private club licensed under K.S.A. 41-2037 having an established membership when admission is not open to the public;

E. Entertainment provided for invited guests at a private event such as a wedding reception, banquet, or celebration where there is no admission charge;

F. Entertainment conducted in connection with a regularly established recreation or theme park;

G. Entertainment conducted or sponsored by any bona fide club, organization, society or association which is exempt from taxation pursuant to Internal Revenue Code section 501(c)(3), when all proceeds, if any arising from such entertainment are used exclusively for the benevolent purposes of such club, society or association;

H. Performances by the students at public or private institutions where such performances are part of an educational or instructional curriculum or program;

I. Theaters where patrons sit in parallel rows of fixed seats, comedy clubs and dinner theaters;

J. Motion picture theaters not providing live entertainment;

K. Dance lessons, theatrical and performing arts lessons;

L. Book readings, book signings, poetry recitations, and any other similar entertainment consisting of the spoken word, including plays;

M. Fund-raisers for a political cause;

N. Entertainment consisting of ambient or incidental music provided for the guests by musicians such as a piano player, harpist, strolling violinist, mariachi band, guitarist or band. If there is an admission charge, required to observe such entertainment, it will not be considered incidental.

O. Pool hall, billiard hall or bowling alley that does not provide space for dancing. (Ord. 01-41 § 1, 2001.)

5.10.050 License Application. A verified application for a license to operate a warehouse entertainment club shall be made by the applicant to the City Clerk on a form provided by the City Clerk and shall contain, but not be limited to the following information:

A. The name and address of the applicant;

B. The address and legal description of the place for which the license is desired;

C. A drawing of the premises for which the license is desired showing the location of the proposed premises in relation to other buildings, structures, parking areas, public or private streets, and sidewalks within 300 feet. Sufficient dimensions shall be included to indicate the relationship between the premises and such other buildings, structures, parking areas, etc. The number of parking spaces the premises will use to comply with City parking requirements shall be clearly shown on the drawing;

D. The name of the owner of the premises upon which the place of business is located, if different from the applicant;

E. The name and address of all employees who will be employed on the premises, if known;

F. A statement by which the applicant consents and agrees that any member of the Police Department or Fire Department, code enforcement inspectors, building inspectors, health inspectors or other officer of the City or state of Kansas may enter and inspect any part of such premises including the locked portions thereof;

G. A statement authorizing any governmental agency to provide the City with any information pertinent to the application;

H. A written management plan consisting of:

1. A plan to insure that adequate traffic control, crowd protection and security, both inside and outside the premises, will be maintained, and that ages of patrons admitted to the club will be monitored;

2. An emergency management plan, consisting of, but not limited to: fire evacuation, storm shelter provisions, patron crowd control, exterior parking lot security provision, emergency access for fire, police and ambulance. The plan shall utilize the exterior site and interior building plans to show exit routes, areas for refuge and emergency exits.

3. In addition to the requirements of subsection C above, the licensee shall provide a floor plan graphically depicting: the dimensions of the interior location, the dimension of any dance floor, the seating arrangements, the location of any food service area, exit dimensions, number of exits, the location of the fire alarm system and sprinkler system.

I. A statement declaring whether the applicant desires to operate a teen club on the premises as defined in Chapter 5.15 of the Olathe Municipal Code and a statement of the proposed schedule of operating hours and days. (Ord. 01-41 § 1, 2001.)

5.10.060 Procedures for Issuance or Denial of License. After receiving a complete application for a warehouse entertainment club license, as specified in Section 5.10.050, the City shall follow the following procedures:

A. Upon receipt of an application, the City Clerk shall send one copy of the application immediately to the Police Chief for investigation of the applicant. It shall be the duty of the Police Chief to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The Police Chief shall report to the City Clerk no later than twenty (20) working days subsequent to the receipt of such application. Such report may recommend that conditions be placed on the license. The City Clerk shall schedule the application for consideration by the Governing Body at the earliest convenient meeting date. The Governing Body shall consider the report of the Police Chief and shall issue or deny the license within thirty (30) working days after the date on which the application was considered unless the applicant agrees to an extension of said time period in writing.

B. A license shall be denied by the Governing Body on one or more of the following grounds:

1. If the business premises do not comply with all applicable regulatory codes, laws and statutes of the City, of Johnson County Kansas or the State of Kansas;

2. If the application is incomplete or if it contains any material misrepresentation;

3. If the application does not propose adequate measures for the protection of the public health, safety and welfare in terms of traffic control, crowd protection and security, both inside and outside the premises, the monitoring of the ages of patrons admitted to the club and an emergency management plan.

4. To any applicant who has been convicted or diverted of a felony, or, during the immediate preceding five years has been convicted or diverted of any of the following:

- (a) Prostitution;
- (b) Promotion of prostitution;

- (c) Public lewdness;
- (d) Gambling;
- (e) Violation of the Kansas Uniform Controlled Substance Act or the controlled substance laws of any other governmental entity;
- (f) Two or more separate incidences of violating the liquor laws of the City, the state of Kansas, or any other governmental agency;
- (g) Driving under the influence of alcohol or drugs or any other alcohol-related offense;
- (h) Carrying a concealed weapon;
- (i) Disorderly conduct;
- (j) Battery;
- (k) A violation of this chapter.

5. To any applicant whose employee or manager has been convicted or diverted of a felony, or, during the immediate preceding five years, has been convicted or diverted of the following:

- (a) Prostitution;
- (b) Promotion of prostitution;
- (c) Public lewdness;
- (d) Gambling;
- (e) Violation of the Kansas Uniform Controlled Substance Act or the controlled substance laws of any other governmental entity;
- (f) Two or more separate incidences of violating the liquor laws of the City, the state of Kansas, or any other governmental agency;
- (g) Driving under the influence of alcohol or drugs or any other alcohol-related offense;
- (h) Carrying a concealed weapon;
- (i) Disorderly conduct;
- (j) Battery;
- (k) A violation of this chapter.

6. To a partnership, unless all the members are qualified individually;

7. To a corporation, if any corporation officer or director thereof or any stockholder owning in the aggregate more than 25% of the stock of such corporation would be ineligible to receive a license;

8. To a person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required of the licensee;

9. If the proposed location of a club is within 1,000 feet of an existing warehouse entertainment club.

10. No person defined herein who has a proprietary interest in a warehouse entertainment club that has been revoked, or any person acting on his or her behalf, shall be granted a warehouse entertainment club license within the City for a period of twelve (12) months following the date of revocation.

C. No license to operate a warehouse entertainment club shall be issued until notice has been given by the applicant by certified mail, return receipt requested, to all property owners and to all parties in possession of real property within 300 feet of the club premises as described in the application at least ten (10) days prior to the Governing Body hearing.

D. The Governing Body may impose such conditions on the issuance of the license which are necessary to protect the public health, safety and welfare. Conditions shall be based upon specific and articulable facts reasonably related to insuring public health and safety, including but not limited to, the protection of minors from alcohol and other criminal activity, prevention of public nuisances, enhancement of fire protection, traffic control, crowd control, security lighting and emergency access.

Such conditions are only subject to change at (1) the time of renewal of the license, (2) after a hearing requested in writing by the applicant to modify the conditions, or (3) after ten (10) days written notice to the applicant and a hearing by the Governing Body to consider additional or modified conditions designed to protect the public health and safety. (Ord. 01-41 § 1, 2001.)

5.10.070 License Fee. An annual license fee shall be paid for each license that is issued pursuant to this chapter. Such license fee shall be adopted by the Governing Body of the City by resolution. The full amount of the license fee shall be required regardless of the time of the year in which the application is made. There shall be no refund in any case when the licensee quits business prior to the end of the year. No license shall be transferable.

If any person required to pay a license fee shall fail or refuse to pay his license fee for any year, he shall not be granted a license for the current year until such delinquent license has been paid in addition to the current fee required. (Ord. 02-121 § 1, 2002; Ord. 01-41 § 1, 2001.)

5.10.080 License Term; Renewal.

A. The term of a warehouse entertainment club license shall be one year from issuance.

B. The license for a warehouse entertainment club shall be renewed in the same manner as for an original application. (Ord. 01-41 § 1, 2001.)

5.10.090 Operating Rules and Regulations.

A. The following operating rules and regulations shall apply to all warehouse entertainment clubs in the City:

1. The standards of conduct applicable to all businesses in the City, as specified in the Olathe Municipal Code, the Unified Development Ordinance, and any other building or safety codes shall apply to warehouse entertainment clubs.

2. It shall be the obligation of the licensee to insure that no controlled substances are offered for sale or consumed on the club premises.

3. It shall be the obligation of the licensee to remove from the club premises any person who is or appears to be under the influence of or affected by the use of alcohol and/or drugs, or whose conduct poses a physical danger to the safety of others present.

4. It shall be the obligation of the licensee to provide proper and adequate illumination of all portions of the club premises which are available for use by the public.

5. It shall be the obligation of the licensee to prevent loitering or the creation of public nuisances or disturbances of the peace by any patrons of the club on club premises, or the immediate vicinity of the same. "Loitering" shall not include walking between the club building and a patron's vehicle, nor shall it include the act of waiting in line to gain admission to the club.

6. It shall be the obligation of the licensee to clean up all litter on the premises resulting from club operations.

7. No person, other than an employee or entertainer, who leaves the club building shall be permitted to return to the club unless that person pays a readmission fee equal to the original price of admission.

8. No licensee shall feature or permit dancers, entertainers, employee, or any other person or persons to be engaged in specified sexual activities or to expose to view or display specified anatomical areas.

9. All persons shall be admitted to a warehouse entertainment club through a single entrance so that occupancy load can be monitored by the licensee.

10. No warehouse entertainment club shall be established within 1,000 feet of another licensed warehouse entertainment club.

11. Security guards.

- (a) A minimum of two security persons shall be required for up to the first 50 persons in attendance.
- (b) In addition to the minimum two security persons, one additional security person for each additional 50 persons in attendance shall be required.
- (c) "Qualified security personnel" means any person who works for:
 - (1) A private police organization as defined in Chapter 5.40; and
 - (2) Is 21 years of age or older; and
 - (3) Is uniformed when working.

12. No warehouse entertainment clubs may operate between the hours of 2:00 a.m. and 9:00 a.m.

13. The licensee shall control the conduct of patrons so as to prevent or minimize disorderly or unlawful conduct upon the premises and within one hundred (100) feet of the premises. The 100-foot distance shall be measured in a straight line from the property line of the licensed premises.

14. The licensee shall cause the orderly dispersal of individuals from the vicinity of the club at closing time, and shall not allow them to congregate in the vicinity in a disorderly fashion.

15. The licensee shall make reasonable efforts to prevent the admission of any person whose conduct is described in Section 9.11.010 of the code (disorderly conduct) on the premises or on any parking lot or similar facility used by the club. The licensee shall make reasonable efforts to remove persons exhibiting such conduct from the premises.

16. The licensee shall be responsible to insure that an adequate number of qualified security personnel are employed and in attendance before, during, and following each entertainment event as is necessary in order to maintain order and insure compliance with all applicable federal, state and city law and ordinances.

B. Additional operating rules and regulations for teen entertainment clubs.

1. A warehouse entertainment club licensee may operate a teen entertainment club on the premises of a warehouse entertainment club upon compliance with the provisions of Chapter 5.15 of the Olathe Municipal Code and payment of an additional license fee. Such fee shall be adopted by the Governing Body of the City by resolution.

2. A licensee may not operate a teen entertainment club at the same time that the licensee is operating as a warehouse entertainment club. When the licensee is operating as a warehouse entertainment club, no person under the age of 21 shall be permitted to enter or remain in the club unless accompanied by a parent or legal guardian, except for bona fide employees or entertainers hired by the licensee to work in the club.

3. The operating standards found in Chapter 5.15 for teen entertainment clubs shall apply to the days a warehouse entertainment club is operating as a teen entertainment club.

4. A 3 foot by 3 foot sign shall be clearly posted at the entrance notifying the public that the premises is operating as a teen club. (Ord. 02-121 § 2, 2002; Ord. 01-41 § 1, 2001.)

5.10.100 Access by Law Enforcement Officers. All law enforcement officers and any other officials of the City shall have free access to all warehouse entertainment clubs for the purpose of inspection and to enforce compliance with the provisions of this chapter. (Ord. 01-41 § 1, 2001.)

5.10.110 Checking the Age of Patrons.

A. It is the responsibility of the licensee to require photo identification, showing the age of each person admitted to a warehouse entertainment club. It shall be unlawful for any person to knowingly or recklessly allow a person to enter or remain on the premises of a warehouse entertainment club in violation of the provisions of this chapter.

B. It shall be unlawful for any person for the purpose of obtaining admission to, or remain at, a warehouse entertainment club to misrepresent his or her:

1. Age;
2. Authority as a licensee or employee of such warehouse entertainment club;
3. Authority as a parent or guardian of a person in such warehouse entertainment club;
4. Authority as a governmental employee engaged in the performance of his or her duties.

C. It shall be unlawful for any person on the premises to not provide identification to law enforcement officers to include name, age and address. (Ord. 01-41 § 1, 2001.)

5.10.120 Procedure for Suspension or Revocation of Licenses. Whenever the Chief of Police determines that there is probable cause for suspending or revoking a warehouse entertainment club license, the Chief of Police shall notify the licensee by registered or certified mail, return receipt requested, of such determination. Notice mailed to the address on the license shall be deemed received seven (7) working days after mailing. The notice shall specify the proposed grounds for suspension or revocation. The grounds for suspension and revocation are found in Section 5.10.130. The notice shall also specify that a hearing shall be conducted by the City Manager for a license suspension or by the Governing Body for a license revocation at a time and date denominated in the notice, nor more than thirty (30) days thereafter, to determine whether or not the license shall be suspended or revoked. The notice shall be mailed to the licensee at least five (5) days prior to the date set for the hearing. The licensee may appear at the hearing and be heard in opposition to such suspension or revocation. The decision to suspend or revoke shall be final. (Ord. 01-41 § 1, 2001.)

5.10.130 Grounds for Suspension or Revocation.

A. The City Manager or his designee may, after notice and hearing as required in Section 5.10.120, suspend a warehouse entertainment club license whenever the licensee, or any manager, officer, director, agent, or employee of the licensee has caused, permitted or knowingly done any of the following:

1. Failed to keep the building structure or equipment of the licensed premises in compliance with the applicable health, building, fire or safety laws, regulations or ordinances which relates to or affects public health or safety on the warehouse entertainment club premises;
2. Failed to comply with the operating rules and regulations of warehouse entertainment clubs specified in Section 5.10.090.

B. The Governing Body may, after notice and hearing as required in Section 5.10.120, revoke a warehouse entertainment club license on any one or more of the following grounds:

1. Whenever the City learns that the licensee or any manager, officer, director, agent or employee of the licensee made a material false statement or representation, or failed to disclose any material information to the City, in connection with any application for the warehouse entertainment club license or any renewal thereof;
2. Whenever the licensee or any manager, officer, director, agent or employee of the licensee fails within a reasonable time to cure a condition that caused a license suspension;
3. Whenever the licensee or any manager, officer, director, agent or employee of the licensee knowingly permits conduct on the licensed premises that violates any federal, state or city criminal or penal statute, law or ordinance, including the liquor laws of the state of Kansas or this City;
4. Whenever operation of the warehouse entertainment club becomes the proximate cause of a significant increase in criminal activity on the premises or in the immediate vicinity in such a way as to endanger persons or property.
5. Whenever licensee knowingly employs persons in violation of the licensing standards of this chapter;
6. Whenever licensee fails to cooperate with City officials in the conduct of their enforcement and inspection duties.

No person defined herein who has a proprietary interest in a warehouse entertainment club that has been revoked, or any person acting on his or her behalf, shall be granted an entertainment club license within the City for a period of twelve (12) months following the date of revocation. (Ord. 01-41 § 1, 2001.)

5.10.140 Chief of Police Authority Where There Is Immediate Threat to Public Safety.

A. The Chief of Police, or his designee, may require a licensee to close down operations and disperse all patrons whenever conduct by disorderly patrons reaches a magnitude that presents an immediate threat to the public safety and well-being of the patrons and general public in the vicinity. The operations shall remain closed until the threat has passed.

B. It is unlawful for any person to fail to comply with any directive issued by the Chief of Police, or his designee, under authority of Section 5.10.140 A. (Ord. 01-41 § 1, 2001.)

5.10.150 Private Entertainment Event.

A. It shall be unlawful and prohibited for any person to authorize or conduct a private entertainment event in a licensed warehouse entertainment club without registering with the City Clerk and paying the a registration fee. Such fee shall be adopted by the Governing Body of the City by resolution.

B. Registration forms may be obtained from the City Clerk.

C. The operating rules and regulations of Section 5.10.090 shall apply to private entertainment events.

D. All police officers of the City and the state of Kansas shall have free access to such private entertainment events for the purpose of inspection and enforce compliance with the ordinances of the City and the laws of the state of Kansas. (Ord. 02-121 § 3, 2002; Ord. 01-41 § 1, 2001.)

5.10.160 Applicability to Existing Businesses. The provisions of this chapter shall be applicable to all persons and businesses described in this chapter whether the activities described in this chapter were established before or after the effective date of the ordinance codified in this chapter. All existing businesses must be in compliance with this chapter by January 1, 2002. (Ord. 01-41 § 1, 2001.)

5.10.170 Conflict. In the event of a conflict between this chapter and any other chapter of the Olathe Municipal Code, the provisions of this chapter shall apply. (Ord. 01-41 § 1, 2001.)

5.10.180 Construction of Chapter. The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. (Ord. 01-41 § 1, 2001.)

5.10.190 Penalty. Any person convicted of a violation of this chapter shall be fined not more than \$1,000 or imprisoned for more than six months, or by both such fine and imprisonment in addition to any action taken pursuant to Section 5.10.120. (Ord. 01-41 § 1, 2001.)

5.10.200 Public Nuisance – Abatement. Any business establishment providing entertainment maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal and enjoinder thereof in the manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishments and restrain and enjoin any person from operating, conducting or maintaining such an establishment where entertainment is provided contrary to the provisions of this chapter. (Ord. 01-41 § 1, 2001.)



Chapter 5.20 ENTERTAINMENT CLUBS

Sections:

- 5.20.010 Definitions.
- 5.20.020 Entertainment club license required.
- 5.20.030 License application procedures.
- 5.20.040 Procedures for issuance or denial of license.
- 5.20.050 Operating rules and regulations.
- 5.20.055 Restrictions on multi-use facilities.
- 5.20.060 Access by police officers.
- 5.20.070 Checking the age of patrons.
- 5.20.075 Suspension or revocation of licenses.
- 5.20.080 Penalties for violation.

5.20.010 Definitions.

For the purposes of this chapter, and unless the context plainly requires otherwise, the following definitions are adopted:

(1) (a) "Entertainment club" means commercial premises which are open to the public, the primary function of which is to offer patrons an opportunity to engage in social activities such as dancing, or the enjoyment of live or prerecorded music, or the enjoyment of entertainment provided by dancers or other performers. As an incidental function an entertainment club may sell and/or serve food and beverages to its patrons.

(b) The term "entertainment club" does not include the following: premises which serve alcoholic beverages and which are under the jurisdiction of the Washington State Liquor Control Board; theaters where the patrons sit in parallel rows of fixed seats; full-service restaurants where the only entertainment consists of prerecorded background music which is incidental to the primary function of serving food; outdoor performances; a banquet, party or celebration conducted for invited guests which is not open to the public; dances or events sponsored and operated by a governmental entity, an accredited educational institution, or a nonprofit religious, charitable, benevolent, fraternal, or social organization which is recognized by the United States of America as being exempt from federal taxation; an adult motion picture theater, adult drive-in theater, and/or adult cabaret as defined by Chapter 5.80 MMC; an adult panoram establishment as defined by Chapter 5.84 MMC; a bikini club as defined by Chapter 5.88 MMC; a public bath house as defined by Chapter 5.92 MMC; or a body shampoo parlor as defined by Chapter 5.92 MMC.

