

**TITLE 5**

**BUSINESS LICENSES AND REGULATIONS**

**Chapters:**

- 5.04 Alcoholic Beverages**
- 5.07 Tobacco products, vapor, or cigarettes**
- 5.08 Retail Sale of Cigarettes**
- 5.12 Peddlers, Solicitors and Transient Merchants**
- 5.14 Regulating Adult Entertainment Facilities**

**Chapter 5.04**  
**Alcoholic Beverages \***

Sections:

- 5.04.010 Purpose
- 5.04.020 Required Obedience to provisions of this Chapter and State Law
- 5.04.030 Action by Council
- 5.04.040 Transfers
- 5.04.050 Persons Under Legal Age
- 5.04.060 Establishments that sell alcohol

\* For statutory provisions regarding the sale and manufacture of beer and liquor, see Code of Iowa Ch. 123.

5.04.010 Purpose. The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer and liquor, for the protection of the safety, health, and general welfare of this community.

5.04.020 Required Obedience to Provisions of this Chapter and State Law. The following sections of the Iowa Code are hereby adopted by reference:

1. 123.2 and 123.3 General Prohibition and Definitions
2. 123.18 Favors from Licensee or permittee
3. 123.22 State Monopoly
4. 123.40 Liquor Control Licenses - Classes
5. 123.31 Application Contents
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9. 123.36 Liquor Fees - Sunday Sales
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11. 123.39 Suspension or Revocation of License or Permit-Civil Penalty
12. 123.40 Effect of Revocation
13. 123.44 Gifts of Liquors prohibited
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15. 123.49 Miscellaneous Prohibitions
16. 123.50 Criminal and Civil Penalties
17. 123.51 Advertisements for Alcoholic Liquor, Wine, or Beer
18. 123.52 Prohibited Sale
19. 123.90 Penalties Generally
20. 123.95 Premises Must be Licensed--Exception as to Conventions and Social Gatherings
21. 123.122 through 123.145 Beer provisions
22. 123.150 Sunday Sales Before New Year's Day
23. 123.171 through 123.182 Wine provisions

5.04.030 ACTION BY COUNCIL. The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The applicant, fee, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa alcoholic Beverages division for further action as provided by law.

5.04.040 TRANSFERS. The City Council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and the transfer will not result in the violation of any law or Ordinance. An applicant for a transfer shall file with the application for transfer proof of dram shop liability insurance covering the premises to which the license is to be transferred.

5.04.050 PERSONS UNDER LEGAL AGE.

The following section of the Iowa Code is hereby adopted by reference: 123.47(4)(a)(1).

Sections 5.04.030 through 5.04.050 adopted 1999 codification  
Section 5.04.050 amended per Ord. 20-2021.

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## **Chapter 5.07**

### **Tobacco products, vapor, or cigarettes**

Sections:

5.07.010 Persons Under Legal Age. The following section of the Iowa Code is hereby adopted by reference: 453A.2(2)

(Ord. 20-2021)

## Chapter 5.08

### Retail Sale of Cigarettes

#### Sections:

- 5.08.010 Definitions
- 5.08.020 Permit--Required--Display
- 5.08.030 Permit--Issuance Requirements
- 5.08.040 Permit--Expiration
- 5.08.050 Revocation-Suspension. Civil Penalty.
- 5.08.060 Permit--Transferability
- 5.08.080 Fees
- 5.08.090 Refunds

\* Cigarette provisions are contained in Chapter 453A of the Code of Iowa.

5.08.010 Definitions. The following words, terms, and phrase, when used in this chapter, shall for the purpose of this chapter, have the meanings respectively ascribed to them.

- A. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape, and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. Provided the definition herein shall not be construed to include cigars.
- B. "Place of business" is construed to mean and include any place where cigarettes are sold or where cigarettes are stored within or without the state of Iowa by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.
- C. "Retailer" shall mean and include every person in this state who shall sell, distribute, or offer for sale for consumption or possess for the purpose of sale for consumption, cigarettes irrespective of the quantity or the number of sales. (Ord. 42A-77 Sec.1, 1977, amend 1999)

5.08.020 Permit--Required--Display. No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. (Ord. 42A-77 Sec.2, 1977)

5.08.030 Permit--Issuance Requirements. The Council shall issue or renew a permit, upon a determination that such issuance or renewal will not be detrimental to public safety or morals, when a retailer who is not a minor has filed with the City Clerk a

