

**CHAPTER 7**

**BUSINESS CODE**

**ARTICLE I - ADMINISTRATION**

**7-1-1            APPLICATIONS.**

(A) Applications for all licenses and permits required by this Chapter shall be made in writing to the City Clerk in the absence of provision to the contrary.

- (B) Each application shall contain:
- (1) the name of the applicant;
  - (2) the permit or license desired;
  - (3) the location to be used, if any;
  - (4) Zoning district, if any;
  - (5) the time covered; and
  - (6) the fee to be paid.

(C) Each application shall also contain the number the Certificates of Registration required under the Retailer's Occupation Tax Act, Service Occupation Tax Act, and/or Use Tax Act, if applicable. Each application shall contain such additional information as may be needed for the proper guidance of the municipal officials in the issuing of the license or permit applied for.

**7-1-2            PERSONS SUBJECT TO LICENSE.** Whenever a license or permit is required in

this Code or in any municipal ordinance for the maintenance, operation, or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person, firm, or corporation shall be subject to the requirement if by himself or itself, or through an agent, employee or partner, he or it is held forth as being engaged in the business, activity or occupation, or if he or it solicits patronage therefor actively or passively; or if he or it performs or attempts to perform any part of such business, activity or occupation in this Municipality.

**7-1-3            FORM OF LICENSE.** Every license shall be signed by the Mayor and attested by

the Clerk under the corporate seal, and no license shall be valid until signed and countersigned as aforesaid, nor shall any person be deemed to be licensed until the same shall have been issued to him in due form.

**7-1-4            INVESTIGATIONS.**

(A) Upon the receipt of an application for a license or permit, where an investigation or inspection is required by ordinance before the issuance of such permit or license, or where an inspection or investigation shall be deemed reasonably necessary or appropriate, the Clerk, within **forty-eight (48) hours** shall refer the application to the appropriate official(s) for the making of such investigation or inspection.

(B) The official(s) to whom the application has been referred shall make a report thereon, favorable or otherwise within **ten (10) days** after receiving such application or a copy thereof.

(C) The Chief of Police or the County Health Department shall make or cause to be made an inspection regarding such permits and licenses as relate to the care and handling of food, the prevention of nuisances and the spread of disease, and the protection of health. **[If a Zoning Code is in effect, the Zoning Administrator shall make or cause to be made any inspections which relate to compliance with the Zoning Code and other related regulations.]** All other investigations, except where otherwise provided, shall be made by the Chief of Police or by some other officer designated by the Mayor.

(D) Upon receipt of all related investigative reports, the Clerk shall forward such reports, together with the application, to the Mayor for evaluation and determination.

(E) If it shall appear to the Mayor that the matters and circumstances relating to an application require further information before a proper determination can be made, such application shall be returned to the Clerk for the inclusion of such additional information as may be specified necessary and appropriate.

(F) If, after due consideration of the information contained with the application and the related investigative reports, the Mayor shall determine that the matters concerning the application are unsatisfactory, he may disapprove such application, indicating the reasons therefor. Thereupon, the Clerk shall be directed to promptly notify the applicant that his application is disapproved and that no license or permit will be issued.

(G) If, after due consideration of the information contained within the application and the related investigative reports, the Mayor shall determine that the application is satisfactory, he shall approve the application. Thereupon, the Clerk shall be directed to promptly notify the applicant that his application is approved and the license or permit may be issued.

**7-1-5 FEES.** In the absence of provision to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the Clerk in the amounts prescribed by the corporate authorities. When an applicant has not engaged in the business or activity until after the expiration of the current license year, the license fee shall be prorated by quarters and the fee paid for each quarter or fraction thereof during which the business or activity has been or will be conducted. Except as otherwise provided, all license and permit fees shall become a part of the corporate fund. In no event shall any rebate or refund be made of any license or permit fee, or part thereof, by reason of death or departure of the licensee or permittee; nor shall any rebate or refund be made by reason of non-use of the license or discontinuance of the operation or conduct of the licensed establishment, business or activity.