(2) "Club premises" means any place where an entertainment club is operated or maintained and includes all hallways, bathrooms, parking areas and other adjacent

portions of the premises which are accessible to the public during operating hours.

(3) "Teen club" means any entertainment club which permits the entry of persons under the age of 21 years.

(4) "Adult club" means any entertainment club which restricts its admission to persons age 21 years and over. This term does not include facilities regulated under any of the following chapters of the Marysville Municipal Code: Chapter 5.80, 5.84, 5.88, or 5.92.

(5) "Person" means one or more natural persons of either sex, corporations, partnerships, associations, or other entities capable of having an action at law brought against such entity. (Ord. 2070 § 2, 1996; Ord. 1645 § 1, 1988; Ord. 1636 § 2, 1988).

5.20.020 Entertainment club license required.

It is unlawful for any person to own, lease, operate, manage or maintain an entertainment club, in the city without first obtaining an entertainment club license from the city. An entertainment club license is a form of business license as referred to in Chapter 5.02 MMC, and except as modified herein by this reference. For multi-use facilities which include an entertainment club, a separate and additional license must be issued for the entertainment club operation. (Ord. 1645 § 2, 1988; Ord. 1636 § 2, 1988).

5.20.030 License application procedures.

In addition to the application procedures referred to in MMC 5.02.040, an applicant for an entertainment club license shall provide the following:

(1) A written statement setting forth all measures proposed to insure that adequate traffic control, crowd protection and security, both inside and outside the premises, will be maintained, and that the ages of patrons admitted to the club will be monitored;

(2) A statement electing whether the entertainment club will be operated either exclusively as a teen club or exclusively as an adult club, and a statement of the proposed schedule of operating hours and days;

(3) A statement of whether the applicant, or the applicant's officers, directors, partners or any other person involved in the operation or management of the entertainment club has been convicted within the preceding five years of any crimes involving firearms, controlled substances, sexual offenses, prostitution, assault, or contributing to the delinquency of a minor. (Ord. 1636 § 2, 1988).

5.20.040 Procedures for issuance or denial of license.

After receiving a complete application for an entertainment club license, as specified in MMC 5.20.030, the city shall follow the following procedures:

(1) The city clerk shall forward copies of the application to appropriate city officials for their comments regarding compliance with regulations under their jurisdiction. The city clerk shall consider all materials and comments submitted and shall issue or deny the license within 10 working days after the date on which a completed application was filed unless the applicant agrees to an extension of said time period in writing.

(2) An entertainment club license may only be denied by the city clerk on one or more of the following grounds:

(a) If the business premises do not comply with all applicable regulatory codes of the city, the Snohomish health district and the state of Washington relating to public health, safety and welfare;

(b) If the application is incomplete or if it contains any material

misrepresentation;

(c) If the application does not propose adequate measures for the protection of the public health, safety and welfare in terms of traffic control, crowd protection and security, both inside and outside the premises, and the monitoring of the ages of patrons admitted to the club.

(3) If the city clerk denies a license, written notice of said denial stating the reasons therefor shall be sent to the applicant within one working day thereafter. The applicant shall have a period of 10 working days after the date of license denial to appeal the same to the city council. Upon receiving written notice of appeal the city council shall hold a public hearing within 21 days thereafter to consider, de novo, whether to issue or deny the license. The applicant shall be given not less than seven days' advance notice of the hearing. The decision of the city council shall be announced at the conclusion of the hearing and shall be final, subject only to a petition for writ of certiorari being filed with the Snohomish County Superior Court within 14 days following the date of the city council's decision. (Ord. 1671 § 1, 1989; Ord. 1636 § 2, 1988).

5.20.050 Operating rules and regulations.*

The following operating rules and regulations shall apply to all entertainment clubs in the city:

(1) The standards of conduct applicable to all businesses in the city, as specified in MMC 5.02.090, shall apply to entertainment clubs.

(2) Persons of the following ages shall not be permitted to enter or remain on the premises of a teen club:

(a) Under the age of 15 years unless accompanied by a parent or legal guardian;

(b) Twenty-one years of age or older except for bona fide employees or entertainers hired by the licensee to work in the club.

(3) No person under the age of 21 years shall be permitted to enter or remain on the premises of an adult club unless accompanied by a parent or legal guardian, except for entertainers hired by the licensee to work in the club.

(4) Teen clubs shall be operated only on Friday and Saturday nights, and shall close at 1:00 a.m.; provided, however, during summer vacation when public schools are not in session, teen clubs may also operate on Wednesday nights; provided further, teen clubs may operate on any night when the following day is a school holiday which is observed by the public school system.

(5) Adult clubs may operate any night of the week and shall close at 2:00 a.m.

(6) It shall be the obligation of the licensee to employ an adequate number of qualified security personnel who will be present on club premises during all operating hours to maintain peace and order and to ensure compliance with the laws of the state of Washington and the city of Marysville which are applicable to the club premises. If the police chief determines that the club operation is directly resulting in an increased demand for police services in the vicinity of the club, the police chief may require the licensee to augment its private security force by hiring commissioned police officers with arrest authority in the city of Marysville to patrol said vicinity during club operating hours.

(7) It shall be the obligation of the licensee to insure that no alcoholic beverages or controlled substances are offered for sale or consumed on the club premises.

(8) It shall be the obligation of the licensee to remove from the club premises any person who is or appears to be under the influence of or affected by the use of alcohol and/or drugs, or whose conduct poses a physical danger to the safety of others present.

(9) It shall be the obligation of the licensee to provide proper and adequate

illumination of all portions of the club premises which are available for use by the public. Such illumination shall be not less than 10 foot-candles at floor level at all times when the premises are open to the public or when any member of the public is permitted to enter and remain therein.

(10) It shall be the obligation of the licensee to prevent loitering or the creation of public nuisances or disturbances of the peace by any patrons of the club on club premises, or the immediate vicinity of the same. "Loitering" shall not include walking between the club building and a patron's vehicle, nor shall it include the act of waiting in line to gain admission to the club.

(11) It shall be the obligation of the licensee to clean up all litter resulting from club operations. The cleanup shall occur within eight hours after the end of each day's operation and shall extend for a two-block radius around the club.

(12) No person, other than an employee or entertainer, who leaves the club building shall be permitted to return to the club unless that person pays a readmission fee equal to the original price of admission. (Ord. 2244 § 1, 1999; Ord. 1671 § 2, 1989; Ord. 1636 § 2, 1988).

*Code reviser's note: Ordinance 2244, Section 2, as amended by Ordinance 2291, provides:

"The language amendments to MMC 5.20.050(2)(a) and MMC 5.20.050(4) shall continue in effect for a period of 12 months from the effective date of this ordinance and shall expire on April 5, 2000 unless the Marysville City Council takes action to extend said amendments. This Ordinance shall be in effect from and after October 5, 1999."

5.20.055 Restrictions on multi-use facilities.

(1) The premises where a teen club is located shall not be used, at any time, as an adult club, or an adult entertainment facility, or a premises which is licensed to serve alcoholic beverages.

(2) A teen club may only be located on the same premises with another licensed business if:

(a) All businesses on the premises comply with the operating rules and regulations of this chapter relating to teen clubs; or

(b) The teen club is physically segregated from the space used by the other businesses and has a separate entrance into the building which is exclusively for the use of its patrons; or

(c) Only one business operates at a time on the premises, and the premises are closed altogether for not less than one hour between the close of one business operation and the opening of another. (Ord. 1671 § 3, 1989; Ord. 1645 § 4, 1988).

5.20.060 Access by police officers.

All peace officers of the city shall have free access to all entertainment clubs for the purpose of inspection and to enforce compliance with the provisions of this chapter. (Ord. 1636 § 2, 1988).

5.20.070 Checking the age of patrons.

(1) It is the responsibility of the licensee to require picture identification, or reasonable equivalent, showing the age of each person admitted to an entertainment club. It is unlawful for any person to knowingly or recklessly allow a person to enter or remain on the premises of an entertainment club in violation of the provisions of this chapter.

(2) It is unlawful for any person to affirmatively misrepresent his or her age for the purpose of obtaining admission to, or remaining at, an entertainment club in

violation of the provisions of this chapter. (Ord. 1636 § 2, 1988).

5.20.075 Suspension or revocation of licenses.

(1) The city council may, at any time, suspend an entertainment club license whenever the licensee, or any manager, officer, director, agent, or employee of the licensee has caused, permitted or knowingly done any of the following:

(a) Failed to keep the building structure or equipment of the licensed premises in compliance with the applicable health, building, fire or safety laws, regulations or ordinances in a way which relates to or affects public health or safety on the entertainment club premises;

(b) Failed to comply with the operating rules and regulations of entertainment clubs specified in MMC 5.20.050.

Such suspension shall remain in effect until the conditions causing the suspension are cured and reasonable measures are taken to ensure that the same will not reoccur, as determined by the city council.

(2) The city council may, at any time, revoke an entertainment club license on any one or more of the following grounds:

(a) Whenever the city learns that the licensee or any manager, officer, director, agent or employee of the licensee made a material false statement or representation, or failed to disclose any material information to the city, in connection with any application for the entertainment club license or any renewal thereof;

(b) Whenever the licensee or any manager, officer, director, agent or employee of the licensee fails within a reasonable time to cure a condition that caused a license suspension;

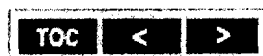
(c) Whenever the licensee or any manager, officer, director, agent or employee of the licensee knowingly permits conduct on the licensed premises that violates any federal, state or city criminal or penal statute, law or ordinance;

(d) Whenever operation of the entertainment club becomes the proximate cause of a significant increase in criminal activity on the premises or in the immediate vicinity in such a way as to endanger persons or property.

(3) Whenever the city clerk determines that there is probable cause for suspending or revoking an entertainment club license, the clerk shall notify the licensee by registered or certified mail, return receipt requested, of such determination. Notice mailed to the address on the license shall be deemed received three days after mailing. The notice shall specify the proposed grounds for suspension or revocation. The notice shall also specify that a hearing shall be conducted by the city council at a time and date denominated in the notice, not more than 21 days thereafter, to determine whether or not the license should be suspended or revoked. The notice shall be mailed to the licensee at least five days prior to the date set for the hearing. The licensee may appear at the hearing and be heard in opposition to such suspension or revocation. The decision of the city council shall be announced at the conclusion of the hearing and shall be final, subject only to a petition for writ of certiorari being filed with the Snohomish County Superior Court within 14 days following the date of the city council's decision. (Ord. 1677 § 1, 1989; Ord. 1671 § 4, 1989).

5.20.080 Penalties for violation.

The penalties for violating, or failing to comply with, any provision of this chapter are specified in MMC 5.02.140, and the same are incorporated herein by this reference. (Ord. 1636 § 2, 1988).



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Anchorage Municipal Code
Chapter 10.55 TEEN NIGHTCLUBS AND
CULTURAL PERFORMANCE VENUES

Applicant must return to Clerk's Office:

- completed application (signature must be notarized)
- \$200.00 license fee (1st year)
- copy of your State of Alaska business license
- proof of insurance for premises and business (AMC 10.55.065)
- copy of Administrative Permit for Unlicensed Nightclub (AMC 21.45.245)

10.55.005 Definitions.

- A. "Bona fide nonprofit organization" shall mean any fraternal, charitable, religious, benevolent, or other nonprofit organization having a regular, established membership which is exempt from taxation under the Internal Revenue laws of the United States as a fraternal, charitable, religious, benevolent, or nonprofit organization.
- B. "Cultural performance venue" shall mean any place or location which: provides live music every day the place or location is open as an underage dance; is available for rental for other cultural activities by others than the owner or operator of the place or location at least four days of each calendar week for at least 50 weeks each calendar year and is actually rented at least 50 days a calendar year for such cultural activities conducted by others than the owner or operator of the place or location; includes lighting, stage, seating, and other fixtures allowing cultural performances; and has as its primary purpose the presentation to patrons of live performances of cultural activities and not the dancing of patrons. A cultural performance venue includes the business premises in which an underage dance is conducted, operated, or maintained including but not limited to hallways, bathrooms, and other areas readily open and accessible to the patrons of the underage dance such as parking lots and other adjoining areas.
- C. "Permittee" means a person to whom a permit to operate a teen nightclub or a cultural performance venue has been issued.
- D. "Teen nightclub" means any place or location which is not a cultural performance venue where an underage dance is conducted, operated, or maintained for more than six days in a calendar year, and includes the business premises in which an underage dance is conducted, operated, or maintained, including but not limited to hallways, bathrooms, and other areas readily open and accessible to the patrons of the underage dance, such as parking lots and other adjoining areas.
- E. "Underage dance" means an activity or entity which is open to the general public, provides music, has a dance floor or area set aside where patrons can dance, permits the entry of persons 20 years old or younger, and requires a monetary payment or other form of contribution from any of the persons admitted.
- F. "Teen Nightclub Law" means AMC 10.55.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-10-96)

10.55.010 Teen nightclub permit and cultural performance venue permit.

- A. Beginning 120 days after October 1, 1996, a teen nightclub or cultural performance venue may not be operated, conducted, or maintained within the Municipality of Anchorage unless the person who is conducting or operating such establishment as first obtained a permit from the municipal clerk in accordance with the requirements of the Teen Nightclub Law.
- B. Exceptions. Notwithstanding any other provision of law, a person shall not be required to obtain a permit for a teen nightclub or a cultural performance venue for any of the following activities or entities:
 - 1. Underage dances limited to the entry of fewer than 50 persons in a period of 12 consecutive hours;
 - 2. Underage dances sponsored by accredited educational institutions and held under the direct supervision of school authorities; or

3. Underage dances sponsored by bona fide nonprofit organizations, which limit admissions to members and guests and which use revenue accruing from admissions exclusively for the benevolent purposes of said organization.
- C. Notwithstanding any other provision of law, on October 1, 1996 the provisions of the Teen Nightclub Law unrelated to whether a teen nightclub or a cultural performance venue has a permit apply to a teen nightclub and a cultural performance venue and to the owners, operators, managers, and employees of a teen nightclub or a cultural performance venue which does not fit within an exception described in subsection B. of this section. Such provisions applying whether or not a teen nightclub or a cultural performance venue has a permit specifically include the requirements for security personnel under section 10.55.045; restriction on admission of persons under 14 years of age, identification requirements, and rights of parents and legal guardians to prohibit patronage by person under 18 years of age under section 10.55.050; hours of operation under section 10.55.055; access for police officers under section 10.55.060; alcohol and tobacco under section 10.55.070; duty to report intoxicated persons under section 10.55.075; maintenance of regulated business activity in violation declared a nuisance and abatement under section 10.55.085; authority of municipal clerk to adopt regulations, procedures, and forms under section 10.55.090; administrative procedure and review under section 10.55.095; penalties and prosecution under section 10.55.100; and fine schedule under section 14.60.030.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.020 Permit application.

- A. Applications submitted for permits shall set forth the following information on the forms obtained from the municipal clerk:
 1. The name, address, telephone number, birth date, and principal occupation of the applicant and any other person who will be directly engaged or employed in the management or operation of the business or the proposed business;
 2. The name, address, and telephone number of the business or proposed business;
 3. The name and address of the owner of the premises upon which the teen nightclub or cultural performance venue is, or will be, located;
 4. A statement describing the measures which will be used to provide adequate traffic control, parking, distance from residential buildings, and crowd protection, both within and without the premises;
 5. Proof of insurance for the premises and the business, in compliance with AMC 10.55.065;
 6. A statement from the applicant that the premises are in compliance with the Anchorage Municipal Code and a statement that the applicant will, in the conduct and operation of the teen nightclub or cultural performance venue comply with all laws, including, but not limited to, the noise control regulations;
 7. If the applicant has ever had any license or permit revoked or suspended, the reasons therefore, and the business activity or occupation of the applicant subsequent to the suspension or revocation;
 8. The applicant's business license number, and the expiration date of such business license;
 9. Such other relevant information as the municipal clerk may require;
 10. An oath or affirmation that the information provided on the application is true; and
 11. A statement whether the applicant seeks a permit for teen nightclub or a cultural performance venue, and any evidence to show that the applicant can qualify for a permit as a cultural performance venue under AMC 10.55.005.B.
- B. If the business or proposed business is the undertaking of a partnership or corporation, the application shall provide the following information, as well as the information required in subsection A:
 1. If a partnership, the application shall set forth the names, birth dates, addresses, telephone numbers, and principal occupations, along with all other information required of any individual applicant, or each partner, whether general, limited, or silent, and the respective ownership shares owned or controlled by each.
 2. If a corporation, the application shall set forth the corporate name, copies of the articles of incorporation and the corporate by-laws, and the corporate address, telephone numbers, and the principal line of business. The corporate application shall also include information required of any individual applicant for all corporate

officers and directors, together with such information for any shareholders owning more than five percent of the corporation's outstanding shares and the number of shares held by each shareholder.

- C. Applications for a permit must be submitted at least 90 days before any scheduled opening or operation of the teen nightclub or cultural performance venue.
- D. The municipal assembly shall review annually the decisions of the municipal clerk to issue, renew, and deny teen nightclub permits and permits for cultural performance venues.
- E. The burden of proof shall be on the applicant as to the question whether the applicant qualifies for a permit as a cultural performance venue.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.025 Fees.

Every person engaged in, conducting, or operating a teen nightclub or cultural performance venue shall:

- 1. For a teen nightclub permit or a cultural performance venue permit, file an application with the municipal clerk and pay a nonrefundable fee of \$200.00.
- 2. For renewal of a teen nightclub permit or a cultural performance venue permit file an application with the municipal clerk and pay a non-refundable fee of \$100.00.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.030 Permit issuance and denial.

- A. Upon receipt of an application for a teen nightclub permit or cultural performance venue permit and receipt of the required fee, the municipal clerk shall promptly provide a copy of the application to the chief of police and to the community council representing the neighborhood in which the teen nightclub or cultural performance venue is proposed to be located. The chief of police shall conduct an investigation of the applicant and prepare a recommendation for the municipal clerk regarding the application including, but not limited to, the adequacy of proposed crowd control. The municipal clerk may hold a hearing before granting or denying a permit. Hearings under this chapter may, at the option of the municipal clerk, be conducted by an administrative hearing officer designated by the municipal clerk. If the municipal clerk refers such matter to an administrative hearing officer, the administrative hearing officer shall conduct the hearing and prepare findings and conclusions. These findings and conclusions shall be forwarded to the municipal clerk for adoption, rejection, or modification and issuance of a final order or decision by the municipal clerk. Any hearing conducted pursuant to this subsection shall be conducted in accordance with AMC 3.60. The municipal clerk may designate the municipal administrative hearings officer referenced in Title 14 of the Anchorage Municipal Code to conduct a hearing held pursuant to this subsection. The municipal clerk shall issue the permit within 90 days of the date the application was received if no cause for denial exists.
- B. The municipal clerk shall deny an application for a teen nightclub or cultural performance venue permit after determining that:
 - 1. The applicant or any of the applicant's officers, directors, partners, operators, employees, or any other person involved in the operation of the teen nightclub or cultural performance venue has been convicted within the last ten years of:
 - a. Any felony assault, battery, or other offense against the person;
 - b. Any offense involving prostitution or controlled substances;
 - c. Any offense involving tobacco;
 - d. Any offense involving providing liquor to a person under the legal serving age, providing liquor to any visibly intoxicated person, or allowing alcohol on premises where alcohol is prohibited; or
 - e. Any offenses against children, including but not limited to any sexual offenses, endangering the welfare of a minor under AS 11.51.100, or contributing to the delinquency of a minor under AS 11.51.130;

2. The location for which the application has been filed has a history of persistent problems, either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of such premises. "Persistent problems" shall include but are not limited to: obtrusive or excessive noise, music, or sound vibrations; public intoxication; fights; harassment; altercations; unlawful drug sales; litter; trespassing on private property; curfew violations; or use of tobacco by persons under the legal age. Histories of persistent problems from premises currently or previously operated by the applicant may be considered when reasonable inference can be made that similar activities will occur as to the premises proposed to be licensed. The applicant may overcome the history by showing that the problems are not serious or persistent, or by demonstrating an ability and willingness to control adequately the premises and patrons' behavior in the immediate vicinity of the premises;
 3. The applicant has not committed any act which, if committed by a permittee, would be grounds for the suspension or revocation of a teen nightclub permit or cultural performance venue permit;
 4. The applicant has previously been denied a permit under the provisions of the Teen Nightclub Law, provided, however, that any applicant denied a permit may reapply if the basis for such denial no longer exists;
 5. The applicant or any person who will be directly engaged in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a teen nightclub or a cultural performance venue and the permit for such business has been revoked;
 6. The operation as proposed by the applicant would not comply with all applicable requirements of the Anchorage Municipal Code, including but not limited to building, health, planning, zoning, and fire codes of the municipality and those restrictions on location set out in AMC 10.55.055.B;
 7. The applicant does not have a current business license;
 8. The applicant has not filed or paid taxes imposed by the municipality;
 9. The operation puts the health, safety, and welfare of persons under 21 years of age at risk; or
 10. Any statement in the application is found to be false or any required information is withheld.
- C. Denial of an application for a teen nightclub or cultural performance venue permit may be appealed by following the procedures under section 10.10.045.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.035 Permit limited to single permittee and location.