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completed application on forms provided by the State Department of Revenue. The Council shall certify its action in issuing a permit to the State Department of Revenue. (Ord.42A-77 Sec.3, 1977, amended 1988 codification)

5.08.040 Permit--Expiration. Permits expire on June 30th of each year. (Ord. 42A-77 Sec.4, 1977)

5.08.050 Revocation—Suspension. Civil Penalty. Any permit issued under this chapter may be revoked, suspended or a civil penalty imposed pursuant to Section 453A, Iowa Code, which is hereby adopted by reference. (replaced 1999)

5.08.060 Permit--Transferability. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit changes their place of business, the Council, if it decides to issue a new permit to this person, shall not charge additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit. (Ord. 42A-77 Sec.8, 1977)

5.08.080 Fees. The fee for permits issued or renewed in July, August or September is \$75.00. The fee for permits issued in October, November or December is \$56.25; in January, February or March, \$37.50; and in April, May or June, \$18.75. (Added 1981 codification)

5.08.090 Refunds. A retailer may surrender an unrevoked permit in July, August or September for a refund of \$56.25; in October, November or December, for \$37.50; or in January, February or March, for \$18.75. (Added 1981 codification)

**Chapter 5.12**  
**Peddlers, Solicitors and Transient Merchants**

Sections:

- 5.12.010 Definitions
- 5.12.020 License Required
- 5.12.030 Religious and Charitable Organizations Exempt
- 5.12.040 Application--Investigation
- 5.12.050 Bond Required
- 5.12.060 Issuance
- 5.12.070 Display Required
- 5.12.080 Transferability
- 5.12.090 Refunds
- 5.12.100 Revocation
- 5.12.110 Expiration

5.12.010 Definitions. For use in this chapter the following terms are defined:

A. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.

B. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street an order for goods, subscriptions or merchandise to be delivered at a future date.

C. "Transient merchant" means any person, firm or corporation who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in name of, any local merchant, dealer, trader or auctioneer, shall not exempt any person, firm or corporation from being considered a transient merchant. (Ord. 41A-77 Sec.1, 1977)

5.12.020 License Required. Any person engaging in peddling, soliciting or in the business of a transient merchant in this City without first obtaining a license as provided in this chapter shall be in violation of this chapter. (Ord. 41A-77 Sec.2, 1977)

5.12.030 Religious and Charitable Organizations Exempt. Authorized representatives of religious and charitable organizations desiring to solicit money or to distribute literature shall be exempt from the operation of Sections 5.12.040 through 5.12.100. All such organizations shall be required to submit in writing to the City Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such

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activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor for his or her efforts and the amount thereof.

If the City Clerk shall find that the organization is a bona fide charity or religious organization he or she shall issue, free of charge, a license containing the above information to the applicant. (Ord. 41A-77 Sec.4, 1977)

5.12.040 Application--Investigation. An application in writing shall be filed with the City Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address, business address, if any, physical description, recent photograph, right thumbprint, and, be accompanied by a certificate that the applicant is in good health and free from contagious diseases, signed by a local physician. The application also shall set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business, and the length of time sought to be covered by the license. A fee of ten dollars shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein. (Ord. 41A-77, Ord 28-07)

5.12.050 Bond Required. The applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa. (Ord 28-07)

5.12.060 Issuance. If the City Clerk finds the application is made out in conformance with Section 5.12.040 and the facts stated therein are correct, he or she shall issue a license and charge the following fee. (Ord. 41A-77, Ord 28-07)

The cost of the license shall be:

- a. For one day - \$5
- b. For one week - \$10
- c. For up to six months - \$15
- d. For one year or major part thereof - \$25

5.12.070 Display Required. Each solicitor or peddler shall at all times while doing business in this City keep in his or her possession the license provided for in Section 5.12.050 and shall, upon the request of prospective customers, exhibit the license as evidence that he or she has complied with all requirements of this chapter. Each transient merchant shall display publicly his or her license in his or her place of business. (Ord. 41A-77, Sec.9, 1977)

5.12.080 Transferability. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application. (Ord. 41A-77 Sec.10, 1977)

5.12.090 Refunds. There will be no refund for the surrender of any license before the expiration of the full period for which it was issued. (Ord. 41A-77, Sec.11, 1977, amended 1988 codification)