(A) **Delinquent Payment of City Debt.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purpose of this Section, "licensee" shall refer to the license applicant, its officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-17; 05-10-04)**

**7-1-6 TERMINATION OF LICENSES.** All annual licenses shall be operative and the license year for this Municipality shall commence on **May 1<sup>st</sup> of each year** and shall terminate on **April 30<sup>th</sup>** of the following year, where no provision to the contrary is made.

The Clerk shall notify all licensees of this Municipality of the time of expiration of the license held by the licensee (if an annual), **three (3) weeks** prior to the date of such expiration. Provided, however, that a failure to make such notification or the failure of the licensee to receive it shall not excuse the licensee from the obligation to obtain a new licensee or a renewal thereof, nor shall it be a defense in an action based upon operation without a license.

**7-1-7 BUILDING AND PREMISES.** No license shall be issued for the conduct of any business, and no permit shall be issued for any purpose or activity, if the premises and building to be used for the purpose do not fully comply with all applicable ordinances and regulations of this Municipality and the State of Illinois. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of this Code and/or other applicable regulations of this Municipality. **(See Chapter 40 - Zoning Code)**

**7-1-8**            **CHANGE OF LOCATION.** The location of any licensed business or occupation, or the location of any permitted act may be changed, provided that **ten (10) days** notice thereof is given to the Clerk, in the absence of any provision to the contrary; provided further, however, that all applicable ordinances and regulations of this Municipality shall be complied with. **(See Chapter 40 - Zoning Code)**

**7-1-9**            **LOCATION.** No license for the operation of a business or establishment in this Municipality shall be construed to permit the operation of a licensed business or establishment in more than **one (1) location** in this Municipality; a separate license shall be required for each location of a licensed establishment. For the purpose of this Code, the existence of a single location shall be evidenced by the fact that all buildings containing the principal or accessory uses shall be connected or shall be located on the same lot or parcel; shall be operated and managed by the same person or owner; and shall be an establishment with the same classification.

**7-1-10**            **NUISANCES PROHIBITED.**

**7-1-10.1**        **GENERALLY.** No business or establishment, whether licensed or not, shall be so conducted or operated as to constitute a nuisance in fact, and no building, vehicle or structure, yard, lot, premises or part thereof shall be used, kept, maintained, or operated in connection with any business or establishment so as to occasion any nuisance or so as to be dangerous to life or detrimental to health.

**[ED. NOTE: The County Health Department should be consulted.]**

**7-1-10.2**        **UNSAFE OR UNHEALTHFUL BUSINESS.**

(A)                No building or structure utilized, constructed or maintained in connection with any business or occupation shall evidence an unsanitary, unsafe or dangerous condition.

(B)                No substance, matter or thing of any kind whatsoever, which would be dangerous or detrimental to health, shall be allowed to exist in connection with any business or occupation, or be used in any work or labor performed in this Municipality.

**7-1-11**            **WORKING CONDITIONS.**

**7-1-11.1**        **HEALTH REQUIREMENTS.** No owner, lessee, manager, or superintendent of any store, factory, workshop or other place where persons are employed shall cause or permit such place or any room or part thereof to be overcrowded or inadequate or faulty in respect to light, ventilation, heat or cleanliness.

**7-1-11.2**        **SANITATION.** All such places of employment shall be kept in a clean condition, free from effluvia of a sewer, drain, privy, stable or other nuisance(s); also as far as practicable, such premises shall be free from all gases, vapors, dust, or other impurities generated by manufacturing processes or otherwise which are injurious to health. Sufficient washroom facilities for male and female employees shall be provided and such facilities shall be properly ventilated.

**7-1-11.3**        **HEAT REQUIRED.**

(A)                It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any factory or workshop to maintain a temperature within such factory or workshop of not less than **sixty-two degrees Fahrenheit (62°F.)** without such undue restriction of ventilation as to interfere with proper sanitary conditions therein; provided, however, that this requirement shall not apply to any factory or workshop where the business conducted therein is of such a nature that a higher or

lower temperature than **sixty-two degrees Fahrenheit (62°F.)** is necessary or expedient for the work or manufacturing processes of such business.