Any teen nightclub permit or cultural performance venue permit issued under the provisions of the Teen Nightclub Law shall be valid for only a single permittee and a single location. Permits shall not be transferable to other locations or to other persons under any circumstances.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.040 Permit term.

Teen nightclub permits and cultural performance venue permits shall expire one year after the issuance of the permit.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.045 Security personnel.

All permittees shall ensure that an adequate number of qualified security personnel are employed and in attendance upon teen nightclub premises and cultural performance venue premises to maintain order and ensure compliance with the laws of the state and ordinances of the municipality. For purposes of this section, there is no "adequate number of qualified security personnel" unless there is at least one security person for each 70 persons actually on the business premises of a teen nightclub or cultural performance venue as defined in AMC 10.55.005. No person serving food or drinks or

managing a teen nightclub or cultural performance venue can be counted as a "security person" for purposes of this section. The minimum age for such security personnel shall be 21 years of age.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.50 Age restrictions and identification requirements

Age restrictions and identification requirements for teen nightclubs, rights of parents and legal guardians to prohibit patronage of teen nightclubs by person under 18 years of age, and required signs announcing age of patrons allowed.

- A.
 1. No person conducting or operating a teen nightclub shall allow, either by act or omission, any person under the age of 14 years to enter or remain on the premises.
 2. No person having charge or control of any teen nightclub shall allow any person under the age of 18 years to enter or remain on the premises after receiving a written notice signed by the parent or legal guardian of such teenager which requests that said teenager be prevented from entering the premises.
- B. No person conducting or operating a teen nightclub shall allow, either by act or omission, any person 21 years or older to enter or remain upon the premises, except: a parent or guardian accompanying a person under the age of 18 years; bona fide employees or compensated independent contractors of the permittee or security personnel as required under section 10.55.045; and governmental employees in the performance of their duties.
- C. Teen nightclub operators shall ascertain the correct legal age of all persons seeking admission. Any person who does not meet the age requirements of this section shall be excluded from admission. The teen nightclub operator shall require proof of age from each patron before allowing the patron to enter the teen nightclub. Such proof of age may be established by identification issued by the patron's school or a governmental agency such as the state division of motor vehicles. Such proof of age must contain, at a minimum, the patron's name, the patron's date of birth, and a picture of the patron taken within the preceding two years.
- D. Signs announcing the ages of patrons allowed in the teen nightclub or the cultural performance venue must be posted in conspicuous places inside and outside the teen nightclub or cultural performance venue.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.055 Hours of operation, restrictions on location, and posting of permit.

- A. No teen nightclub or cultural performance venue shall be conducted or operated during curfew hours as defined in AMC 8.05.440 unless each patron remaining or attempting to enter the premises of the teen nightclub or cultural performance venue presents identification or other evidence showing that the patron is not subject to the curfew hours as defined in AMC 8.05.440.
- B. No permit for a teen nightclub or cultural performance venue shall be granted for any location within 150 feet of a residential dwelling, unless such teen nightclub or cultural performance venue was an existing use at the same location on October 1, 1996. Any application for a permit or renewal of a permit shall contain a certification from the department of community planning and development that the foregoing requirements are met. A teen nightclub or cultural performance venue permit shall be issued only if the municipal clerk finds the teen nightclub or cultural performance venue operation at the proposed location:
 1. Will be compatible with existing and planned land uses in the surrounding neighborhood and the intent of its zoning district use; and
 2. Will not have a permanent negative impact on the items listed in this subsection substantially greater than that anticipated from permitted development:
 - a. Pedestrian and vehicular traffic circulation, parking and safety;
 - b. The demand for and availability of public services and facilities;
 - c. Noise, air, water or other forms of environmental pollution;
 - d. Public safety and security;
 3. The municipal clerk may request comments and information from other municipal departments to form a basis for his or her decision to issue or not issue the permit.

- C. A copy of the permit required pursuant to this chapter must be posted in a conspicuous place inside the teen nightclub or cultural performance venue. The place the copy of the permit is posed must be visible to any patron of the establishment.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.060 Access for police officers.

Upon presentation of official identification, any representative of the Anchorage Police Department may enter and inspect the public area of business premises of any teen nightclub or cultural performance venue to ensure compliance with the law. Any such inspection shall be authorized to occur only during the normal business hours of the teen nightclub or cultural performance venue.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.065 Indemnification and insurance.

- A. Before obtaining a teen nightclub permit or cultural performance venue, the permittee shall secure and maintain during the full term of the permit, general comprehensive liability insurance issued by one or more companies authorized to do business in the state. The insurance shall be subject to the reasonable approval of the risk manager of the municipality as for form and amount.
- B. The limits of the insurance shall be subject to any statutory changes as to the maximum limits of liability on municipalities of the state during the term of the permit.
- C. The permittee shall deliver to the municipal clerk a copy of all policies required under this provision and all endorsements thereto or other evidence to the reasonable satisfaction of the municipal clerk that the permittee has secured or renewed and is maintaining insurance as required by this section.
- D. The "ACCORD" form of certification of insurance shall not be acceptable as satisfactory evidence of insurance under this section unless the following changes are made on such form:
1. Any wording on the form stating "This certificate is issued as a matter of information only and confers no rights upon the certificate holder," or to such effect, shall be deleted in its entirety.
 2. Any wording on the form stating: "Should any of the above-described policies be canceled before the expiration date thereof, the issuing company will endeavor to mail 30 day written notice to the below named certificate holder, but failure to mail such notice shall impose no obligation of any kind upon the company," or to such effect, shall be changed to read: "Should any of the above described policies be canceled, reduced as to coverage, or otherwise changed before the expiration date thereof, the issuing company shall provide written notice of such action to the Municipal Clerk."

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.070 Alcohol and tobacco.

No teen nightclub or cultural performance venue may allow the sale of tobacco or the use of tobacco by anyone under legal age to use tobacco. No teen nightclub may allow the sale, consumption, or possession of beer, wine, or any other alcoholic beverages on the premises. No person shall be admitted to a teen nightclub or cultural performance venue who is under the influence of intoxicants.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.075 Duty to report intoxicated persons.

The management of any teen nightclub or cultural performance venue shall contact the Anchorage Police Department and file a report if any person under the age of 21 years of age is found or discovered on the premises of any teen nightclub or cultural performance venue showing evidence or symptoms of being intoxicated as a result of ingesting alcohol or any controlled substances. Notices shall be prominently posted on or near all public telephones on the premises of all teen nightclubs or cultural performance venues. Such notices shall state the Anchorage Police Department's telephone number and ask all patrons to contact the Anchorage Police Department if management neglects, fails, or refuses to report any intoxicated patrons. The notice shall be a form prepared by the Anchorage Police Department.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.080 Permit suspension or revocation; cease and desist orders; and appeals.

- A. The municipal clerk may suspend or revoke any teen nightclub or cultural performance permit upon a finding that any one or more of the following conditions exists:
1. The permit was procured by fraud or false representation or omission of material fact in the application;
 2. The permittee, or any officer, director, employee, agent, partner, or shareholder thereof, knowingly has made any false statement or given any false information in connection with a permit application or renewal of a permit;
 3. The permittee, or any officer, director, employee, agent, partner, or shareholder thereof, has knowingly allowed or permitted:
 - a. A crime involving prostitution, lewd conduct, or assault on a juvenile to occur in or upon the premises;
 - b. Any act of or solicitation for sexual intercourse, sodomy, or oral copulation to be committed in or upon the premises;
 - c. The unlawful smoking of tobacco, the unlawful possession of any weapon, or the unlawful possession, consumption, or sale of alcohol and/or controlled substance in or upon the premises; or
 - d. Any person to remain on the premises:
 - i. Who appears to be under the influence of, or affected by the use of alcohol or any controlled substance; or
 - ii. Whose conduct poses a physical danger to the safety of other patrons;
 4. The permittee, or any officer, director, employee, agent, partner, or shareholder thereof, has violated any of the provisions of the Teen Nightclub Law or committed any act which is grounds for denial of a permit issued pursuant to the Teen Nightclub Law;
 5. The building, structure, equipment, location, or business premises does not comply with the requirements, or fails to meet the standards, of applicable health, zoning, building, or fire and safety laws of the state of the municipality;
 6. The permittee has failed to maintain a current business license;
 7. The permittee, or any officer, director, employee, agent, partner, or shareholder thereof, has allowed, either by act or omission, a teen nightclub or cultural performance venue to be operated outside the curfew hours established in AMC 8.05.440 while persons subject to AMC 8.05.440 are patrons; or
 8. Any of the reasons set forth in AMC 10.10.035.
- B. The municipal clerk, in revoking or suspending any permit, shall follow the procedure set forth in AMC 10.10.040. In deciding whether to revoke or suspend a permit, the clerk may consider remedial measures taken by the permittee. A permittee may appeal a revocation or suspension under the procedures set forth under AMC 10.10.045.
- C. If a teen nightclub or cultural performance venue is being operated in violation of this section or without the required permit, the municipal clerk or any police officer may issue a cease and desist order provided that the person receiving the notice is given notice that s/he may request a hearing. Except in the event of an immediate suspension or restriction under AMC 10.10.040.B., a cease and desist order shall direct that the facility cease to operate as a teen nightclub or cultural performance venue within seven days unless a request for hearing on the cease and desist order is received by the clerk prior to the expiration of the period of seven days. If a timely request for hearing on the

cease and desist order is received, the municipal clerk shall conduct a hearing in accordance with AMC 3.60. Hearings before the municipal clerk may, at the option of the municipal clerk, be conducted by an administrative hearing officer designated by the municipal clerk. If the municipal clerk refers such matter to an administrative hearing officer, the administrative hearing officer shall conduct the hearing and prepare findings and conclusions. These findings and conclusions shall be forwarded to the municipal clerk for adoption, rejection, or modification and issuance of a final order or decision by the municipal clerk. The municipal clerk may designate the administrative hearings officer referenced in Title 14 of the Anchorage Municipal Code to hold a hearing referenced in this subsection.

- D. The filing of a request for hearing shall stay the effective date of the action by the clerk until the clerk or his or her designee under AMC 3.60 issues a final order or decision, except that the effective date of a suspension or restriction under AMC 10.10.040.B shall not be stayed.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.085 Maintenance of regulated business activity in violation declared a nuisance: Abatement.

Any teen nightclub or cultural performance venue operated in violation of the provisions of the Teen Nightclub Law is hereby declared a public nuisance. The municipal attorney is authorized to bring any action or suit to abate the public nuisance by seeking injunctive or other appropriate relief to cease all unlawful activities or close the unlawful operation.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.090 Authority of municipal clerk to adopt regulations, procedures, & forms for the teen nightclub law.

- A. The municipal clerk may adopt procedures and forms to implement the provisions of the Teen Nightclub Law.
B. The municipal clerk may adopt regulations pertaining to matters within the scope of the Teen Nightclub Law.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.095 Administrative procedure and review for teen nightclub laws.

Review of the grant, denial, renewal, non-renewal, suspension, or revocation of a license shall be in accordance with AMC 10.10.035 through 10.10.045 and AMC 3.60. An appeal to superior court under this subsection shall not result in a stay of the decision or order appealed unless a court of competent jurisdiction orders such a stay.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.100 Penalties and prosecution under teen nightclub law.

Any person, partnership, or corporation which is found to have violated this chapter shall be fined a definite sum not exceeding \$300.00, unless a person is convicted under AMC 10.55.105. Violations of this section may be heard either by the district court or by the administrative hearing officer pursuant to Title 14 of the Anchorage Municipal Code.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.105 Criminal penalties and prosecution.

It is unlawful for any person intentionally to operate a teen nightclub or cultural performance venue as defined in this chapter without a required permit. Violation of this section shall, upon conviction, be punished by a fine of not more than \$5,000.00 or imprisonment for not more than one year, or both such fine and imprisonment.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.110 Severability of Teen Nightclub Law.

If any provisions of this chapter is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions of this chapter.

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 1, 10-1-96)

10.55.115 Sunset of Teen Nightclub Law. (Repealed)

(AO No. 96-51(S-1), § 1, 8-1-96; AO No. 96-126(S), § 2, 10-1-96; AO No. 97-116, § 1, 9-23-97)

San Francisco CO, CA

ARTICLE 15.1 ENTERTAINMENT REGULATIONS PERMIT AND LICENSE PROVISIONS

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| Sec. <u>1060.29.</u> | One Night Event Permit. |

SEC. 1060. DEFINITIONS.

For the purpose of this Article, the following words and phrases shall mean and include:

(a) "Place of Entertainment." Every premises to which patrons or members are admitted which serves food, beverages, or food and beverages, including but not limited to alcoholic beverages, for consumption on the premises and wherein entertainment as defined in Subsections (b), (c), or (e) is furnished or occurs upon the premises.

(b) "Entertainment." Any act, play, review, pantomime, scene, song, dance act, song and dance act, or poetry recitation, conducted or participated in by any professional entertainer in or upon any premises to which patrons or members are admitted.

"Entertainment," in addition, is defined to mean and include the playing upon or use by any professional entertainer of any instrument that is capable of or can be used to produce musical sounds or percussion sounds, including but not limited to, reed, brass, percussion or string-like instruments, or recorded music presented by a live disc jockey on the premises.

(c) "Entertainment," Continued. "Entertainment" also includes a fashion or style show in which the models are professional entertainers, except when conducted by a bona fide nonprofit club or organization as a part of the social activities of such club or organization, and when conducted solely as a fundraising activity for charitable purposes.

(d) "Professional Entertainer." A person who is compensated for his or her performance.

(e) "Entertainment," Continued; Exhibition of Human Body. "Entertainment" also includes the act of any female professional entertainer, while visible to any customer, who exposes the breast or employs any device or covering which is intended to simulate the breast, or wears any type of clothing so that the breast may be observed.

(f) "Person." Any person, individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit excepting the United States of America, the State of California, and any political subdivision of either thereof.

(g) "Operator." Any person operating a place of entertainment in the City and County of San Francisco, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, permittee or any other person operating such place of entertainment or amusement.

(h) "Bona Fide Nonprofit Club or Organization." Any fraternal, charitable, religious or benevolent, or any other nonprofit organization having a regular membership association primarily for mutual social, mental, political and civic welfare, to which admission is limited to members and guests and revenue accruing therefrom shall be used exclusively for the benevolent purposes of said organization and which organization or agency is exempt from taxation under the Internal Revenue laws of the United States as a bona fide fraternal, charitable, religious, benevolent or nonprofit organization.

(i) "Admission Charge." Any charge for the right or privilege to enter any place of entertainment including a minimum service charge, a cover charge or a charge made for the use of seats and tables, reserved or otherwise.

(j) "Tax Collector." Tax Collector of the City and County of San Francisco.

(k) "Security Plan." A plan that (i) provides at least 1 security guard for every 100 persons authorized by the Occupancy Permit, (ii) secures a 50 foot perimeter in all directions around the location of the Place of Entertainment to prevent injury to persons and/or damage to property, and (iii) provides for the orderly disbursement of persons and traffic from the Place of Entertainment. The Entertainment Commission, in consultation with the San Francisco Police Department, shall develop rules and regulations implementing this section. (Amended by Ord. 42-83, App. 2/4/83; Ord. 325-91, App. 9/4/91; Ord. 165-93, App. 5/28/93; Ord. 262-04, File No. 041148, App. 11/4/2004)

SEC. 1060.1. PERMIT REQUIRED.

It shall be unlawful for any person to own, conduct, operate, maintain or to participate therein, or to cause or permit to be conducted, operated or maintained, any place of entertainment in the City and County of San Francisco without first having obtained a permit from the Entertainment Commission.

Any place or premises where a permit to operate is sought must conform to all existing health, safety, zoning and fire ordinances of the City and County of San Francisco, and must have a valid public eating place permit from the Department of Public Health. The Entertainment Commission may issue a permit under this Section conditional upon the applicant receiving the other required permits.

Any permit granted by the Entertainment Commission conditional upon the applicant receiving other required permits may be appealed to the Board of Permit Appeals. Such appeal must be filed within ten (10) days of the final decision of the Entertainment Commission issuing the conditional permit.

Any conditional permit granted by the Entertainment Commission will expire nine (9) months from the date of the final decision of the Entertainment Commission, if all the other required permits have not been received. (Amended by Ord. 284-80, App. 6/17/80; Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.1-1. LICENSE FEES.

Every person granted a place of entertainment permit by the Entertainment Commission under this Article shall pay to the Tax Collector an annual license fee, payable in advance.

The license fee prescribed in this Section is due and payable on a calendar year basis, starting January 1st of each year. Fees for new permits issued after the first day of January of a particular year shall be prorated with regard to the calendar year on a monthly basis. The amount of the license fee for the 2005-2006 fiscal year shall be as set forth in Section 2.27 of this Code, and such amount shall be adjusted for inflation commencing with the 2006-2007 fiscal year, and annually thereafter, in accordance with Section 2.31 of this Code. (Added by Ord. 193-05, File No. 051027, App. 7/29/2005)

SEC. 1060.2. FILING.

Every person desiring a permit pursuant to this Article shall file an application with the Entertainment Commission upon a form provided by the Entertainment Commission and shall pay a filing fee. (Amended by Ord. 555-81, App. 11/12/81; Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.3. APPLICATION FORM.

Operators under any permit issued pursuant to this Article shall be limited to the terms of the application. Except as otherwise provided herein, an application for a permit pursuant to the provisions of this Article shall specify:

(a) The address of the location for which the permit is required, together with the business name of such location.

(b) The name and proposed business address of the applicant. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation; and the applicant shall also set forth the date and place of incorporation; the names and residence addresses of each of the officers, directors, and each

stockholder owning more than 10 percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this Section pertaining to a corporate applicant apply.

(c) Whether or not the applicant or any officer or director or member of applicant, as the case may be, has ever been convicted of any crime except misdemeanor traffic violations. In addition to the foregoing, any corporate applicant shall state whether or not any stockholder owning more than 10 percent of the stock of such corporation has ever been convicted of any crime except misdemeanor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the name of the person so convicted, the place and court in which the conviction was had, the specific charge under which the conviction was obtained, and the sentence imposed as the result of said conviction.

(d) The names and addresses of the persons who have authority or control over the place for which the permit is requested and a brief statement of the nature and extent of such authority and control.