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5.12.100 Revocation. The City Council, after notice and hearing, may revoke any license issued under this chapter where the licensee in the application for the license or in the course of conducting his or her business has made fraudulent or incorrect statements or has violated this chapter or has otherwise conducted his or her business in an unlawful manner. (Ord. 41A-77, Sec.12, 1977)

5.12.110 Expiration. All licenses granted under this chapter shall expire at six p.m. of the last day for which the license is issued. (Ord. 41A-77 Sec.13, 1977)

## Regulating Adult Entertainment Facilities

### Sections:

- 5.14.010 Purpose
- 5.14.020 Definitions
- 5.14.030 Location of Adult Entertainment Facilities
- 5.14.040 Exterior Display
- 5.14.050 Viewing Area
- 5.14.060 Adult News Racks
- 5.14.070 Display of License and Permit
- 5.14.080 Prohibited Employment of Minors
- 5.14.090 Illegal Activities on Premises
- 5.14.100 Inspection
- 5.14.110 License and Permit Fees
- 5.14.120 Adult Entertainment Facilities License
- 5.14.130 Adult Entertainment Employee Permit

5.14.010 PURPOSE. It is recognized that adult entertainment facilities have certain objectionable side effects which render these facilities incompatible with residential and family-oriented uses, when the adult facilities are located directly adjacent to such uses. This chapter seeks to ensure that residential and family-oriented uses and adult entertainment facilities will be located in separate and compatible locations.

5.14.020 DEFINITIONS. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. *Adult Entertainment Facilities* includes but is not limited to the following:
  - A. *Adult bookstore* means an establishment having as the primary portion of its stock in trade, books, magazines and other periodicals which are substantially devoted to the depiction of specified sexual activities and specified anatomical areas.
  - B. *Adult business* means any business or establishment where a specified sexual activity or specified anatomical area is displayed.
  - C. *Adult motel* means a motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

- D. *Adult movie theatre* means any theatre, arcade or similar establishment where and enclosed building or open air facility is used for presenting material in the form of motion picture film, video tape or similar means which is substantially devoted to the depiction of specified sexual activities and specified anatomical areas, for observation by persons therein.
  - E. *Adult news rack* means any coin-operated machine or device which dispenses material substantially devoted to the depiction of specified sexual activities and specified anatomical areas.
  - F. *Adult nightclub* means any club, cabaret, nightclub, bar, restaurant or similar establishment where an enclosed building or open air facility is used for live performances which are characterized by the exposure of specified sexual activities and specified anatomical areas, for the observation by persons therein.
  - G. *Adult entertainment cabaret* means a public or private establishment that is licensed to serve food and/or alcoholic beverages, which features topless dancers, strippers, male or female impersonators or similar entertainers.
  - H. *Body shop or model studio* means any public or private establishment which describes itself as a body shop or model studio; or where, for any form of consideration or gratuity, figure models who display “specified anatomical areas” are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, or where for any form of consideration or gratuity, nude and seminude dancing, readings, counseling sessions, body painting and other activities that present materials distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” are provided for observation by or communication to persons paying such consideration or gratuity.
2. *Specified anatomical area* means less than completely and opaquely covered human genitalia, mature human buttocks, and a mature human breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state – even if completely and opaquely covered.
  3. *Specified sexual activities* means any of the following conditions:
    - A. Human genitals in a state of sexual stimulation or arousal.

- B. Acts or representations of acts of human masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation.
- C. Fondling or erotic touching of human genitals, pubic region, buttock or female breast.
- D. Minors engaged in a prohibited sexual act or simulation of a prohibited sexual act.
- E. Excretory functions as part of or in connection with any activities set forth in subsections (A) through (D) of this definition.

5.14.030 LOCATION OF ADULT ENTERTAINMENT FACILITIES.

1. Prohibited Locations. No person, whether as principal or agent, clerk or employee, either alone or for any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own or operate any Adult Entertainment Facilities in the following locations:
  - A. In any residential area of the City, including upon any sidewalk abutting upon such residential area.
  - B. Within 2,000 feet of any residentially zoned or used property, or any property designated on the City's Comprehensive Plan as residentially oriented.
  - C. Within 2,000 feet of any parcel of real property upon which is located any of the following facilities:
    - (1) An elementary school, junior high or senior high school.
    - (2) A church, which conducts religious programs.
    - (3) Park or recreational facilities operated and improved by the City, County, County Conservation Board or State.
    - (4) Federal, State, County, City or special district governmental offices.
    - (5) Supermarket or convenience market primarily engaged in the sale of food or fuel.
    - (6) Restaurant, fast –food or food establishment catering to family trade.
  - D. Within 2,000 feet of any other adult entertainment facility, as defined herein. For the purpose of this section, *adult news rack*

means a single coin-operated device and not a machine with a double or triple dispensing capacity.