(e) Such information pertinent to the operation of the proposed activity, including information as to management, authority control, financial agreements, and lease arrangements, that is reasonably related to the factual determinations this ordinance empowers the Entertainment Commission to make in reviewing and acting upon permit applications as the Entertainment Commission may require of an applicant in addition to the other requirements of this Section. The foregoing examples are in explanation of and not in limitation of the information which the Entertainment Commission may require.

(f) A business plan for the proposed place of entertainment, specifying the days and hours of operation, the number of patrons, the numbers of employees and their duties, the identity of the manager or managers who shall be on premises during all hours of operation, the types or classes of entertainment (in terms of the types of instruments, numbers of performers and sound levels) to be provided, and the amount of parking, both on-site and off-site, to be provided. If sound amplification is to be used, the plan shall also include a specific description of the amplification system.

(g) The address to which notice, when required, is to be sent or mailed, and the name and address of a person authorized to accept service of process, if not otherwise set forth herein.

(h) Whether the application is for a new permit or for the renewal of an existing permit.

(i) The Entertainment Commission may require further information as it deems necessary. (Added by Ord. 140-70, App. 4/28/70; amended Ord. 325-91, App. 9/4/91; Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.4. VERIFICATION OF APPLICATION.

Every application for a permit under this Article shall be verified as provided in the California Code of Civil Procedure for the verification of pleadings. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.5. DETERMINATION OF APPLICATION.

(a) When an application is filed for a new permit under this Article, the Entertainment Commission shall fix a time and place for a public hearing thereon to determine whether issuance of the permit would result in any of the conditions set forth in Subsection (e). The hearing must be held within 45 working days of the date the completed application is received.

(b) At the time of filing of an application, the applicant shall notify the Entertainment Commission of any outstanding requests for permits or approvals from other City departments relating to the premises of the proposed place of entertainment. The Entertainment Commission shall notify those departments of the filing of the

application. Those departments shall complete all necessary inspections and report their determinations to the Entertainment Commission within 20 working days of the filing of the application.

(c) Not less than 30 days before the date of such hearing, the Entertainment Commission shall cause to be posted a notice of such hearing in a conspicuous place on the property in which or on which the proposed place of entertainment is to be operated. Such notice shall set forth the specific type of entertainment which the applicant intends to conduct. Such posting of notice shall be carried out by the Entertainment Commission, and the applicant shall maintain said notice as posted the required number of days. Notice of such hearing shall be mailed by the Entertainment Commission at least 30 days prior to the date of such hearing to any person who has filed a written request for such notice.

(d) At the hearing, the applicant and any other interested party, including the Police Department or any other public agency, shall be allowed to introduce evidence and present argument. The Entertainment Commission shall make a final decision upon the application at a public hearing, and shall notify the applicant, and any other interested party who has made a written request, of the final decision by first class mail.

(e) No time limit shall commence running until the submission of a completed application. Upon the applicant's request, the Entertainment Commission shall continue the hearing to allow the applicant opportunity to comply with the requirements of this Article or any other state or local law. Notice of the date of any continuance of the hearing shall be posted in the same place and manner as the original notice for not less than seven (7) days. Upon the applicant's request, the Entertainment Commission shall also issue a conditional approval of the permit application, pending approval of the permit by other City agencies, if sufficient information has been provided to allow for adequate evaluation of the proposal and if grounds for denial, as set forth in Subsection (f), are not present.

(f) The Entertainment Commission shall grant a permit pursuant to this Article unless it finds that:

(i) The building, structure, equipment or location of the proposed place of entertainment does not comply with or fails to meet all of the health, zoning, fire and safety requirements or standards of all the laws of the State of California or ordinances of the City and County of San Francisco applicable to such business operation; or

(ii) The building, structure, equipment or location of the proposed place of entertainment cannot adequately accommodate the type and volume of vehicle and pedestrian traffic anticipated; or

(iii) The building, structure, equipment or location of the proposed place of entertainment lack adequate safeguards to prevent emissions of noise, glare, dust and odor that substantially interfere with the public health, safety and welfare or the peaceful enjoyment of neighboring property; or

(iv) The building, structure, or location of the proposed one night event does not have an adequate security plan as required by this Section.

(g) An applicant whose application for a permit has been denied pursuant to this Section may seek immediate judicial review pursuant to Code of Civil Procedure Section 1085 or Section 1094.5. The applicant is not required to exhaust his or her administrative remedies before the Board of Appeals. (Added by Ord. 140-70, App. 4/28/70; amended by Ord. 325-91, App. 9/4/91; Ord. 164-02, File No. 020783, App. 7/26/2002; Ord. 216-02, File No. 021460, App. 11/1/2002; Ord. 262-04, File No. 041148, App. 11/4/2004)

SEC. 1060.6. PRIVATE CLUB.

No establishment issued a permit pursuant to this Article may allow the premises to be used solely for the purpose of conducting a private club between the hours of 2:00 a.m. and 6:00 a.m. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.7.1. SOLICITATION OF DRINKS OR MERCHANDISE.

No operator of a place of entertainment shall employ or permit any hostess, entertainer or person to solicit any patron or customer of or visitor in said place of entertainment to purchase any beverage or merchandise for the one soliciting or for any other person. (Added by Ord. 306-73, App. 8/6/73)

SEC. 1060.8. LIGHTING.

Every establishment which has received a permit pursuant to this Article shall be lighted throughout to an intensity of not less than 12 foot candles during all hours of operation except while the floor show is in progress. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.9. MISCELLANEOUS RULES.

No professional entertainer or employee may dance with any customer on the premises in any place of entertainment. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.9.1. REQUIREMENT FOR STAGE.

Entertainers whose breasts are exposed to view shall perform only upon a stage at least 18 inches above the immediate floor level and removed at least 6 feet from the nearest patron. (Added by Ord. 273-73, App. 7/6/73)

SEC. 1060.10. BOOTHS.

It shall be unlawful for any person operating a place of entertainment under the provisions of this Article in the City and County of San Francisco, or any agent, employee or representative thereof, to erect, construct, maintain, or cause or permit to be erected, constructed or maintained, within such place of entertainment any private rooms, booths, enclosures or compartments, or any closed stalls, or any alcoves of any nature, so arranged that the inner portion of the same shall not at all times be visible from any point in the place of entertainment where such rooms, booths, enclosures, compartments, stalls or alcoves should be reasonably within view. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.11. POLICE — INSPECTION.

The Police Department, in addition to their several other duties, shall inspect any and all establishments which have been issued a permit pursuant to this Article. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.12. NOISE ABATEMENT.

Whenever, upon due notice and hearing, it shall be determined that noise from any establishment which has been issued a permit pursuant to this Article interfered with the right of persons dwelling in the vicinity of such establishment to the peaceful and quiet use and enjoyment of their property, the Entertainment Commission may require that the premises be soundproofed in a manner that in the judgment of the Entertainment Commission will be effective to eliminate the noise or reduce it to a reasonable level. In taking any action under this Section, the Entertainment Commission must balance all of the interests of the respective parties, as well as the hardship which will result from any order. If the Entertainment Commission finds that the noise complained of is of a minimum or inconsequential degree, no action shall be taken under this Article. If a permittee fails, within a reasonable time and in no event more than 60 days after having been ordered to do so pursuant to this Article, to

abate any noise, his permit shall be suspended after a second hearing, due notice of which is given, until such time as he complies with the order. (Added by Ord. 140-70, App. 4/28/70; amended by Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.13. MINORS.

No person under 21 years of age shall enter, be, or remain in or on any premises on or in which any exhibition of the human body, as defined in Sec. 1060(f), is presented and permittee shall not permit such a person to enter, be, or remain in or on any such premises. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.14. REGULATION OF SIGNS.

No sign or signs, paintings, photographs, pictorial representations, or any other visual means shall be maintained, erected, used or placed upon or adjacent to the outside of any building, or in connection with any premises therein, which has received a permit pursuant to this Article, if it shows, reveals or depicts, in whole or in part, the following:

- (1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, copulation (oral, anal or vaginal), flagellation or any sexual acts which are prohibited by law;
- (2) The actual or simulated caressing or fondling by one adult human being of the breast, buttocks, anus or genitals of another adult human being;
- (3) The actual or simulated displaying of the pubic hair, anus, vagina, penis, vulva, buttocks, or any other external genitalia of the human body;
- (4) Any portion of the nude female breast below the top of the areola. (Amended by Ord. 71-73, App. 2/23/73)

SEC. 1060.15. SIGNS, CONTINUED.

No sign or signs which, in whole or in part, advertise any entertainment and which sign or signs use the word "nude," "bottomless," "naked" or words of like import, except that the words "adult entertainment" or "adult show" or "topless entertainment" will be permissible, shall be maintained, erected, used, or placed upon or adjacent to the outside of any building where it is visible from public streets or from adjacent buildings, or premises, the purpose of which sign is intended to attract, lure or entice customers. (Amended by Ord. 71-73, App. 2/23/73)

SEC. 1060.17. REMOVAL OF SIGNS AND PICTORIAL REPRESENTATION.

Any sign, or signs, or portions thereof, in violation of Sections 1060.14 and 1060.15 shall be removed within 60 days after the effective date of this Article. (Amended by Ord. 71-73, App. 2/23/73)

SEC. 1060.18. VISIBILITY FROM THE STREET.

No operator of a place of entertainment shall permit, or cause to be permitted, any entertainment as defined in Section 1060(e) so that said entertainment would be visible at any time from the street, sidewalk or highway. (Added by Ord. 140-70, App. 5/28/70)

SEC. 1060.19. PERMIT FEE; EXEMPTIONS.

The provisions of Section 1060.2 relating to a permit fee shall not apply to any place of entertainment used exclusively for any of the following purposes:

(a) Places of entertainment that are operated by any public agency or by any educational, recreational or social agency, or by any bona fide fraternal, charitable, or religious or benevolent or any other nonprofit organization having a regular membership association primarily for mutual social, mental, political and civic welfare, to which admission is limited to members and guests and revenue accruing therefrom to be used exclusively for the benevolent purposes of said organization and which organization or agency is exempt from taxation under the Internal Revenue laws of the United States as a bona fide fraternal, charitable, religious, benevolent or nonprofit organization. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.20. SUSPENSION AND REVOCATION.

(a) Any permit issued under the terms of this Article may be suspended at any time by the Entertainment Commission if the Entertainment Commission determines after a noticed public hearing that any of the following conditions exist:

(1) The building, structure, equipment or location of the proposed place of entertainment does not comply with or fails to meet all of the health, zoning, fire and safety requirements or standards of all the laws of the State of California or ordinances of the City and County of San Francisco applicable to such business operation; or

(2) The establishment has been operated in a manner that has harmed the public health, safety or welfare by significantly increasing pedestrian traffic, the incidence of disorderly conduct, or the level of noise in the area in which the premises are located, and the permittee has failed, after being requested by the Police Department or Entertainment Commission to do so, to take reasonable steps to alleviate these conditions, such as providing additional off-street parking, security, soundproofing, restroom facilities, or refuse containers; or

(3) The proprietor or person or persons in charge thereof have violated, permitted the violation, or failed to take reasonable steps, after being requested by the Police Department or Entertainment Commission to do so, to halt violations on the premises or in connection with the operation of the establishment of any following laws of the State of California: Penal code Sections 266h, 266i, 315, 316, 330, 337a, 647(b); Business and Professions Code Sections 23300, 25602, 25631, 25657, 25658; Health and Safety Code Sections 11351, 11352, 11359, 11360, 11378, 11379, 11378.5, 11379.5; or, the proprietor or persons in charge thereof have implemented, maintained or permitted any admission or related policy or practice which violates Section 3305 of the San Francisco Police Code.

(4) The proprietor or persons in charge thereof have violated or permitted the violation of any other provision of this Article or of the permit, on the premises or in connection with the operation of the establishment.

(b) The penalty for the first violation under Subsection (a) within a period of six months shall be suspension of said permit for a period of 30 days. The penalty for the second violation within a period of six months shall be suspension of said permit for a period of 60 days. The penalty for the third and subsequent violations within a period of six months shall be suspension of said permit for a period of 90 days. For the purposes of this Subsection, calculation of the six months shall not include any period of time during which the permit was suspended.

(c) Any permit issued under the terms of this Article may be revoked at any time by the Entertainment Commission if the Entertainment Commission determines after a noticed public hearing that any of the following conditions exist:

- (1) The permittee has knowingly made any false, misleading or fraudulent statement of material fact in the application for a permit;
- (2) The permittee has failed to pay any fee or charge required under this Article; or
- (3) The permittee has permanently ceased operation of the business.
- (d) A revocation pursuant to Subsection (c) shall not prejudice the right of an applicant to apply for a new permit.
- (e) The Entertainment Commission may not consider any request for emergency medical or ambulance services to treat a permittee's patrons as a basis for suspending a permit pursuant to subdivision (a). (Added by Ord. 140-70, App. 4/28/70; amended by Ord. 325-91, App. 9/4/91; Ord. 81-00, File No. 000390, App. 5/5/2000; Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.21. FORFEITURE OF FEE.

On revocation of the permit, no part of the permit fee shall be returned, but the said permit fee shall be forfeited to the City and County of San Francisco. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.22. LICENSE FEES.

Every permittee who conducts, permits or assists in conducting or permitting any entertainment as defined in Sections 1060 (b) and (c) to be shown, staged, exhibited, or produced in or upon any permitted premise shall pay to the Tax Collector an annual license fee, payable in advance.

The license fee prescribed in this Section is due and payable on a calendar year basis starting 120 days after the effective date of this Article, prorated with regard to the calendar year on a monthly basis. Fees for new licenses issued after the first day of January, 1971, or in any subsequent calendar year shall be prorated with regard to the calendar year on a monthly basis. (Amended by Ord. 555-81, App. 11/12/81; Ord. 165-93, App. 5/28/93)

SEC. 1060.23. LIMITED SUSPENSION.

Any permit issued under the terms of this Article may be suspended for a period of 30 days by the Entertainment Commission if the Entertainment Commission determines after a noticed hearing that violation of the regulations or any provision of the Municipal Code has occurred. (Added by Ord. 140-70, App. 4/28/70; amended by Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.24. TRANSFER OF PERMIT.

No permit shall be transferable except with the written consent of the Entertainment Commission. An application for such a transfer shall be in writing and shall be accompanied by the same filing fee as for an initial application. The written application for such transfer shall contain the same information as requested herein for an initial application for such a permit. (Amended by Ord. 555-81, App. 11/12/81; Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.25. PENALTY.

Any person who violates any provisions of this Article shall be deemed guilty of an infraction. Any person who violates this Article more than once in a 12 month period shall be guilty of an infraction or a misdemeanor, at the discretion of the prosecutor. A violation which is an infraction is punishable by a fine of not more than \$100. A violation which is a misdemeanor is punishable by a fine not to exceed \$1000 or by imprisonment in the County Jail for a period not to exceed six months, or by both such fine and imprisonment.

Additionally, any violation of the provisions of this Article Section 3305 of Article 33 by a permittee hereunder shall be deemed cause to or to revoke or suspend a permit pursuant to Secs. 1060.20 and/or 1060.23 of this Article. (Amended by Ord. 273-73, App. 7/6/73; Ord. 262-04, File No. 041148, App. 11/4/2004)

SEC. 1060.26. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Code or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivision paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. (Added by Ord. 140-70, App. 4/28/70)

SEC. 1060.27. TIME LIMIT FOR OBTAINING PERMIT.

All premises required to obtain a permit and license pursuant to this Article because of the inclusion of recorded music presented by a live disc jockey on the premises within the definition of entertainment must obtain a permit within 90 days of the effective date of the amendments to this Article; failure so to do shall make continued operation of said place of entertainment a violation of Section 1060.25 hereof.

Permits must be obtained from the Entertainment Commission as Sections 1060.1, 1060.2, 1060.3 and 1060.4 hereof provided. (Added by Ord. 140-70, App. 4/28/70; amended by Ord. 325-91, App. 9/4/91; Ord. 164-02, File No. 020783, App. 7/26/2002)

SEC. 1060.28. EARPLUGS AND FREE DRINKING WATER.

If the location for which the place of entertainment permit is issued holds over 500 persons and contains a dance floor or other place primarily designated for dancing, the permit holder shall provide:

(a) Free cool drinking water to patrons by means of an automatic drinking fountain or by providing cups of water at all beverage service locations, or both; and

(b) Earplugs for free, or for sale on the premises at a reasonable price. (Added by Ord. 176-00, File No. 000477, App. 7/28/2000; amended by Ord. 215-02, File No. 021459, App. 11/1/2002)

SEC. 1060.29. ONE NIGHT EVENT PERMIT.

(a) It shall be unlawful for any person without a valid Place of Entertainment permit to conduct, promote, or sponsor or to cause or to permit to be conducted, promoted, or sponsored any one night occurrence of "entertainment" as defined by this Article without first obtaining a One Night Event permit from the Entertainment Commission.

(b) Any place or premises for which a permit to operate a one night event is sought must conform to all existing health, safety, zoning and fire ordinances of the City and County of San Francisco; must have a valid public eating place permit from the Department of Public Health, and is subject to all other requirements of this

Article. The Entertainment Commission may issue a permit under this Section conditional upon the applicant receiving the other required permits.

(c) Every person desiring a permit pursuant to this Article shall file an application with the Entertainment Commission upon a form provided by the Entertainment Commission and shall pay a filing fee. Every application for a permit under this Article shall be verified as provided in the California Code of Civil Procedure for the verification of pleadings.

(d) Any place or premises where a one night event is to be held must have a Security Plan. Proof of such shall be provided by permit applicant at the time of application for a one night event permit.

(e) The Entertainment Commission shall grant a permit pursuant to this Article unless it finds that:

(i) The building, structure, equipment or location of the proposed one night event does not comply with or fails to meet all of the health, zoning, fire and safety requirements or standards of all the laws of the State of California or ordinances of the City and County of San Francisco applicable to such business operation; or

(ii) The building, structure, equipment or location of the proposed one night event cannot adequately accommodate the type and volume of vehicle and pedestrian traffic anticipated; or

(iii) The building, structure, equipment or location of the proposed one night event lack adequate safeguards to prevent emissions of noise, glare, dust and odor that substantially interfere with the public health, safety and welfare or the peaceful enjoyment of neighboring property.

(iv) The building, structure, or location of the proposed one night event does not have an adequate security plan as required by this Section.

(f) An applicant whose application for a permit has been denied pursuant to this Section may appeal to the Board of Permit Appeals. The applicant is required to exhaust his or her administrative remedies before the Board of Appeals. (Added by Ord. 262-04, File No. 041148, App. 11/4/2004)

Chapter 7 AMUSEMENTS*

***Cross references:** Cabarets, § 6-31; limitations on the use of amusement devices, § 59-26(i).

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- Art. I. In General, §§ 7-1--7-9
 - Art. II. Amusement Facilities and Temporary Amusements, §§ 7-10--7-50
 - Div. 1. Generally, §§ 7-10--7-25
 - Div. 2. License, §§ 7-26--7-50
 - Art. III. Dance Halls, §§ 7-51--7-90
 - Div. 1. Generally, §§ 7-51--7-70
 - Div. 2. License or Permit, §§ 7-71--7-90
 - Art. IV. Social Rooms and Other Amusements, §§ 7-91--7-125
 - Div. 1. Generally, §§ 7-91--7-100
 - Div. 2. License, §§ 7-101--7-125
 - Art. V. Reserved, §§ 7-126--7-155
 - Art. VI. For-Hire Strippers and Exotic Dancers, §§ 7-156--7-175
 - Div. 1. Generally, §§ 7-156--7-159
 - Div. 2. License, §§ 7-160--7-175
 - Art. VII. Reserved, §§ 7-176--7-200
 - Art. VIII. Reserved, §§ 7-201--7-225
 - Art. IX. Reserved, §§ 7-226--7-245
 - Art. X. Reserved, §§ 7-246--7-265
 - Art. XI. Reserved, §§ 7-266--7-290
 - Art. XII. Tickets, §§ 7-291--7-305
 - Art. XIII. Escort Services, §§ 7-306--7-320
 - Div. 1. Generally, §§ 7-306--7-316
 - Div. 2. License, §§ 7-317--7-320

ARTICLE I. IN GENERAL*

***Editor's note:** Ord. No. 806-98, § 1, repealed Art. I of this chapter and enacted new provisions in lieu thereof as herein set out. Formerly, such provisions consisted of § 7-1, which derived from § 912.12 of the 1950 Code, relative to proprietors to prevent idling about amusement premises.