2. **Measurement of Distance.** The distance between any two adult entertainment facilities shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any adult entertainment facilities and any religious institution, school or public park, government office, supermarket, restaurant or any property designated for residential use or used for residential purposes shall be measured in a straight line, without regard for intervening structures, from the closest property line of the religious institution, school, public park, government office, supermarket, restaurant or property designated for residential use or used for residential purposes.
3. **Permitted Areas.** Adult Entertainment Facilities in the City of Epworth must be a permitted use in accordance with the provisions of the Zoning Code.

5.14.040 EXTERIOR DISPLAY. No adult entertainment facility shall be conducted in any manner that permits the observation of any material depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult entertainment facility. Furthermore, all on-site signage shall conform to all restrictions defined in the City of Epworth Code of Ordinances.

5.14.050 VIEWING AREA.

1. It is unlawful to maintain, operate or manage or permit to be maintained, operated or managed any adult theatre or arcade in which the viewing areas are not viewable from a continuous main aisle or are obscured by curtain, door, wall or other enclosure. For the purpose of this section, *viewing area* means the area where the patron or customer would ordinarily be positioned while watching the performance, picture show or film.
2. It is unlawful for more than one person at a time to occupy any individually partitioned viewing area or booth.
3. It is unlawful to create, maintain or permit to be maintained any holes or other openings between any two booths or individual viewing areas for the purpose of providing viewing or physical access between the booth or individual viewing areas.
4. The opening to the viewing area shall be from the main aisle.

5.14.060 ADULT NEWS RACKS.

1. Identification of News Racks. The owners of adult news racks shall have their names, addresses and telephone numbers clearly visible on each news rack located within the City. If the identification is not clearly visible, that shall be grounds for immediate impoundment of the news rack by the City.
2. Nonconforming uses. The provisions of this Code of Ordinances dealing with nonconforming uses are not applicable to the location of adult news racks existing on the effective date of the ordinance codified in this chapter, but thereafter the location of adult news racks shall be subject to the provisions of this Code of Ordinances.
3. Impoundment. Any Police Officer or Enforcement Officer of the City may impound an adult news rack found in violation of this chapter after the following actions:
  - A. A notice of violation has been affixed to the adult news rack stating the section of this chapter, which has been violated, and stating that the adult news rack will be impounded if the violation is not abated within seven (7) days.
  - B. A notice of violation has been sent by certified mail, return receipt requested, to the owner of the adult news rack as identified on the news rack, if readable, stating the section of this chapter which has been violated and stating that the adult news rack will be impounded if the violation in not abated within seven (7) days.
  - C. The violation has not been abated within seven (7) days after the posting of the notice of violation or the mailing of the certified letter, whichever occurs later.
  - D. The Police Department or other Enforcement Officer has presented to any magistrate affidavits or other evidence sufficient to show prima facie violation of the chapter.
  - E. A Magistrate has issued a written order permitting the impounding of the adult news rack pursuant to this chapter.
4. Filing of complaint. Whenever an adult news rack is impounded, a complaint for violation of 707.03 must be filed within fourteen (14) days of the impounding. If a final appeal able decision in such action is not rendered within sixty (60) days after the date of filing this action the complaint shall be dismissed; provided, however, no complaint shall be

dismissed because a final appeal able decision was not rendered within sixty (60) days of the filing of the action if the defendant named herein is responsible for extending the judicial determination beyond the allowable time.