Sec. 7-1. Definitions.

Words and phrases used in this chapter shall have the following meanings ascribed to them:

(a) *Adult entertainment* shall mean any exhibition, display, or performance, whether presented as live or recorded entertainment, emphasizing or focussing on whole or partial exposure to view of specified anatomical areas or the depiction or simulation of specified sexual activities; provided, this definition shall not be construed to apply to or otherwise allow: 1) any form of activity prohibited or punished by law such as exhibitions, displays, or performances deemed by law to be obscene; and 2) any specified sexual activities presented or simulated as live entertainment; provided, further, this definition shall not be construed to apply to the presentation, showing, or performance of any play, drama, ballet, or other artistic work in any theater, concert hall, museum, school, institution of higher education, or similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

(b) *Director* shall mean the director of the department of excise and licenses for the City and County of Denver or the director's authorized representative.

(c) *Employee* shall mean any employee, worker, entertainer, agent, contractor, licensee, or other individual hired, retained, contracted, or allowed to provide goods, services, or other assistance in the operation of the establishment or business.

(d) *Excise and licenses* shall mean the department of excise and licenses for the City and County of Denver.

(e) *Person* shall mean the same as defined in section 1-2(12).

(f) *Recorded entertainment* shall mean still or motion pictures or other forms of electronic or video transmission or reproduction of visual images, including videotapes and digital video discs, but does not include commercial broadcast television or cable television (except for pay-for-view cable transmissions).

(g) *Specified anatomical areas* shall mean any of the following, to the extent not completely and opaquely covered: 1) the female breast below the top of the areola; 2) male or female genitals and surrounding pubic region; 3) the anus or the cleft or cleavage of the buttocks; and 4) the male genitals in a discernibly turgid state even if completely and opaquely covered.

(h) *Specified sexual activities* shall mean any of the following: 1) genitals in a state of sexual stimulation or arousal; 2) acts of masturbation, sexual intercourse, or oral or anal sex; or 3) fondling or other erotic touching of genitals, pubic region, buttocks, or female breast.

(Ord. No. 806-98, § 1, 11-16-98)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 7-2. Powers of director of excise and licenses.

- (a) The director may make and adopt such reasonable rules and regulations as may be necessary for the purposes of administering and enforcing the provisions of this chapter and any other ordinances or laws relating to and affecting the regulation, licensing, and operation of the amusements described in this chapter.
- (b) The powers of the director, as herein set forth, shall be in addition to those powers set forth in chapter 32 and other portions of the Revised Municipal Code and the Charter of the city.
- (c) The director shall have the right to require the inspection, as provided in section 32-17, of premises at which any of the amusements subject to this chapter are conducted.

(Ord. No. 806-98, § 1, 11-16-98)

Sec. 7-3. General provisions.

- (a) Every license granted under the provisions of this chapter shall be subject to all other provisions of the Revised Municipal Code which exist when the license is issued or which are thereafter passed, to the extent said provisions are applicable.
- (b) Every license granted under the provisions of this chapter shall be subject to any applicable rules and regulations adopted by the director.
- (c) No license issued, or exemption from licensing granted, pursuant to the provisions of this chapter shall authorize the licensee or any other person to conduct or operate any amusement which is contrary to the laws of the state or the ordinances or regulations of the city.

(Ord. No. 806-98, § 1, 11-16-98)

Sec. 7-4. Possession of the premises.

For any license issued under this chapter allowing the operation of an amusement at a specific location or in a specific structure (the "premises"), the licensee shall possess and maintain possession of the premises for which the license is issued, by ownership, lease, rental or other bona fide arrangement for possession and use of such premises.

(Ord. No. 806-98, § 1, 11-16-98)

Sec. 7-5. Separate licenses required.

Unless otherwise expressly provided, each license issued under this chapter is separate and distinct, and no person shall exercise any of the privileges granted under any license other than that held. A separate license shall be required for each specific business or business entity and for each location or premises.

(Ord. No. 806-98, § 1, 11-16-98)

Sec. 7-6. Change in class or type of license.

An application for a change in class or type of license from that presently held by a licensee under this chapter shall be considered as an application for a new license for all purposes.

(Ord. No. 806-98, § 1, 11-16-98)

Sec. 7-7. Transferability.

No license issued under this chapter shall be transferred or assigned except to the extent and in the manner expressly allowed in this chapter.

(Ord. No. 806-98, § 1, 11-16-98)

Secs. 7-8, 7-9. Reserved.

ARTICLE II. AMUSEMENT FACILITIES AND TEMPORARY AMUSEMENTS*

***Editor's note:** Ord. No. 806-98, § 2, repealed Art. II of this chapter, relative to entertainments, and enacted new provisions in lieu thereof as herein set out. Formerly, such provisions consisted of §§ 7-11--7-14, 7-26--7-38, which derived from §§ 911.1--911.14-5 of the 1950 Code as amended by Ord. No. 683-86, §§ 1, 2, adopted Oct. 14, 1986; Ord. No. 108-91, § 1, adopted Feb. 11, 1991; and Ord. No. 1110-96, § 1, adopted Feb. 16, 1996.

DIVISION 1. GENERALLY**Sec. 7-10. Definitions and exemptions.**

Words and phrases used in this article shall have the following meanings ascribed to them:

(a) *Amusement facilities* shall mean any permanent facilities or establishments open for public viewing or participation and used for (as specifically described in section 7-11): performances of music, performances of dance, comedy, oration, and drama; sporting events and exhibitions; animal exhibitions; recreational activities; and similar live or recorded entertainment; provided, however, similar activities shall be exempted if conducted in any facility or establishment:

(1) Licensed under any other article of this chapter or under article III of chapter 6 (unless licensing under this article is specified in another article of this chapter);

(2) Owned and operated by the city or its agents or agencies, or operated on city property by concessionaires or contractors under contract with the city;

(3) Owned or operated by School District No. 1 or a state-accredited private school or academy;

(4) Owned or operated by a state-accredited college or university; or

(5) Owned or operated by a charitable, civic, political, patriotic, religious, educational, recreational, fraternal or cultural organization which is tax exempt pursuant to section 501(c) of the Federal Internal Revenue Code of 1986, as amended, so long as the income derived by the organization from said facility or establishment is not subject to taxation as "unrelated business income" under sections 511 and 512 of the Internal Revenue Code of 1986, as amended.

(b) *Temporary amusements* shall mean short-term amusements conducted on premises not owned or operated by the entities or organizations specified in paragraphs (a)(2), (3), (4), and (5) of this section or not owned or operated by a person who already holds an amusement facilities license for a facility or establishment in which the amusement may be lawfully presented or held.

(c) *Amusement devices* shall mean any mechanical or electronic machines or equipment providing games of chance or skill or interactive entertainment and available for public use in a commercial establishment. Amusement devices shall include, but are not limited to, video games, computer games, pinball machines, foosball machines, arcade games, and similar amusement devices. Amusement devices shall not include pool tables or billiard tables, children's rides, or jukeboxes or similar electronic or mechanical music machines which do not involve games of chance or skill or interactive entertainment.

(d) *Amusement center* shall mean any commercial establishment that has four (4) or more amusement devices.

(e) *Billiard parlor* or *pool hall* shall mean any commercial establishment that has over ten (10) percent of its total internal floor space used as a playing area for billiard and/or pool tables.

(f) *Performance of dance* means a performance on stage in which one or more performers dance for the entertainment of the public which observes the dance. The term does not include situations where members of the public itself dance.

(Ord. No. 806-98, § 2, 11-16-98; Ord. No. 500-01, § 1, 6-18-01; Ord. No. 643-06, § 1, 10-2-06)

Sec. 7-11. Amusement facilities.

(a) Subject to the exemptions set forth in subsection 7-10(a), amusement facilities shall include the following types of permanent facilities and establishments for which a charge for admission or participation is imposed, a mandatory donation or gratuity is required, or some other remuneration or consideration is expected in order for the public to enjoy or utilize:

- (1) Theaters, amphitheaters, auditoriums, or music or concert halls, both indoor and outdoor, providing live or recorded performances of music, dance, comedy, oratory, drama, or similar performing arts and entertainment;
- (2) Baseball parks, stadiums, arenas, athletic grounds, racetracks, and similar sports centers used for the presentation of sporting events, contests, and exhibitions;
- (3) Aquariums, animal parks, zoos, and similar facilities primarily featuring animal exhibitions and shows;
- (4) Amusement parks, water parks, amusement centers, billiard parlors, pool halls, bowling alleys, skating rinks (ice or roller), skate parks, miniature golf, golf driving ranges, shooting galleries, firing ranges, and similar recreational facilities, but not including athletic or health clubs, gyms, or swimming pools; and
- (5) Any commercial business or establishment regularly or occasionally offering or providing live or recorded entertainment, including adult entertainment, for on-site viewing by patrons and that is not otherwise subject to licensing under article III of chapter 6 or under any article of this chapter.

(Ord. No. 806-98, § 2, 11-16-98)

Sec. 7-12. Temporary amusements.

(a) Subject to the exemptions set forth in subsection 7-10(b), temporary amusements shall include the following types of short-term shows, exhibitions, or special events for which a charge for admission or participation is imposed, a mandatory donation or gratuity is required, or some other remuneration or consideration is expected in order for attendees to enjoy or participate:

- (1) *Shows and exhibitions:* Circuses, carnivals, rodeos, festivals, fairs, bazaars, haunted houses, Christmas displays or shows, animal shows, petting zoos, stock shows, automotive shows, collector shows, touring exhibits, and similar shows or exhibitions of extended duration;
- (2) *Special events:* Concerts, performances of dance, musicales, dramatic or comedy performances, sporting exhibitions or contests, and similar events of brief duration.

(b) A show or exhibition licensed under paragraph (a)(1) of this section shall be restricted to:

- (1) Those open to the public for up to thirty (30) consecutive calendar days or for thirty (30) calendar days total within a ninety-calendar day period, as specified in the license; provided;
- (2) The specified location at which any show or exhibition is held must not have hosted another show or exhibition within the past one hundred twenty (120) calendar days.

(c) A special event licensed under paragraph (a)(2) of this section shall be restricted to:

- (1) Those occurring in a single calendar day; during a two-calendar day weekend

(either Friday and Saturday or Saturday and Sunday); or during a three-calendar day period that includes a weekend and a nationally recognized holiday; provided

(2) No more than ten (10) special events total can be held at a specified location during the calendar year.

(Ord. No. 806-98, § 2, 11-16-98; Ord. No. 500-01, § 2, 6-18-01)

Sec. 7-13. Basic requirements for all licensees.

(a) A licensee authorized by the license to present any amusement that may produce music or noise audible beyond the boundaries of the licensed premises or that may produce lights or vibrations perceivable beyond the boundaries of the licensed premises shall:

(1) Comply with any terms or restrictions as may be reasonably imposed by the director in the license to mitigate or eliminate sound, noise, vibration, and light impacts upon nearby residents and properties, including the location and orientation of outdoor entertainment, sound amplification equipment, and lighting equipment as well as late-hour restrictions on use of outside lighting or inside or outside amplified sound; and

(2) Take all reasonable measures necessary to assure compliance with the noise control provisions of chapter 36 with respect to noise occurring in or near the premises and related to the licensed activities.

(b) A licensee authorized by the license to present any amusement that may cause exceptional traffic and parking problems for the surrounding neighborhood shall:

(1) Comply with any traffic or parking management plan approved by the director after consulting with the appropriate city departments with authority to control traffic or parking as said plan is incorporated as a term or restriction in the license for the mitigation or elimination of any exceptional traffic or parking problems directly arising from or associated with the licensed premises, especially with respect to those problems generated from peak traffic conditions or extraordinary parking demands, or from late-night activities; and

(2) Cooperate with city police, zoning officials, and other authorized city officials in implementing any approved traffic or parking management plan or in otherwise resolving or handling traffic and parking problems that may arise on certain occasions from activities associated with the licensed premises.

(c) A licensee authorized by the license to provide any games of chance or skill shall:

(1) Not promote, provide, or permit gambling or professional gambling as these terms are defined in section 38-146; and

(2) Not promote, provide, or permit any game or device represented or appearing to be a game of chance or skill knowing or having good reason to know that the game or device has been designed, constructed, rigged, or operated so as to deprive or cheat the player, who has paid money or given other remuneration or consideration, of any reasonable prospect of winning prizes displayed or touted as being winnable.

(d) A licensee authorized by the license to provide entertainment involving the display or use of animals shall:

(1) Not engage in or allow any acts, including acts of neglect or abuse, that would result in cruelty to animals in violation of article VII of chapter 8; and

(2) Comply with any terms or restrictions reasonably imposed by the director in the license to protect or aid animals that may be displayed or used.

(e) It shall be unlawful for any licensee, or any manager or employee of said licensee, to violate or to facilitate a violation of any provision of this section or any term or restriction imposed by the director in the license.

(f) The provisions of this article shall not apply to any establishment that sells, serves, or gives away alcohol beverages, nor shall any of the licenses provided in this article be issued to any such establishment. Such establishments may apply for a cabaret license under article III of chapter 6.

(Ord. No. 806-98, § 2, 11-16-98; Ord. No. 500-01, § 3, 6-18-01)

Sec. 7-14. Unlawful acts, conduct, and conditions.

(a) A licensee under this article shall conduct the operation and activities of an amusement facility or temporary amusement in a decent, orderly, and safe manner. To that end, a licensee, or any manager or employee of said licensee, shall not allow, without taking reasonable steps to prevent or rectify, i) any act or conduct, identified in subsection (b) of this section, to be committed or engaged in by a patron, guest, employee, agent, or other person associated with the amusement facility or temporary amusement on or in the premises or ii) any condition, identified in subsection (b) of this section, to occur or exist on or in the premises. As used in this section, the following words and phrases shall mean:

(1) "Reasonable steps" shall mean, as appropriate under the circumstances, contacting and reporting to the police or other appropriate authority in a timely manner; or requesting the persons engaged in prohibited acts or conduct to cease the same unless the licensee, or the manager or employee of said licensee, reasonably believes that his or her personal safety would be threatened in making such a request; or taking any legally required or other appropriate measures, including closure and/or repairs, to remediate, control, or eliminate any prohibited condition.

(2) "Premises" shall include all indoor and outdoor areas specified in the license, any parking lot(s) or open public area(s) owned by the licensee, leased or rented to the licensee, or available for the use of the establishment or business, and any public sidewalks abutting the premises or said parking lot(s) or open public area(s).

(b) Those acts, conduct, or conditions prohibited under subsection (a) of this section shall be:

(1) Any unlawful act under the Colorado Liquor Code or the loitering of intoxicated individuals or individuals under the influence of alcohol, narcotic drugs, stimulants or depressants;

(2) Any unlawful act under chapter 38 relating to offenses against public or private property, offenses against public order and safety (including weapons possession), and morals offenses, including those pertaining to illegal sexual conduct and drugs and intoxicants;

(3) Any act constituting a felony or misdemeanor offense under Title 18 of the Colorado Revised Statutes;

(4) Any act, conduct, or condition which presents an unreasonable danger or threat to the health or safety of those using or working in or near the premises or those residing or working in the neighborhood in which the amusement facility or temporary amusement is located, including health, fire, and building code violations, to the extent that such act, conduct, or condition is not timely remediated, controlled, or eliminated, as appropriate, following discovery or actual notice; or

(5) Any recurring acts or conduct that are patently offensive or indecent to any reasonable person, that the licensee has failed or refused to take any meaningful

corrective actions against after receiving actual notice from the director, and that can be shown, by the statement of witnesses or compelling circumstantial evidence, to have occurred on three (3) or more occasions within a six-month period.

(c) A conviction or other judicial determination of guilt, violation, or liability under a city ordinance or a state statute shall not be a prerequisite in order to find a violation under this section.

(d) It shall be unlawful for any licensee, or any manager or employee of said licensee, to engage in or to facilitate any act, conduct, or condition identified in subsection (b) of this section on or in the licensed premises.

(Ord. No. 806-98, § 2, 11-16-98)

Sec. 7-15. Adult entertainment.

(a) It shall be unlawful for any licensee, or any manager or employee of said licensee, operating an amusement facility to offer, provide, or permit on the premises any adult entertainment if any individual under the age of eighteen (18) years is admitted, employed, or otherwise allowed on or in the premises at the time said adult entertainment is offered or provided.

(b) It shall be unlawful for any licensee, or any manager or employee of said licensee, operating an amusement facility to offer, provide, or permit on the premises any adult entertainment if not specifically authorized to provide such adult entertainment in the license issued for the premises under this article.

(c) It shall be unlawful for any licensee, or any manager or employee of said licensee, conducting any temporary amusement to offer, provide, or permit on the premises any adult entertainment.

(Ord. No. 806-98, § 2, 11-16-98)

Sec. 7-16. Registration of resident managers for amusement facilities.

(a) It shall be unlawful for any licensee under this article to operate an amusement facility unless the current name(s), address(es), and telephone number(s) of the resident manager(s) of the amusement facility have been registered in writing with the director of excise and licenses, together with any other information reasonably required by the director.

(b) Whenever a resident manager is changed, or the address or telephone number of such resident manager is changed, the licensee shall, within thirty (30) days, register a new resident manager or the change of address or telephone number of the resident manager.

(c) A "resident manager" is an individual who manages and controls the premises and who is responsible for securing compliance with any ordinances or regulations applicable to the amusement facility.

(Ord. No. 806-98, § 2, 11-16-98)

Secs. 7-17--7-25. Reserved.

DIVISION 2. LICENSE*

*Cross references: Licenses generally, Ch. 32.

Sec. 7-26. Required.

(a) It shall be unlawful for any person to operate any amusement facility or conduct any temporary amusement without first having obtained a license from the director of excise and licenses as provided in this division; provided, however, that no license shall be required when a person is exempt from the licensing requirements as an amusement facility or a temporary amusement under section 7-10. Exemption from the licensing requirements of this article shall not constitute an exemption from the health, safety and welfare requirements otherwise prescribed by this Code or an exemption from liquor licensing requirements prescribed by state or local law.

(b) Any person operating a facility or establishment that qualifies as more than one (1) type of amusement facility need only apply for and obtain a single license which specifies all of the approved types. Any person conducting a temporary amusement which qualifies as more than one (1) type of temporary amusement need only apply for and obtain a single license which specifies all of the approved types.

(c) It shall be unlawful for a licensee, or the manager or employee of said licensee, to offer, provide or permit any type of amusement facility or any type of temporary amusement other than that specifically authorized in the license issued.

(Ord. No. 806-98, § 2, 11-16-98)

Sec. 7-27. Application.

(a) Application for a license under this article shall be made to the director upon forms to be provided by excise and licenses for that purpose.

(b) An application for an amusement facility shall contain the following information:

(1) Names, addresses, and dates of birth of the owner(s) and any manager(s) of the establishment or business for which application is being made. If the owner or manager is a corporation, partnership or similar entity recognized by law, the application shall also contain the complete name of the legal entity and the names, addresses, and dates of birth for all officers, directors, managing partners, and any individual with authority to manage or operate any aspect of the establishment or business. These individuals shall be collectively and individually regarded under this division as the "applicant." The name and address of the registered agent for service shall also be provided.

(2) Name and address (including legal description of property) of the facility for which application is being made, and any trade names or assumed names being used for the facility.