5. Redemption after Impoundment. The person who provides sufficient proof of ownership of such adult news rack may have such news rack, together with all moneys, if any, impounded, returned immediately after the filing of the complaint for violation of Section 707.03 upon application to the Police Department or other Enforcement Officer. The person who provides sufficient proof of ownership of such adult news rack may have the contents of such news rack returned upon the date that a final appeal able decision in such action is rendered or upon the date the action is dismissed, upon application to the Police Department of the Enforcement Officer.
6. Minimal Distance Violations. It is recognized that adult news racks may be jostled or inadvertently moved minor distance by third persons with a resulting violation of the provisions of Section 707.03. Notwithstanding any other provision of this chapter, such minimal distance violation, not exceeding five (5) feet, shall not be constitute a violation of this chapter, and the City's Police Department or other Enforcement Officer shall notify the owner of the adult news rack by certified, return receipt requested, mail of the minimal distance requirements. Notwithstanding the provisions of the section, all adult news racks shall comply with the encroachment permit provisions of the Code of Ordinances.

#### 5.14.070 DISPLAY OF LICENSE AND PERMIT.

1. Every licensee shall display a valid license in a conspicuous place within the adult entertainment facility so that the same may be readily seen by persons entering the premises.
2. All persons required under this ordinance to obtain an adult entertainment employee permit pursuant to this ordinance must display on request during the hours of operation of such business and identification card provided by the city police department containing the legal name and date of birth of the employee.

5.14.080 PROHIBITED EMPLOYMENT OF MINORS. It shall be unlawful for any adult use licensee or his manager or employee to employ in any capacity within the adult entertainment facility any person who is not at least 21 years of age.

5.14.090 ILLEGAL ACTIVITIES ON PREMISES. No licensee or any officer, associate, member, representative, agent or employee of such licensee shall engage in any activity or

conduct or permit any other person to engage in any activity or conduct in or about the licensed premises which is prohibited by any ordinance of the city or law of the state or the United States.

5.14.100 INSPECTION.

1. An applicant or licensee shall permit mayor, the city administrator, the police department, fire department or any other designated agents to inspect the premises of the adult entertainment facility for the purpose of ensuring compliance with the law at any time it is occupied or open for business.
2. A person who operates an adult entertainment facility or his agent or employee violates this ordinance if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

5.14.110 LICENSE AND PERMIT FEES.

1. Adult Entertainment Facility License: The license fee for an adult entertainment facility establishment shall be one thousand five hundred dollars (\$1,500.00) per year, or any part thereof.
2. Employee Permit: The permit fee for any persons purporting to engage in the providing of goods or services to the public in connection with the adult entertainment facility shall be two hundred and fifty dollars (\$250.00) per year, or any part thereof.
3. Payment of Fees; Refunds: All fees are payable to the City Clerk's office upon application and are nonrefundable.

5.14.120 ADULT ENTERTAINMENT FACILITIES LICENSE.

1. Adult Entertainment Facility License Required. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of an adult entertainment facility, without first having obtained a separate license from the City.
2. Application for an Adult Entertainment Facility License. Any person desiring a license to operate an adult entertainment facility shall file a written application with the City Clerk's office on a form to be furnished by the City Clerk's office. The applicant shall accompany the application with a tender of the correct license fee, as provided in Section 707.11 and shall, in addition, furnish the following personal information concerning

the manager or other person principally in charge of the operation of the business:

- A. Name, complete residence address and residence telephone number, including area code.
- B. Written proof of age consisting of a birth certificate.
- C. Height, weight and color of hair and color of hair and eyes.
- D. Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application regarding the applicant's request for a license.
- E. The applicant shall keep and maintain liability insurance in an amount of at least one million dollars (\$1,000,000.00) and shall provide evidence of such insurance upon application for or renewal of each license.
- F. Written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct, with such declaration being duly dated and signed at the City Clerk's office.

3. Approval of Application.

- A. Upon receiving the application for an adult entertainment facility license, the mayor and/or designated agent shall preliminarily review the application and shall within fourteen (14) days refer the copies of such application to the city administrator, the police department, fire department, zoning department or any other designated agents.
- B. These officials and/or designated agents shall within 30 days inspect the premises proposed to be operated as an adult entertainment facility or, in case of the police department, conduct a background investigation of the applicant and all such officials shall make recommendations to the mayor and/or designated agent concerning the premises' and the applicant's compliance with the matters coming within the jurisdiction of the aforesaid officials and/or designated agents.
- C. Within ten days of receiving the recommendation of the aforesaid officials and/or designated agents, the mayor and/or designated agent will render his/her approval or denial of the application to the City Council. The City Council must give final approval prior to any issuance or denial of license.