(3) Type of amusement facility being applied for.

(4) Type of amusement(s) to be offered or provided.

- (5) The proposed hours and days of the week of operation.
 - (6) A sketch or plan, drawn to designated scale but not necessarily professionally prepared, identifying or depicting:
 - (A) The dimensions and arrangement of floor space, rooms, and public areas;
 - (B) The seating and occupancy capacity;
 - (C) The types of uses proposed for each space, room, or area; and
 - (D) For any establishment proposing to have amusement devices or billiard or pool tables, the number and location of amusement devices and/or the square footage and location of any playing area for billiard and/or pool tables.
 - (7) Information and documents (including copies of deeds, leases, contracts and other applicable documents) detailing applicant's right to possession of the premises or right to use the premises for the type of license being sought.
 - (8) An application for use permit, with the approval of the department of zoning administration shown thereon, for the use of the premises for the type of amusement and other uses proposed to be offered or provided.
 - (9) A statement by each applicant identifying any administrative or court order, decree, or similar judicial or quasi-judicial edict, any consent decree or settlement agreement, any terms of probation, or any other legal restraint which could restrict or prohibit the individual from owning, managing, or being associated with the type of business or establishment for which an application has been made.
 - (10) A statement by each applicant identifying any convictions for criminal acts specified in paragraph (b)(9) of section 7-32, or the release from any confinement for such convictions, anywhere in the United States within the preceding five (5) years, the date and place of the conviction, any time served in jail or prison as a result of such convictions, and date and place of release from any confinement.
 - (11) Acknowledgment by each applicant that a criminal background check on the individual (including fingerprinting and photographs) may be conducted to verify any information provided in paragraphs (b)(9) and (10) of this section.
 - (12) Such other information and documents as may be reasonably required by the director.
- (c) An application for a temporary amusement shall contain the following information:
- (1) Names, addresses, and dates of births of the owner(s), sponsor(s), and any manager(s) of the establishment or business for which application is being made. If the owner, sponsor or manager is a corporation, partnership or similar entity recognized by law, the application shall also contain the complete name of the legal entity and the names, addresses, and dates of birth for all officers, directors, managing partners, and any individual with authority to manage or operate any aspect of the establishment or business. These individuals shall be collectively and individually regarded under this division as the "applicant." The name and address of the registered agent for service shall also be provided.
 - (2) Address or location of the premises at which the temporary amusement shall be conducted and whether the temporary amusement will be presented outdoors.
 - (3) The dates on which the temporary amusement will be conducted and the proposed hours of operation.
 - (4) Type of temporary amusement(s) to be offered or provided.

- (5) Floor space and/or seating capacity of the premises, along with any plan or sketch of the premises that the director may require.
 - (6) Information and documents (including copies of leases, contracts and other applicable documents) detailing applicant's right to use the premises.
 - (7) An application for use permit, with the approval of the department of zoning administration shown thereon, for the use of the premises for the type of amusement proposed to be offered or provided.
 - (8) A statement by each applicant identifying any administrative or court order, decree, or similar judicial or quasi-judicial edict, any consent decree or settlement agreement, any terms of probation, or any other legal restraint which could restrict or prohibit the individual from owning, managing, or being associated with the type of business or activity for which an application has been made.
 - (9) A statement by each applicant identifying any convictions for criminal acts specified in paragraph (b)(9) of section 7-32, or the release from any confinement for such convictions, anywhere in the United States within the preceding five (5) years, the date and place of the conviction, any time served in jail or prison as a result of such convictions, and date and place of release from any confinement.
 - (10) Acknowledgment by each applicant that a criminal background check on the individual (including fingerprinting and photographs) may be conducted to verify any information provided in paragraphs (c)(8) and (9) of this section.
 - (11) Such other information and documents as may be reasonably required by the director.
- (d) An application must be signed by an individual(s) named in paragraphs (b)(1) or (c)(1) of this section, as applicable, who will be the principal contact and responsible party with respect to the management and operation of the facility or activity being licensed. Following issuance of the license, this individual(s) shall not be changed without prior written notification to the director.
- (e) No application shall be deemed complete unless and until all information required in this section to be submitted by the applicant has been submitted.

(Ord. No. 806-98, § 2, 11-16-98)

Sec. 7-28. Additional licensing requirements for amusement facilities.

- (a) A license shall only be issued to, or exercised by, a licensee owning, operating, or managing an amusement facility.
- (b) No license for an amusement facility shall be transferable except as provided herein. Any change of ownership of a licensed amusement facility shall require a new application and license, with payment of fees therefor, and approval of the director, all in accordance with the provisions of this division; provided, however, when a license has been issued to a husband and wife, or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner(s) to obtain a new license, and all rights and obligations established under the original license shall continue in full force and effect as to such survivors until the expiration date specified on the license. The transfer, sale or assignment of fifty (50) percent or more of the corporate stock or fifty (50) percent or more of the interest in a partnership or sole proprietorship shall be conclusively presumed to be a change of ownership.
- (c) The license shall contain any terms or restrictions imposed by the director, based on the circumstances of the proposed activity, which are reasonably necessary to ensure that any

impacts upon nearby residents and properties are properly mitigated or eliminated in order to preserve the peace and order of the community and that the amusement facility is properly operated within the requirements of this article and other applicable law.

(d) For any amusement center, billiard parlor or pool hall, the license shall specify the number of amusement devices to be permitted at the amusement center and/or the square footage of area for playing at billiard or pool tables. These numbers shall not be changed without the written approval of the director.

(Ord. No. 806-98, § 2, 11-16-98)

Sec. 7-29. Additional licensing requirements for temporary amusements.

(a) A license shall only be issued to, or exercised by, a licensee owning, operating, sponsoring, or managing a temporary amusement.

(b) The license shall be effective only for those dates and hours of operation specified in the license. The license dates may be modified only upon the approval of the director, but may not be extended beyond those number of days allowed under this article for the specific type of temporary amusement.

(c) The license shall contain any terms or restrictions imposed by the director, based on the circumstances of the proposed activity, which are reasonably necessary to ensure that any impacts upon nearby residents and properties are properly mitigated or eliminated in order to preserve the peace and order of the community and that the temporary amusement is properly operated within the requirements of this article and other applicable law.

(d) The director may prescribe by rules and regulations an expedited licensing process for temporary amusements consistent with the requirements of this article.

(Ord. No. 806-98, § 2, 11-16-98)

Sec. 7-30. Reserved.

Sec. 7-31. Fees.

Application and license fees under this division shall be as prescribed in section 32-48.5. No license application shall be reviewed or approved unless and until the prescribed fees have been paid.

(Ord. No. 806-98, § 2, 11-16-98)

Sec. 7-32. License issuance; grounds for denial.

(a) Unless a shorter period is prescribed by duly adopted rule or regulation, the director shall complete his or her review and make a determination in accordance with this section within forty-five (45) days following the date a complete application and full payment of all required fees are received by the director. A time extension of up to an additional thirty (30) days may be granted by the director upon the applicant's written request and a showing of good cause.

(b) The director shall issue a license for an amusement facility or a temporary amusement, as applicable, unless the director finds one (1) of the following:

(1) The applicant fails to provide the director within thirty (30) days of submitting a complete application, or within any time extension granted in accordance with subsection (a) of this section, the written approvals for the application (and for the

purposes shown on the application) by the following, as applicable: 1) the fire department; 2) department of public works (including building inspection division); and 3) department of environmental health.

(2) The applicant is not, or will not be, as applicable, the owner or manager of the amusement facility or the owner, sponsor, or manager of a temporary amusement.

(3) Each individual applicant listed in the application is not at least eighteen (18) years of age.

(4) A license previously issued under this chapter to the applicant (individual or entity) is currently under suspension or has been revoked and the time bar for a new application has not lapsed (see, for example, subsection 7-34(b)).

(5) The type of amusement to be provided is not permitted by chapter 59 (zoning) at the location for which application is made; provided, however, that where the type of amusement to be provided is permitted at the location by chapter 59, although other types of amusement not so permitted by chapter 59 may be offered or provided under the license for which application is made, a restricted license may be issued with the zoning restrictions noted on the license.

(6) The applicant does not have a right to possession of the premises or a right to use the premises for the type of license being sought.

(7) The application contains false or misleading information material to the issuance of the license or does not contain requested information material to the issuance of a license.

(8) Any applicant (individual or entity) has been restricted or prohibited by any administrative or court order, decree, or similar judicial or quasi-judicial edict, any consent decree or settlement agreement, any terms of probation, or any other legal restraint from owning, managing, or being associated with the type of business or establishment for which an application has been made.

(9) Any individual applicant has been convicted or released from confinement following conviction within the preceding five (5) years, anywhere in the United States, for one (1) or more of the following:

(A) Sexually-related crimes: prostitution, pandering, procuring, and pimping; sexual assault; incest; indecent exposure or public indecency; stalking; harassment; obscenity or the promotion, sale, distribution, or possession of obscene materials; any of the foregoing related to a child or children, including trafficking in child pornography, sexual exploitation of a child, or providing sexually explicit material to a child; and any criminal attempts, solicitations, or conspiracies, including racketeering, involving any of the foregoing; or

(B) Drug-related crimes: the unlawful manufacture, transportation, promotion, distribution, dispensing, sale or possession with intent to distribute narcotics, stimulants, depressants, or other controlled substances; the unlawful manufacture, transportation, promotion, distribution, dispensing, or sale of alcohol beverages, including the dispensing or sale to a person under twenty-one (21) years of age or a visibly intoxicated person; and any criminal attempts, solicitations, or conspiracies, including racketeering, involving any of the foregoing; or

(C) Any criminal act or violation of local government ordinance or regulation, which criminal act or violation was punished, following conviction, by incarceration and was directly related to the operation, or committed upon the premises, of any establishment or business licensed under this chapter or any similar establishment or business operated elsewhere in the United States; or

business, or establishment or the suspension or cessation (in excess of twenty-four (24) hours) of usual business operations at the facility, business, or establishment for violations of or failure to comply with substantive health, safety or welfare requirements or criminal laws.

(b) In determining whether to impose a suspension or revocation, the director shall consider all pertinent aggravating and mitigating factors and make appropriate findings in support of his or her decision based on these factors and any other relevant facts or circumstances. The term of any suspension shall be for a period not to exceed six (6) months in duration, and a revocation shall specify a period no shorter than six (6) months from the date of revocation nor longer than two (2) years from the date of revocation during which the licensee shall be barred from making any new application under this chapter.

(c) Except as provided in subsection (d) of this section, a licensee shall be entitled to a hearing before the director or a hearing officer designated by the director prior to any action being taken to suspend or revoke the license. The procedures are as follows:

(1) Upon receipt of information and documentation sufficient to satisfy the director that suspension or revocation of a license may be warranted under this section, the director shall notify the licensee by certified mail, return receipt requested, of the alleged violations and shall direct the licensee to appear before the director or designated hearing officer on a specified hearing date, which shall be no sooner than ten (10) days and no later than thirty (30) days after the date of the notification. Failure to appear at the scheduled hearing or to arrange with the director for a rescheduling of the hearing for a date within thirty (30) days of the original date shall constitute a waiver of the right to hearing.

(2) At the hearing, the licensee may be represented by legal counsel. The licensee shall have the right to present evidence or testimony on his or her behalf and to cross-examine any adverse witnesses. Testimony shall be presented only upon oath or affirmation. While no formal procedure shall be required, evidence and testimony will be admitted and considered based upon its probative value. The city or other complainant shall bear the burden of showing the alleged violation by a preponderance of the evidence. All proceedings in the hearing shall be recorded.

(3) Within fifteen (15) days following the hearing, any designated hearing officer shall forward to the director a recommended decision regarding the alleged violations and recommended penalties for any violations proved. Copies of said recommended decision shall be sent by United States mail to the licensee, who must submit any comments or additional information to the director within ten (10) days of the date the recommended decision was mailed. The director shall prepare a final decision, along with a set of written findings and conclusions in support of the director's decision, and deposit the same in the United States mail to the licensee within fifteen (15) days from receipt of the recommended decision. If no hearing officer is involved, the director shall prepare and mail the decision, along with the findings and conclusions, within fifteen (15) days of the date of the hearing. All mailings will be sent to the licensee at the licensee's last known address and will be sent to any other parties requesting such notification.

(4) Any suspension or revocation shall be effective upon the date specified in the final decision. A suspension or revocation may only be lifted by entry, and receipt by the director, of a stay or restraining order issued by a court of competent jurisdiction and will remain lifted only so long as the stay or restraining order is in effect.

(d) If the director shall determine that an imminent and substantial peril to the public health or safety exists due to any violation, the director may order that the license be summarily suspended and direct that a hearing be held within five (5) working days of the date and time the order is posted on the front door of the subject establishment or business. Said hearing date, time, and place shall be contained in the posted order. The licensee shall suspend all

amusement operations and related activities authorized by the license upon posting of the order. If at the hearing the director finds that no such peril exists, the emergency closure shall be lifted and the procedures of subsection (c) of this section shall apply.

(e) During the duration of any license suspension, two (2) or more notices shall be posted in conspicuous places, including the front door, on any establishment or business for which the license has been suspended. These notices shall be prepared by the licensee and shall be of such size and contain such information as specified by excise and licenses in order to provide adequate public notice of the license suspension.

(f) It shall be unlawful for any licensee or other person to operate an amusement facility or a temporary amusement under any license which has been suspended or revoked.

(Ord. No. 806-98, § 2, 11-16-98)

Sec. 7-35. Right of appeal.

(a) Any final decision of the director of excise and licenses may be appealed by bringing an appropriate action, including a C.R.C.P. Rule 106(a)(4) appeal, in the state district court for the City and County of Denver. "Final decisions" are those determinations made by the director as provided in sections 7-32, 7-33, and 7-34. Any appeal shall be filed with the district court clerk within thirty (30) days following the date the decision was deposited in the United States mail addressed to the applicant.

(b) No objection will be made to the acceleration of any C.R.C.P. Rule 106(a)(4) appeal if such an appeal is timely filed and the complaint and summons, along with a court order to certify the entire record of decision, is served upon the director within three (3) days following filing the same with the district court clerk.

(c) No establishment or business may continue to operate under a license which has terminated under section 7-33 or which has been suspended or revoked under section 7-34 unless a stay or restraining order, as appropriate, is obtained from the court.

(Ord. No. 806-98, § 2, 11-16-98)

Secs. 7-36--7-50. Reserved.

ARTICLE III. DANCE HALLS**DIVISION 1. GENERALLY****Sec. 7-51. Definitions.**

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

(1) *Public dance or a public ball* shall be taken to mean any dance where admission can be had by the public generally with or without the payment of a fee, with or without the purchase, possession or presentation of a ticket or token, and any other dance operated by club membership, season ticket, invitation, or other system open or offered to the public generally.

(2) *Public dance hall* shall be taken to mean any premises open to public dancing for gain or to which the public is admitted upon payment of an admission fee, membership fee, or for a charge of any kind, and description, or any hall or academy in which classes in dancing are held and instructions in dancing given for pay, but shall not include any place where instruction in art or esthetic dancing is taught and where only a tuition for pupil is charged or shall not include any establishment licensed for the sale of malt, vinous or spirituous liquor or fermented malt beverages.

(Code 1950, § 912.1)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 7-52. Care of premises.

All public dance halls shall be kept at all times in a clean, healthful, and sanitary condition, and all stairways and other passages and all rooms connected with a dance hall shall be kept open and well lighted.

(Code 1950, § 912.6)

Sec. 7-53. Hours of closing.

(a) All public dances or balls shall be discontinued and closed at or before the hour of 2:00 a.m. and all public dance halls shall be discontinued and closed at or before the hour of 5:00 a.m.; provided, however, that nothing herein shall be construed to affect the curfew provisions of this Code relative to minors.

(b) If any hotel where fifty (50) or more rooms are kept for rent and where a bona fide restaurant is operated in connection therewith, or a bona fide restaurant with a seating capacity of one hundred (100) guests or more, makes proof of such fact to the director of excise and licenses by affidavit together with the signed written consent of eighty (80) percent of the owners of property, or the authorized agents thereof, within a distance of four hundred (400) feet from such hotel or restaurant, the director may permit the public dances conducted therein to continue until the hour of 3:00 a.m.

(Code 1950, § 912.7; Ord. No. 500-01, § 4, 6-18-01)

Sec. 7-54. Attendance.

(a) It shall be unlawful for any person to misrepresent his or her age in order to obtain admission to a public dance hall or public dance or in order to be permitted to remain therein.

(b) It shall be unlawful for any person to represent himself, or herself, to be a parent, natural guardian, or guardian designated by the parent of any person, in order that such person may obtain admission to a public dance hall or public dance, or may be permitted to remain therein, when the party making the representation is not, in fact, either a parent, or natural guardian or guardian designated by the parent of the other person.

(Code 1950, § 912.8; Ord. No. 251-86, § 1, 4-28-86; Ord. No. 500-01, § 5, 6-18-01)

Sec. 7-55. Registered manager--Present during public dance.

(a) The licensee shall file with the director a written designation of a person over the age of twenty-one (21) who shall serve as the licensee's registered manager.

(b) The licensee's registered manager shall be physically present at the dance hall or the premises on which the public dance is held at all times that the dance hall or public dance is open to public entry or use.

(Code 1950, § 912.6; Ord. No. 500-01, § 6, 6-18-01)

Sec. 7-56. Exception for private dances, etc.

The provisions of this article shall in no way interfere with private parties given in public or parochial schools or at homes of people or with dances given by societies or corporations where the attendance is restricted to the members of the society and their friends, or of the club or corporation and not continued for a consecutive number of days or nights.

(Code 1950, § 912.14)

Sec. 7-57. Rules and regulations.

The director may make and promulgate rules and regulations for the administration of this article and further regulating the conduct of public dance halls and public dances consistent with the provisions of this article.

(Ord. No. 500-01, § 7, 6-18-01)

Sec. 7-58. Conditions on license.

The director may impose reasonable terms, requirements, conditions, or limitations on any license or permit issued under this article necessary to protect public health, safety or welfare.

(Ord. No. 500-01, § 7, 6-18-01)

Sec. 7-59 Inspection of premises.

The premises of any public dance hall or public dance shall be open for inspection by any city employee at any time that the premises are open to public entry or use.

(Ord. No. 500-01, § 7, 6-18-01)

Secs. 7-60--7-70. Reserved.

DIVISION 2. LICENSE OR PERMIT*

***Cross references:** Licenses generally, Ch. 32.

Sec. 7-71. Required.

- (a) It shall be unlawful for any person to maintain any premise for use by the public for dancing on one (1) or more days per week without obtaining a license therefor pursuant to this division.
- (b) It shall be unlawful for any person or persons acting as a group or unit to hold or conduct a public dance or ball without first obtaining a permit therefor from the director of excise and licenses as hereinafter provided, where such public dance or ball is being held on premises not licensed as a public dance hall.

(Code 1950, § 912.2)

Sec. 7-72. Application.

Applications for public dance hall licenses and permits to hold or conduct a public dance or ball shall be made to the director of excise and licenses upon forms to be provided.

(Code 1950, § 912.3)

Sec. 7-72.5. Notice; posting; hearing.