4. Issuance or Denial of Adult Entertainment Facility License. The mayor and/or designated agent shall issue an adult entertainment license within ninety days (90) of receipt of the application, unless he/she finds the following:
  - A. The correct license fee has not been tendered to the City and, in the case of a check or bank draft, honored with payment upon presentation.
  - B. The operation, as proposed by the applicant, if permitted would not comply with all applicable laws, including, but not limited to, the City's zoning, building and health regulations.
  - C. The applicant has knowingly made any false, misleading or fraudulent statement of fact in the application for the permit or in any document required by the City in connection therewith.
  - D. The applicant has operated an adult entertainment facility and has had a license denied, revoked or suspended for any of the causes set forth in subsections (a) through (c) of this Section by the City or any other State or local agency.
  - E. The applicant principally in charge of the operation of the business is under twenty-one years (21) of age.
  - F. The applicant is a person who is not of good moral character and reputation in the community in which he/she resides.
  - G. The applicant has been convicted of any the following offenses, unless upon investigation the mayor and/or designated agent finds that such convictions occurred at least ten years (10) prior to the date of the application, that the applicant has had no subsequent convictions and has shown evidence of rehabilitation sufficient to warrant the public trust:
    - (1) A felony under federal laws or the laws of this or any other state.
    - (2) Prostitution, soliciting for a prostitute, pandering, keeping a place of prostitution, patronizing a prostitute, pimping, obscenity, selling harmful material or having a tie in the sale of obscene publications to distributors, under the laws of this state or equivalent laws or codes of the United States or any other state or city, or any other crime or misdemeanor opposed to decency and morality.

H. The City Council has denied the license.

5. License Administration.

A. Term of License.

- (1) Each license shall be issued for one year beginning January 1 and said license will expire on December 31 after it was issued and may be renewed only by making application as provided in this ordinance. Application for renewal shall be made to the City Clerk at least thirty days (30) before the expiration date and when made less than thirty days (30) before the expiration date, the expiration of the license will not be affected.
- (2) If the mayor and/or designated agent deny renewal of a license, the applicant shall not be issued a license for one year (1) from the date of denial. If, subsequent to denial, the mayor and/or designated agent find that the basis for denial of the license has been corrected or abated, the applicant may be granted a license.

B. Suspension.

- (1) The mayor and/or designated agent may suspend a license for a period not to exceed ninety days (90) if, after a hearing pursuant to subsection (5)(F) hereof, it determines that a licensee or an employee of a licensee:
  - a. Violated or is not in compliance with any section of this article;
  - b. Refused to allow an inspection of the adult entertainment facility premises as authorized by this article; and/or,
  - c. Knowingly permitted gambling by any person on the adult entertainment facility premises.
- (2) If the licensee or an employee of the licensee has been found guilty in a court of law or under the city's code hearing procedures, of a violation of this ordinance, no hearing is necessary prior to suspension of the license under this subsection.

C. Revocation.

- (1) The mayor and/or designated agent shall revoke a license without a hearing provided by subsection (5)(F) hereof, if a

cause of suspension in subsection (5)(B) above occurs and the license has been suspended within the preceding twelve (12) months, or if the licensee is convicted of any specified criminal activity.

(2) The mayor and/or designated agent shall revoke a license if it determines, after such a hearing, that a licensee or an employee of a licensee:

- a. Gave false or misleading information in the material submitted during the application process;
- b. Has knowingly allowed possession, use or sale of a controlled substances on the premises;
- c. Has knowingly allowed prostitution on the premises;
- d. Knowingly operated the adult use during a period of time when the licensee's license was suspended;
- e. Has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensee premises;
- f. Is delinquent in payment to the city, county or state for any taxes or fees past due;
- g. Has knowingly or intentionally facilitated another in the commission of the offense of public indecency.

(3) If the mayor and/or designated agent revoke a license, the revocation shall continue for one year (1) and the licensee shall not be issued an adult entertainment facility license for one year (1) from the date the revocation became effective. If subsequent to revocation, the mayor and/or designated agent find that the factual basis for the revocation did not occur, the applicant may be granted a license.

(4) After denial of an application, or denial or a renewal of an application, or suspension or a revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction.

D. Transfer of license. A licensee shall not transfer his/her license to another nor shall a licensee operate an adult entertainment facility under the authority of a license at any place other than the address on the license.

- E. Business records. The mayor and/or designated agent may direct an adult entertainment facility establishment to file a verified report with the city showing the licensee's gross receipts and amounts paid to employees during the preceding calendar year. In addition, all adult entertainment facilities shall maintain and retain for a period of five years (5) the names, addresses and ages of all persons employed, including independent contractors, by the licensee.
  - F. Hearing. Upon a written allegation that licensee has violated any provision of this article, the licensed premises shall immediately suspend all business pending a hearing conducted by the mayor and/or designated agent upon seven days (7) notice to the licensee; provided, however, that no hearing shall occur later than fifteen days (15) days from the date of suspension of business operations.
6. Adult Entertainment Facilities—Restrictions. All dancing and other performances shall occur on a stage intended for that purpose which is separate and apart from the general public and unobstructed from all horizontal views within the building. No dancing or other performances shall occur closer than three feet (3) to any patron. In addition, no performer shall fondle, caress or otherwise touch any patron and no patron shall fondle, caress or otherwise touch any performer. No patron shall directly pay or give any gratuity to any performer and no performer shall solicit any pay or gratuity from any patron. Gratuities may be indirectly given to performers by placing the gratuity on the stage.
7. Hours of Operation. No adult entertainment facility shall be open for business between 1:00 AM and 1:00 PM, seven days (7) per week.

#### 5.14.130 ADULT ENTERTAINMENT EMPLOYEE PERMIT

- 1. Required; Application; Issuance; Term.
  - A. Any person, including but not limited to a licensee and a performer, who actually engages in the providing of goods or services to the public in connection with the adult entertainment facility shall file an application for an adult entertainment employee permit with the police department upon a form provided by the police department and shall tender the correct permit fee, as provided in Section 707.11 to the City Clerk who shall issue a receipt which shall be attached to the application filed with the police department.

- B. The application for an adult entertainment employee permit shall contain substantially the same information as the application for an adult entertainment facility license under 707.12 of this ordinance, except for personal information concerning the manager or other person principally in charge of the operation of the business and the keeping and maintenance of liability insurance.
- C. The mayor, city administrator, police chief, and/or designated agents may issue an adult entertainment employee permit within fourteen days (14) following the application, unless he/she finds that the applicant would not have been eligible for an adult entertainment permit under the terms of Section 707.12(4) of this ordinance.
- D. Every adult entertainment employee permit issued pursuant to this Section will terminate at the expiration of one year from the date of its issuance and/or from the date the employee is no longer employed with the adult entertainment facility licensee, which ever come first unless sooner revoked.

2. Revocation or Suspension.

- A. Any adult entertainment employee permit may be revoked or suspended by the mayor and/or designated agent if the mayor and/or designated agent shall find the following:
  - (1) That the permittee has violated any of the provisions of this ordinance regulating adult entertainment facilities.
  - (2) The permittee has knowingly furnished false or misleading information or withheld relevant information on any application for any license or permit required by this ordinance or knowingly caused or suffered another to furnish or withhold such information on his/her behalf.
- B. Any adult entertainment employee permit shall be revoked by the mayor and/or designated agent if the mayor and/or designated agent shall find that the permittee has committed any of the offenses listed in Section 707.12(4) of this ordinance.
- C. The mayor and/or designated agent in revoking or suspending an adult entertainment employee permit shall give the permit holder written notice specifying the grounds therefore. Such person may within ten (10) days of such revocation or suspension file a written request with the mayor and/or designated agent for a public hearing before the mayor and/or designated agent at which time the permittee may present evidence bearing upon the question.

- D. The mayor and/or designated agent may in his/her discretion conduct such hearing concurrently with a hearing pursuant to Section 707.12(5) of this ordinance for the adult entertainment facility license, unless it shall appear that such a joint hearing would prejudice the rights of the licensee or the permittee involved.
3. Licensee's Duty to Ensure Employees have Permits. It shall be the responsibility of the licensee for the adult entertainment facility or the employer of any persons purporting to engage in the providing of goods or services to the public in connection with the adult entertainment facility to ensure that each such person shall first have obtained a valid adult entertainment employee permit pursuant to this ordinance.
4. Transfer of Permit. A permittee shall not transfer his/her permit to another nor shall a permittee operate under the authority of a permit at any place other than the address on the application.
5. Employee Permit Restrictions. All permittees must be fully clothed while off the dance floor and/or stage and while amongst the patrons. Furthermore, all permittees must wear no less than G-strings and pasties while on the dance floor and/or on the stage. Pasties are not to be seen through.

(Ord. #16-08)

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