- (a) Upon receipt of an application for a new license under this article, the director shall schedule a public hearing upon the application not less than forty (40) days from the date of receipt of the application; and it shall be the duty of the director to designate the neighborhood being affected by such application. The designation of the geographical extent and boundaries of such neighborhood shall be within the sole discretion of the director. This section shall apply only to applications for new licenses and shall not apply to applications for a permit to conduct a single public dance or public ball.
- (b) The director shall require public notice to be given of the application for a new license, by the posting of a notice of the public hearing, for a period of not less than ten (10) consecutive days, with the first posting to be not less than thirty (30) days in advance of the public hearing, in a conspicuous place on the premises whereon the establishment is proposed to be operated, legible from the public street or public way (other than an alley) nearest to such premises. This public notice shall state the type and class of license applied for, the name and address of the applicant, the designated neighborhood, a brief description of the type of activities for which application is being made or considered and the time when and place where a public hearing will be held on the application; provided that, such posted notice of the public hearing shall be displayed on a sign or signs, in number, size and location as prescribed by the director.
- (c) At the time and place specified in the notice, or at such other time to which the hearing may be continued, the director or any hearing officer shall receive petitions and hear such information and evidence as may be offered by the applicant and residents of the designated neighborhood (which term shall include residents of the neighborhood and all owners or

managers of trading or commercial businesses located in the designated neighborhood, and the commander of the police district in which the designated neighborhood is located, or his or her representative) concerning the desires of the residents of the designated neighborhood, the reasonable requirements of the designated neighborhood (including, but not limited to, the cabaret license already granted for establishments within the designated neighborhood), and the effect the issuance of the license would have on either the health or welfare or morals of the designated neighborhood. Admissibility of evidence, exhibits and petitions shall conform with the general rules of evidence.

(d) The approval or denial of any application for a new license shall rest within the sound discretion of the director after evidence has been presented during such public hearing. In making the decision, the director shall consider all of the items shown above in subsection (c) as well as all other requirements of this article.

(e) No application shall be received or acted upon for either a new license or for changing or modifying a presently licensed premises if, within two (2) years next preceding the date the application is tendered to the department of excise and licenses, the director denied an application (including an application for renewal) for any class of cabaret license or any class of license issued under this article at either;

(1) The location or premises for which application is being made; or

(2) Any location or premises which is part of, or contained in, the location or premises for which application is being made; or

(f) A hearing upon application for renewal or change of ownership of the licensed premises may be scheduled at the discretion of the director, either upon the director's own initiative or upon proper complaint to the director, and the procedure, costs and requirements in this event shall be the same as shown in this division for a new license application.

(Ord. No. 251-86, § 1, 4-28-86; Ord. No. 500-01, § 8, 6-18-01)

Sec. 7-73. Causes for denial.

No dance hall license or permit to conduct a public dance or ball will be issued when:

(1) The applicant, any of the officers of a corporate applicant, or the business manager are under the age of twenty-one (21) years;

(2) The applicant or any of the officers of a corporate applicant or the manager of the business have been convicted of any crime or ordinance violation involving use of or traffic in narcotic drugs, violent acts against persons or property, or sex offense within ten (10) years preceding the date of application;

(3) Dancing is not permitted at the location for which application is made by chapter 59 relating to zoning;

(4) The premises do not comply with and conform to all ordinances or regulations relating to requirements of the public works, fire, and environmental health departments;

(5) The premises for which application has been made are licensed under the cabaret ordinance or where malt, vinous or spirituous liquor or fermented malt beverages are sold for consumption on the premises sought to be licensed.

(6) The applicant makes any false or misleading statement of material fact on the application;

(7) The applicant, or any person holding a 10% or more interest in the applicant entity, has violated any state law or city ordinance in connection with any public dance hall or public dance within three years preceding the application;

(8) The applicant, or any person holding a ten (10) percent or more interest in the applicant entity, has committed or permitted any act in connection with any public dance hall or public dance which is cause for suspension or revocation under section 7-76 or section 32-22 within three (3) years preceding the application.

(Code 1950, § 912.4; Ord. No. 1110-96, § 1, 12-16-96; Ord. No. 500-01, § 9, 6-18-01)

Sec. 7-74. Issuance.

After finding that the applicant meets the requirements set forth in section 7-73 and that the premises are a safe and proper place for the intended purpose, the director of excise and licenses shall issue the dance hall license or permit to conduct a public dance or ball.

(Code 1950, § 912.5)

Sec. 7-75. Fees.

The application and license fees under this division are prescribed in section 32-67.

(Code 1950, §§ 912.3, 912.5)

Sec. 7-76. Suspension or revocation of public dance hall license or public dance permit.

(a) After notice and an administrative hearing at which the city submits proof by a preponderance of the evidence, or upon stipulation of the parties, or upon failure of the licensee to appear at such a hearing after notice has been given, the director may suspend or revoke the dance hall license or public dance permit of any person or entity who:

- (1) Makes any false or misleading statement of material fact on his or her application for a license or to any city employee enforcing this article or investigating whether a violation has occurred under this article;
- (2) Violates any state law or city ordinance on the premises of the dance hall or public dance or on any sidewalk, street, parking area or other grounds immediately adjacent to the public dance premises;
- (3) Knowingly, intentionally, or negligently permits any person to violate any state law or city ordinance on the premises of the dance hall or public dance or on any sidewalk, street, parking area or other grounds immediately adjacent to the public dance premises;
- (4) Fails to maintain the dance hall or the premises on which the public dance is held in compliance with the requirements of the fire department, public works department, building department, zoning department, and environmental health department;
- (5) Violates any rule or regulation promulgated by the director under this article;
- (6) Violates any term, condition or limitation on his or her license or permits any person in his employment to do the same;
- (7) The licensee or permittee and his employees engage in or permit any conduct that is offensive to the senses of the average citizen on the premises of the dance hall or public dance or on any sidewalk, street, parking area or other grounds immediately adjacent to the dance hall or the premises of the public dance; or
- (8) Commits any act or omission or meets any condition which is cause for suspension or revocation under section 32-22;

(Code 1950, § 912.11; Ord. No. 1110-96, § 1, 12-16-96; Ord. No. 500-01, § 10, 6-18-01)

Secs. 7-77--7-90. Reserved.

ARTICLE IV. SOCIAL ROOMS AND OTHER AMUSEMENTS*

***Editor's note:** Ord. No. 100 of 1988, § 1, adopted Feb. 29, 1988, repealed and reenacted Art. IV, to read as herein set out. Former Art. IV, §§ 7-86--7-89, 7-101--7-110, concerning rooms for recreation, amusement or social activities, derived from Code, 1950, §§ 915.2--915.8, 915.10--915.14, 915.1-1 and 915.1-2.

DIVISION 1. GENERALLY**Sec. 7-91. Definitions.**

As used in this article, the following words and phrases shall have the following meanings, unless otherwise clearly indicated by the context:

Adult entertainment shall mean amusement or entertainment which features or includes specified anatomical areas or specified sexual activities, as defined in the zoning code of the city, sections 59-2(132) and 59-2(133) of this code.

Director shall mean the director of excise and licenses.

Entertainment shall mean live or recorded music or live or recorded vocal entertainment or any of these, but shall not include adult entertainment.

Licensee shall mean a person licensed under this article.

Patron dancing shall mean dancing by patrons or guests of an establishment, business or social room.

Restaurant shall mean a food service establishment licensed under the provisions of article III of chapter 23 of this Code.

Social room shall mean any establishment, facility or room which offers or provides amusement, entertainment or recreational or social activities of any kind for remuneration, whether through fees, ticket sales, cover charges, memberships, dues, portion of funds generated or in any other manner.

(Ord. No. 100-88, § 1, 2-29-88)

Sec. 7-92. Classes of licenses.

Classes of licenses and permissible activities at establishments or facilities within each class shall be as follows:

(1) *Standard social room.* A social room which operates only between the hours of 8:00 a.m. and 12:00 midnight. Patron dancing may be permitted, but no entertainer shall dance with any patron or guest.

(2) *After hours social room.* A social room which operates between the hours of 8:00 a.m. and 5:00 a.m. Patron dancing may be permitted, but no entertainer shall dance with any patron or guest. No person under twenty-one (21) years of age shall be employed or permitted to participate as an entertainer in an after hours social room without the written consent of a parent or guardian or the written approval of the director.

(3) *After hours restaurant.* A restaurant in which entertainment is provided and in which patron dancing is permitted but is incidental to the primary business. No entertainer shall dance with any patron or guest. Entertainment and patron dancing shall not be provided between the hours of 5:00 a.m. and 12:00 noon.

No person under eighteen (18) years of age shall be employed or permitted to participate as an entertainer in an after hours restaurant without the written consent of a parent or guardian or the written approval of the director. An after hours restaurant licensee shall not permit anyone under twenty-one (21) years of age to patronize or gain entry into the after hours restaurant between the hours of 2:00 a.m. and 5:00 a.m.,

unless accompanied by a parent or legal guardian.

An after hours restaurant may not be located on the same premises with any establishment licensed under the Colorado Liquor Code or the Colorado Beer Code, provided, however, that an after hours restaurant may share such facilities that are unrelated to the provision of entertainment as the director may by rule determine.

(Ord. No. 100-88, § 1, 2-29-88)

Sec. 7-93. Records to be kept.

All licensees shall keep an accurate set of books showing the income and expenditures of or for such social rooms and after hour restaurants and for such entertainment activities engaged in, operated, conducted, carried on or maintained on the licensed premises; and such books shall be open to inspection by the director or any police officer of the city at all reasonable hours. If a licensee sells or issues memberships, a list of the names and addresses of all such members shall be kept current and shall be subject to inspection in the same manner as the books of such licensees.

(Ord. No. 100-88, § 1, 2-29-88)

Sec. 7-94. Disorderly behavior; report by licensee.

(a) No licensee, manager, agent or employee of a licensee, nor any member of an organization licensed under this article, shall permit within or upon the licensed premises: intoxicated persons or persons under the influence of alcohol, narcotic drugs, stimulants or depressants; nor lewd or obscene displays or activities; nor disturbances, disorderly conduct, or undue noise; nor any unlawful act; nor any violations of state gambling laws; nor other activity offensive to the residents of the neighborhood in which the establishment is located.

(b) Any licensee, and any manager or agent or employee of a licensee, shall immediately report to the police department any unlawful or disorderly act or conduct committed on the licensed premises.

(Ord. No. 100-88, § 1, 2-29-88)

Sec. 7-95. Rules and regulations.

The director may make such reasonable rules and regulations as may be necessary for the purpose of administering and enforcing the provisions of this article and any other ordinances or laws relating to and affecting the licensing and operation of social rooms or after hours restaurants as described herein.

(Ord. No. 100-88, § 1, 2-29-88)

Cross references: Rules and regulations generally, § 2-91 et seq.

Sec. 7-96. Adult entertainment prohibited.

It shall be unlawful for a licensee or any manager, agent or employee of a licensee to offer, provide or permit any adult entertainment.

(Ord. No. 100-88, § 1, 2-29-88)

Sec. 7-97. [Exceptions.]

The provisions of this article shall not apply to any establishment that sells, serves, or gives away alcohol beverages, except club licensees, nor shall any of the licenses provided in this article be issued to any such establishment. Such establishments may apply for a cabaret license under article III of chapter 6.

(Ord. No. 500-01, § 10, 6-18-01)

Sec. 7-98. [Exceptions.]

The provisions of this article shall not apply to any establishment that sells, serves, or gives away alcohol beverages. Such establishments may apply for a cabaret license under article III of chapter 6.

(Ord. No. 500-01, § 11, 6-18-01)

Secs. 7-99--7-100. Reserved.

DIVISION 2. LICENSE*

***Cross references:** Licenses generally, Ch. 32.

Sec. 7-101. Required.

It shall be unlawful for any person to operate a social room or after hours restaurant without having first obtained a valid license as provided in this division; provided, however, that no license shall be required for a social room operated by:

- (1) A person or organization which can demonstrate its exemption from taxation pursuant to section 501(c)(3) of the federal Internal Revenue Code of 1954, as amended, and where attendance at the school room is restricted to members of the organization and their guests; or
- (2) A municipal, state or federal governmental body.

(Ord. No. 100-88, § 1, 2-29-88)

Sec. 7-102. Application.

(a) Application for a license under this article shall be made to the director on forms to be provided by the director for that purpose, which forms shall contain the following information:

- (1) Name and address of the applicant;
- (2) Name and address of the establishment or business for which application is being made;
- (3) Class of license applied for;
- (4) Type of entertainment to be offered or provided;
- (5) Building plan of the premises for which application is being made with all the points of ingress and egress clearly marked thereon. The director may also require detailed sketches of the premises;
- (6) Such other information or evidence as reasonably may be required to establish to the satisfaction of the director that the character and reputation of the applicant are such as to warrant the confidence of the director that the establishment will be lawfully operated, and that the health or welfare or morals of the neighborhood will not be adversely affected by the license issue.

(b) Any change of ownership shall require a new application and license, with payment of fees therefor, and approval of the director. However, when a license has been issued to a husband and wife, or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. For the purposes of this division, the transfer, sale or assignment of more than fifty (50) percent of the corporate stock of a corporate license shall be conclusively presumed to be a change of ownership.

(Ord. No. 100-88, § 1, 2-29-88)

Sec. 7-103. Notice; posting; hearing.

(a) Upon receipt of an application for a license under this article, the director shall schedule a public hearing upon the application not less than forty (40) days from the date of receipt of the application; and it shall be the duty of the director, in the director's discretion, to designate the neighborhood to be affected by such application.

(b) The director shall require public notice to be given of the application for such license by the posting of a notice of the public hearing no less than thirty (30) consecutive days in advance of the public hearing in a conspicuous place on the premises whereon the social room or after hours restaurant is proposed to be operated or maintained, legible from the public street or public way (other than an alley) nearest to such premises. This public notice shall state the type of license applied for, the name and address of the applicant, the type of entertainment to be offered, and the time and place of the public hearing on the application; provided that such posted notice of the public hearing shall be displayed on a sign or signs, in number, size and location as prescribed by the director.

(c) At the time and place specified in the notice, or at such other time to which the hearing may be continued by the director, the director or any hearing officer shall receive petitions and hear such information and evidence as may be offered by the applicant and residents of the designated neighborhood (which term shall include residents of the neighborhood and all owners or managers of business located in the designated neighborhood) concerning the desires of the residents of the designated neighborhood and the effect the issuance of the license would have on the health or welfare or morals of the designated neighborhood. Admissibility of evidence, exhibits and petitions shall conform with the general rules of evidence.

(d) The approval or denial of the application shall rest within the sound discretion of the director after evidence has been presented during such public hearing.

(e) A hearing upon application for renewal of an existing license may be scheduled at the discretion of the director, either upon the director's own initiative or upon proper complaint to the director, and the procedures and requirements in this event shall be the same as shown in this division for a new license application.

(f) The director shall not consider an application for a license at a particular premises if a license under this article has been applied for but not issued for the same premises within one (1) year prior to the date of making such application.

(Ord. No. 100-88, § 1, 2-29-88)

Sec. 7-104. Fees.

License and application fees under this article shall be as prescribed in section 32-109 of this Code.

(Ord. No. 100-88, § 1, 2-29-88)

Sec. 7-105. Causes for denial.

(a) No license under this article shall be issued when:

(1) The information or evidence available to and considered by the director reasonably establishes: that the character or reputation of the applicant or the past record of operation of the establishment or business for which application is made is such so as

not to warrant the confidence of the director that the establishment or business will be lawfully operated; or that the health or welfare or morals of the neighborhood would be adversely effected thereby;

(2) The applicant or manager of the establishment or business has been convicted of a felony, misdemeanor, or ordinance violation involving the use of or traffic in narcotic drugs, violent acts against person or properties, sex offense, or gambling, within five (5) years immediately preceding the date of application or request for renewal of license, subject to the provisions of subsection (b);

(3) The applicant or manager of the establishment or business has been convicted of an unlawful act while under the influence of alcohol or any narcotic drug, stimulant or depressant, two (2) or more times within five (5) years immediately preceding the date of application or request for renewal of license, subject to the provisions of subsection (b);

(4) The premises for which application has been made or for which renewal of a license is sought are not approved for the purpose by the fire, environmental health and public works departments of the city;

(5) The premises for which application has been made or for which renewal of a license is sought has more than one (1) door to be unlocked to gain admission; has an entrance equipped with any device that allows persons inside the premises to see outside, but does not allow persons outside the premises to see inside; or has any kind of signal system which can be used to give warning of the approach of a police officer;

(6) The premises for which application has been made is located within five hundred (500) feet of any public or private elementary or secondary school;

(7) Makes any false or misleading statement of material fact on his or her application;

(8) Has violated any state law or city ordinance in connection with any social room or after hours restaurant license within three (3) years preceding the application; or

(9) Has committed or permitted any act in connection with any social room or after hours restaurant license which is cause for suspension or revocation under section 7-76 or section 32-22 within three (3) years preceding the application.

(Ord. No. 100-88, § 1, 2-29-88; Ord. No. 1110-96, § 1, 12-16-96; Ord. No. 500-01, § 12, 6-18-01)

Sec. 7-106. Inspection of premises.

Before issuing any license under this article, the director or one (1) of the inspectors shall visit and inspect the premises where the applicant proposes to operate.

(Ord. No. 100-88, § 1, 2-29-88)

Sec. 7-107. Registered manager--Present when open to public.

(a) The licensee shall file with the director a written designation of a person over the age of twenty-one (21) who shall serve as the licensee's registered manager.

(b) The licensee's registered manager shall be physically present on the licensed premises at all times that the premises are open to public entry or use.

(Ord. No. 500-01, § 13, 6-18-01)

Sec. 7-108. Conditions on license.

The director may impose reasonable terms, requirements, conditions, or limitations on any license issued under this article necessary to protect public health, safety or welfare.

(Ord. No. 500-01, § 13, 6-18-01)

Sec. 7-109. Suspension or revocation of license.

(a) After notice and an administrative hearing at which the city submits proof by a preponderance of the evidence, or upon stipulation of the parties, or upon failure of the licensee to appear at such a hearing after notice has been given, the director may suspend or revoke any license issued under this article who:

- (1) Makes any false or misleading statement of material fact on his or her application for a license or to any city employee enforcing this article or investigating whether a violation has occurred under this article;
- (2) Violates any state law or city ordinance or permits any person to do the same on the premises of the social room or after hours restaurant or on any sidewalk, street, parking area or other grounds immediately adjacent to the public dance premises;
- (3) Fails to maintain the licensed premises in compliance with the requirements of the fire department, public works department, building department, zoning department, and environmental health department;
- (4) Violates any rule or regulation promulgated by the director under this article;
- (5) Violates any term, condition or limitation on his or her license or permits any person in his employment to do the same;
- (6) The licensee and his employees engage in or permit any conduct that is offensive to the senses of the average citizen on the licensed or on any sidewalk, street, parking area or other grounds immediately adjacent to the public dance premises; or
- (7) Commits any act or omission or meets any condition which is cause for suspension or revocation under section 32-22.

(Ord. No. 500-01, § 13, 6-18-01)

Sec. 7-110. Premises open to police inspection.

The premises of any social room or after hours restaurant shall be open for inspection by any police officer at any time that the premises are available for open to public entry or use.

(Ord. No. 500-01, § 13, 6-18-01)

Secs. 7-111--7-125. Reserved.

ARTICLE V. RESERVED*

***Editor's note:** Ord. No. 418-92, § 1, adopted June 29, 1992, repealed Art. V, §§ 7-126, 7-141--7-143, of this chapter, which pertained to motion picture film dealers and derived from §§ 913.1, 913.2, 913.4 and 913.5 of the city's 1950 Code.

Secs. 7-126--7-155. Reserved.

ARTICLE VI. FOR-HIRE STRIPPERS AND EXOTIC DANCERS*

***Editor's note:** Ord. No. 416-92, § 1, adopted June 29, 1992, repealed Art. VI, §§ 7-166--7-169, of this chapter, which pertained to motion acting schools and derived from §§ 913.6--913.6-3 of the 1950 Code. Subsequently, Ord. No. 807-98, § 1, adopted Nov. 16, 1998, enacted new provisions as herein set out.

DIVISION 1. GENERALLY**Sec. 7-156. Definitions.**

Words and phrases used in this article shall have the following meanings ascribed to them:

- (a) *Strippers* and *exotic dancers* shall mean those individual persons who engage in striptease-type acts involving dance or similar types of entertainment while removing clothing so as to eventually appear in a state of nudity or partial nudity.
- (b) *For-hire* shall mean being paid or receiving some form of remuneration for appearing as a stripper or exotic dancer in a home, business, or some other place where the stripper or exotic dancer does not regularly dance or provide similar entertainment, but does not include performances in any business or establishment lawfully providing adult entertainment as defined in section 7-1(a).
- (c) *Nudity* or *partial nudity* shall mean appearing in an undressed state ranging from complete exposure of genitals, buttocks, or the female breast to wearing some limited clothing such as g-strings, thong bikinis (top or bottom), pasties, or similar items designed to provide minimal coverage for those human body areas around and including the genitals, buttocks, or female breast.

(Ord. No. 807-98, § 1, 11-16-98; Ord. No. 723-02, § 50, 9-9-02)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 7-157. Violations.

It shall be a violation of this article for a licensee:

- (a) To engage in or take part in any specified sexual activities, as defined in section 7-1(f), when performing as a stripper or exotic dancer;
- (b) To engage in or take part in acts of prostitution or public indecency, as defined and proscribed in sections 38-156 through 38-158;
- (c) To perform as a stripper or exotic dancer so as to provide adult entertainment, as defined in section 7-1(a), in any area open to public view in a business or establishment not authorized to provide adult entertainment; and
- (d) To perform as a stripper or exotic dancer at any place, event or occasion where any individual viewing the performance is under the age of eighteen (18) years of age.

(Ord. No. 807-98, § 1, 11-16-98; Ord. No. 723-02, § 50, 9-9-02)

Secs. 7-158, 7-159. Reserved.

DIVISION 2. LICENSE*

***Cross references:** Licenses generally, Ch. 32.

Sec. 7-160. Required.

It shall be unlawful for any person to work as or be employed as a for-hire stripper or exotic dancer without first having obtained a license from the director of excise and licenses as provided in this division.

(Ord. No. 807-98, § 1, 11-16-98; Ord. No. 723-02, § 50, 9-9-02)

Sec. 7-161. Application.

(a) Application for a license under this article shall be made to the director upon forms to be provided by excise and licenses for that purpose.

(b) An application for a license for a for-hire stripper or exotic dancer shall contain the following information:

(1) Name, address, telephone number, date of birth, and any alias(es) of the applicant.

(2) If the applicant is engaged (as an employee or contractor) by a person or entity to provide for-hire stripper or exotic dancer services to third persons, the name(s), address, and telephone number of the person or entity engaging the applicant, along with the name of a manager or supervisor at any entity.

(3) A statement by the applicant as to whether a for-hire stripper or exotic dancer license or a similar license issued anywhere in the United States was revoked during the six-month period immediately preceding the date of the application.

(4) A statement by the applicant identifying any convictions or jail time served during the past five (5) years for criminal acts related to prostitution or public indecency, as defined and proscribed in sections 38-156 through 38-158.

(5) Acknowledgment by the applicant that a criminal background check on the individual (including fingerprinting and photographs) may be conducted.

(6) Such other information and documents as may be reasonably required by the director.

(c) Upon submission of a completed application and payment of all applicable fees, excise and licenses shall immediately issue a temporary license good for sixty (60) days, unless extended for good cause by the director or until rescinded by order of the director. No such temporary license shall be issued if a for-hire stripper or exotic dancer license held by the applicant has been revoked by excise and license during the past six (6) months.

(Ord. No. 807-98, § 1, 11-16-98; Ord. No. 723-02, § 50, 9-9-02)

Sec. 7-162. Fees.

Application and license fees under this division shall be as prescribed in section 32-75.5 of the Revised Municipal Code. No license application shall be reviewed or approved unless and until the prescribed fees have been paid.

(Ord. No. 807-98, § 1, 11-16-98; Ord. No. 723-02, § 50, 9-9-02)

Sec. 7-163. License issuance; grounds for denial.

(a) Within forty (40) days following the date a complete application and full payment of all required fees are received, the director shall complete his or her review and make a determination in accordance with this section.

(b) The director shall issue a license for a for-hire stripper or exotic dancer unless the director finds one (1) of the following:

(1) The applicant provided false or misleading information material to the issuance of the license or did not provide requested information material to the issuance of a license.

(2) The applicant is not at least eighteen (18) years of age as of the date of the application.

(3) The applicant has had a for-hire stripper or exotic dancer license or a similar license issued anywhere in the United States revoked during the six-month period immediately preceding the date of the application.

(4) The applicant has been convicted or released from confinement following conviction during the preceding five (5) years, anywhere in the United States, for acts of prostitution, public indecency, or substantially similar crimes. When considering such a criminal conviction, the director shall be governed by the provisions of C.R.S. § 25-5-101, as amended, pertaining to the effect of criminal convictions on employment rights.

(c) The license shall be issued or, if the application is denied, a written notification of this determination and the reasons therefor shall be provided or mailed to the applicant within five (5) calendar days of making the determination. If the application is denied and the applicant is holding a temporary license, the applicant may request, in writing, a thirty-day extension of the temporary license upon the applicant stating an intention to appeal the director's decision as provided in section 7-166. Upon receipt of this request, the director shall extend the temporary license for thirty (30) days from the date the temporary license is due to expire.

(Ord. No. 807-98, § 1, 11-16-98; Ord. No. 723-02, § 50, 9-9-02)

Sec. 7-164. Term; renewal.

(a) Any license for a for-hire stripper or exotic dancer issued under this division shall expire one (1) year from the date of issuance as specified on the license. It shall be unlawful for any licensee to work or be employed as a for-hire stripper or exotic dancer under any license that has expired.

(b) At least ten (10) days prior to expiration of a for-hire stripper or exotic dancer license issued under this division, a licensee seeking renewal of the license shall submit a complete renewal application, upon forms provided by excise and licenses, and make payment of the appropriate license fee as prescribed in section 32-75.5. A new license shall be issued unless the director determines that the license may be subject to suspension or revocation under section 7-165 below, in which case a temporary license shall be issued until a final determination is made in accordance with section 7-165 below.

(Ord. No. 807-98, § 1, 11-16-98; Ord. No. 723-02, § 50, 9-9-02)

Sec. 7-165. Suspension or revocation; notice; hearing.

(a) Upon consideration of the relevant facts and circumstances and subject to the requirements set forth in this section, the director may suspend or revoke a license issued under this division if the director determines that a licensee has violated:

- (1) Section 7-157; or
- (2) Section 7-163 by providing false or misleading information that resulted in the improper issuance of a license.

(b) In determining whether to impose a suspension or revocation, the director shall consider all pertinent aggravating and mitigating factors and make appropriate findings in support of his or her decision based on these factors and any other relevant facts or circumstances. The term of any suspension shall be for a period not to exceed six (6) months in duration, and a revocation shall specify a period of six (6) months from the date of revocation during which the licensee shall be barred from making any new application under this chapter.

(c) A licensee shall be entitled to a hearing before the director or a hearing officer designated by the director prior to any action being taken to suspend or revoke the license. The procedures are as follows:

- (1) Upon receipt of information and documentation sufficient to satisfy the director that suspension or revocation of a license may be warranted under this section, the director shall notify the licensee by certified mail, return receipt requested, of the alleged violations and shall direct the licensee to appear before the director or designated hearing officer on a specified hearing date, which shall be no sooner than ten (10) days and no later than thirty (30) days after the date of the notification. Failure to appear at the scheduled hearing or to arrange with the director for a rescheduling of the hearing for a date within thirty (30) days of the original date shall constitute a waiver of the right to hearing.

- (2) At the hearing, the licensee may be represented by legal counsel. The licensee shall have the right to present evidence or testimony on his or her behalf and to cross-examine any adverse witnesses. Testimony shall be presented only upon oath or affirmation. While no formal procedure shall be required, evidence and testimony will be admitted and considered based upon its probative value. The city or other complainant shall bear the burden of showing the alleged violation by a preponderance of the evidence. All proceedings in the hearing shall be recorded.

- (3) Within fifteen (15) days following the hearing, any designated hearing officer shall forward to the director a recommended decision regarding the alleged violations and recommended penalties for any violations proved. Copies of said recommended decision shall be sent by United States mail to the licensee, who must submit any comments or additional information to the director within ten (10) days of the date the recommended decision was mailed. The director shall prepare a final decision, along with a set of written findings and conclusions in support of the director's decision, and deposit the same in the United States mail to the licensee within fifteen (15) days from receipt of the recommended decision. If no hearing officer is involved, the director shall prepare and mail the decision, along with the findings and conclusions, within fifteen (15) days of the date of the hearing. All mailings will be sent to the licensee at the licensee's last known address and will be sent to any other parties requesting such notification.

- (4) Any suspension or revocation shall be effective upon the date specified in the final decision. A suspension or revocation may only be lifted by entry, and receipt by the

director, of a stay or restraining order issued by a court of competent jurisdiction and will remain lifted only so long as the stay or restraining order is in effect.

(d) It shall be unlawful for any licensee or other person to work or be employed as a for-hire stripper or exotic dancer under any license which has been suspended or revoked.

(Ord. No. 807-98, § 1, 11-16-98; Ord. No. 723-02, § 50, 9-9-02)

Sec. 7-166. Right of appeal.

Any final decision of the director of excise and licenses may be appealed by bringing an appropriate action, including a C.R.C.P. Rule 106(a)(4) appeal, in the state district court for the City and County of Denver. "Final decisions" are those determinations made by the director as provided in sections 7-163 and 7-165. Any appeal shall be filed with the district court clerk within thirty (30) days following the date the decision was deposited in the United States mail addressed to the applicant. No applicant shall be allowed to continue to perform as a for-hire stripper or exotic dancer upon expiration of any temporary license, or extension(s) thereof, issued under this division unless a stay or restraining order, as appropriate, is obtained from the court.

(Ord. No. 807-98, § 1, 11-16-98; Ord. No. 723-02, § 50, 9-9-02)

Secs. 7-167--7-175. Reserved.

ARTICLE VII. RESERVED*

***Editor's note:** Ord. No. 806-98, § 3, adopted Nov. 16, 1998, repealed Art. VII of this chapter, which pertained to billiard parlors, pool halls and bowling alleys. Formerly, such provisions consisted of §§ 7-176, 7-177, 7-186--7-188 and derived from §§ 914.1.1--914.1-5, 914.1-8 of the 1950 Code.

Secs. 7-176--7-200. Reserved.

ARTICLE VIII. RESERVED*

***Editor's note:** Ord. No. 806-98, § 4, adopted Nov. 16, 1998, repealed Art. VIII of this chapter, which pertained to roller skating rinks. Formerly, such provisions consisted of §§ 7-201--7-204, 7-211--7-216 and derived from §§ 912.2-1--912.10 and 912.11 of the 1950 Code as amended by Ord. No. 1110-96, § 1, adopted Dec. 16, 1996.

Secs. 7-201--7-225. Reserved.

ARTICLE IX. RESERVED*

***Editor's note:** Ord. No. 806-98, § 5, adopted Nov. 16, 1998, repealed Art. IX of this chapter, which pertained to miniature golf, golf driving courses. Formerly, such provisions consisted of §§ 7-226, 7-227, 7-236, 7-237 and derived from §§ 914.2-1--914.2-3 of the 1950 Code.

Secs. 7-226--7-245. Reserved.

ARTICLE X. RESERVED*

***Editor's note:** Ord. No. 806-98, § 6, adopted Nov. 16, 1998, repealed Art. X of this chapter, which pertained to shooting galleries. Formerly, such provisions consisted of §§ 7-256--7-259 and derived from §§ 914.3-1--914.2-4 of the 1950 Code.

Secs. 7-246--7-265. Reserved.

ARTICLE XI. RESERVED*

***Editor's note:** Ord. No. 806-98, § 7, adopted Nov. 16, 1998, repealed Art. XI of this chapter, which pertained to mechanical music devices. Formerly, such provisions consisted of §§ 7-266 and 7-281--7-283 and derived from §§ 914.4-1, 914.4-2, 914.4-4 and 914.4-6 of the 1950 Code.

Secs. 7-266--7-290. Reserved.

ARTICLE XII. TICKETS**Sec. 7-291. Diagram of seats sold or offered for sale to be displayed.**

Every person managing, conducting, or operating lawful exhibitions, athletic events, theatrical entertainments, motion picture theaters, or any and all other lawful amusements, shows, performances, or entertainments, to which the general public may gain admission by the payment of a fee or charge therefor, shall have marked and exhibited at the box office, ticket office, or other places where tickets are sold or offered for sale, at all times when such offices or other places are open for the sale or offering for sale of such tickets, a chart or diagram, plainly showing all the seats in such place and the price for which the same are to be sold; such chart or diagram shall, from time to time, as sales of reserved seats are made, be marked so as to show how many of the reserved seats have been sold for each event, entertainment, show, performance or exhibition for which tickets of admission thereto, of any kind, are then for sale.

(Code 1950, § 825.1)

Sec. 7-292. Marked to show price and date; notice of revocation.

(a) Every ticket of admission to any lawful exhibition, athletic event, theatrical entertainment, motion picture theater, or any and all other lawful shows, amusements, entertainments, or performances, to which the general public may gain admission by the payment of a fee or charge therefor, shall have conspicuously printed on its face the price thereof; the date for which the same is issued; the time of the commencement of said exhibition, athletic event, theatrical entertainment, motion picture or other show, amusement, entertainment, or performance; provided, however, that where a continuous performance is given during specified hours, it shall not be necessary to print the time of the commencement of any one (1) or more performances on any such ticket.

(b) On every such ticket, there shall also be printed a notice that such ticket is a revocable license and will not be recognized, honored, or received for admission to any such place if purchased from any broker, speculator, scalper, or other person at any price greater than the price printed thereon.

(Code 1950, § 825.2)

Sec. 7-293. Tickets bought at a premium void.

(a) It shall be unlawful for any person conducting, operating, or managing any lawful exhibition, athletic event, theatrical entertainment, motion picture theater, or any other lawful show, amusement, entertainment, or performance to which the general public may gain admission by the payment of a fee or charge therefor to recognize, honor, or receive, and every agent or employee thereof shall refuse to recognize, honor, or receive, any ticket of admission to such place, purchased from any broker, speculator, scalper, or other person, at a premium over the regular price, upon presentation of the same, if such person has knowledge of the unlawful purchase of such ticket.

(b) If any notation appears on any such ticket, whether printed, stamped, or written, whereby a sale or purchase at a premium is indicated, the same shall be considered prima facie evidence of an unlawful sale and purchase thereof.

(Code 1950, § 825.3)

Sec. 7-294. Sale of tickets at a premium unlawful.

(a) It shall be unlawful for any person to sell or offer to sell at a premium, or at a higher price than the price printed thereon, any ticket of admission to any lawful exhibition, athletic event, theatrical entertainment, motion picture theater, or any other lawful show, amusement, or performance to which the general public may gain admission by the payment of a fee or charge therefor.

(b) No person shall directly or indirectly sell, offer to sell, or consent to sell any such ticket of admission to any broker, speculator, scalper, or other person, regularly, occasionally, or incidentally engaged in the business of selling any such tickets of admission, or purchase such tickets of admission for resale at a price greater than that printed thereon.

(Code 1950, § 825.4)

Secs. 7-295--7-305. Reserved.

ARTICLE XIII. ESCORT SERVICES

DIVISION 1. GENERALLY

Secs. 7-306--7-316. Reserved.

DIVISION 2. LICENSE*

***Cross references:** Licenses generally, Ch. 32.

Sec. 7-317. State statute implemented.

All provisions of 1973 Colorado Revised Statutes 12-25.5-101 et seq., as amended or as the same may be hereinafter amended, pertaining to the licensing set forth in such statute for licensing of escort bureaus, escorts and escort bureau runners and the licensing thereof, be and hereby are implemented in the city.

(Ord. No. 484-80, § 1(916.1), 9-22-80)

Sec. 7-318. Local licensing authority.

The director of excise and licenses is hereby designated as the local licensing authority, as defined in 1973 Colorado Revised Statutes 12-25.5-101 et seq., as amended, and as the same may be hereinafter amended, for the purpose of implementing and enforcing the provisions of such statute within the city.

(Ord. No. 484-80, § 1(916.2), 9-22-80)

Sec. 7-319. Fees.

The license and application fees under this division shall be as prescribed in section 32-70.5.

(Ord. No. 484-80, § 1(916.3, 916.4), 9-22-80)

Sec. 7-320. Notice; posting; hearing.

In addition to the requirements contained in the Colorado "Escort Service Code," as amended or as the same may be hereinafter amended, all of the following provisions shall be complied with before any license for any escort bureau is issued or renewed:

(1) Upon receipt of an application for a new escort bureau license or an application for a renewal of an existing escort bureau license, the director of excise and licenses shall schedule a public hearing upon the application not less than forty (40) days from the date of receipt of the application. It shall be the duty of the director of excise and licenses to designate the neighborhood being affected by such application. The designation of the geographical extent and boundaries of such neighborhood shall be within the sole discretion of the director of excise and licenses.

(2) The director of excise and licenses shall require public notice to be given of all hearings by the posting of a notice of the public hearing, for a period of not less than ten (10) consecutive days, with the first posting to be not less than thirty (30) days in advance of the public hearing, in a conspicuous place on the premises from which the

escort bureau is proposed to be operated, legible from the public street or public way (other than an alley) nearest to such premises. This public notice shall state the type of license applied for, the name and address of the applicant, and the time when and place where a public hearing will be held on the application; provided that such posted notice of the public hearing shall be displayed on a sign or signs, in number, size and location as prescribed by the director of excise and licenses. In addition, the director of excise and licenses shall require public notice to be given of all hearings by publication in a newspaper of general circulation in the county not less than ten (10) days prior to such hearing.

(3) At the public hearing specified in the notice (whether it concerns a new license or a renewal of an existing license), evidence may be offered by the applicant and residents of the designated neighborhood (which term shall include residents of the neighborhood and all owners or managers of trading or commercial businesses located in the designated neighborhood) concerning the desires of residents of the designated neighborhood and the reasonable requirements of the designated neighborhood. Before granting any license (whether a new license or a renewal of an existing license), the director of excise and licenses shall also consider the effect the issuance of the license would have on either the health or welfare or morals of the designated neighborhood; and the character of the applicant and the applicant's directors, owners, officers, agents, servants and employees; and other pertinent matters affecting the qualifications of the applicant for the conduct of the business. Petitions may be offered at the public hearing concerning the desires of the residents of the designated neighborhood relating to the application in question.

(4) Notwithstanding any of the other provisions of this section, the director of excise and licenses may grant the renewal for an existing license without a public hearing. Prior to granting the renewal of an existing license without a public hearing, the director of excise and licenses shall consider the number of complaints, if any, received by the department of excise and licenses concerning the licensee. The director shall also consider all criminal and traffic charges filed against the licensee or the licensee's directors, owners, officers, agents, servants and employees; provided, however, that traffic charges shall only be considered if received in the course of operating the business of the licensee.

(5) Before granting any license (whether a new license or a renewal of an existing license), the director of excise and licenses shall consider all of the matters provided for in this section 7-320, and all of the provisions of the Colorado "Escort Service Code." The director of excise and licenses may refuse to grant any license for good cause, subject to judicial review. Except as otherwise specified herein, the admissibility of evidence, exhibits and petitions shall conform to the general rules of evidence. No application for the issuance of any such license shall be received or acted upon by the director of excise and licenses for any applicant if, within the two (2) years next preceding the date of application, the director of excise and licenses either denied an application or revoked an escort bureau license for the same applicant.

(6) In investigating the character of the applicant and the applicant's directors, owners, officers, agents, servants and employees, the director of excise and licenses may have access to criminal history record information furnished by criminal justice agencies. If this information is taken into consideration by the director of excise and licenses, the applicant can provide evidence of mitigating factors, rehabilitation, character references, and other factors pertinent to the consideration of his application.

(Ord. No. 565-84, § 1, 10-29-84)