(B) It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any office, store, or other place of employment to maintain a temperature therein of not less than **sixty-two degrees Fahrenheit (62°F.)**, without such undue restriction of ventilation as to interfere with proper sanitary conditions therein during normal working hours.

**7-1-11.4**     **INSPECTION.** The Mayor or the Chief of Police shall visit or cause to be visited all places of employment in this Municipality as often as they shall deem necessary to assure compliance with the provisions of this Section, and to have such arrangements made as may be deemed necessary for the health and safety of the employees.

**7-1-12**     **INSPECTIONS.**

(A) Whenever inspections of the premises for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation of this Municipality, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto, for the purpose of making the inspection, any officer or employee of this Municipality who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested.

(B) Whenever an analysis of any commodity or material is reasonably necessary to assure compliance with the provisions of any ordinance or regulation, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to give to any duly authorized officer or employee of this Municipality requesting the same, sufficient samples of such material or commodity for such analysis upon official request.

(C) In addition to any other penalty which may be provided, the Mayor may revoke the license of any owner or operator of a licensed business in this Municipality who refuses to permit any duly authorized officer or employee to make such inspection or to take adequate sample(s) of said commodity, or who interferes with such officer or employee while in the performance of his duties; provided, however, that no license shall be subject to revocation for such cause unless such officer or employee has been refused permission to enter upon the premises in the name of this Municipality after having first presented a warrant authorizing such entry.

**7-1-13**     **SUSPENSION, REVOCATION OF LICENSE OR PERMIT.**

**7-1-13.1**     **NUISANCE.** When the conduct or operation of any business or establishment, whether or not licensed, shall constitute a nuisance in fact and a clear and present danger to the public health, safety or general welfare, the Mayor shall be authorized to summarily order the cessation of business, the closing of the premises, and the suspension of any license or permit for a period not to exceed **ten (10) days.**

**7-1-13.2**     **HEARING.** Within **eight (8) days** after he has so acted, the Mayor shall call a hearing for the purpose of determining whether or not the license or permit should be revoked.

**7-1-13.3**     **REVOCATION.** Licenses and permits issued in this Municipality, unless otherwise provided, may be revoked by the Mayor after notice and hearing as provided in **Subsections 7-1-13.4 and 7-1-13.5** of this Section for any of the following causes:

(A) Any fraud, misrepresentation or false statement contained in the application for the license or permit;

- (B) Any violation by the licensee or permittee of Code provisions relating to the license or permit, the subject matter of the license or permit, or the premises occupied;
- (C) Conviction of the licensee or permittee of any felony or of a misdemeanor involving moral turpitude;
- (D) Failure of the licensee or permittee to pay any fine or penalty owed to this Municipality;
- (E) Refusal to permit an inspection or sampling, or any interference with a duly authorized officer or employee in the performance of his duties in making such inspections, as provided in **Section 7-1-12.**

Such revocation, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable Code regulations of this Municipality.

**7-1-13.4 HEARING NOTICE.** Notice of the hearing for revocation of a license or permit shall be given in writing setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be sent by certified mail [return receipt requested] to the licensee or permittee at his last known address at least **five (5) days** prior to the date set for the hearing.

**7-1-13.5 COUNSEL.** At the hearing, the attorney for the Municipality shall present the complaint and shall represent the Municipality. The licensee or permittee shall be permitted counsel and shall have the right to submit evidence and cross-examine witnesses. The Mayor shall preside and shall render the decision.

**7-1-14 APPEAL.** Any person aggrieved by the decision of the Mayor regarding the denial of an application for a business license as provided in **Section 7-1-4** or in connection with the revocation of a license or permit as provided in **Section 7-1-13** shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the Clerk, within **ten (10) days** after notice of a denial of an application or a revocation of a license or permit, a written statement under oath setting forth specifically the grounds for appeal. The Mayor shall thereupon set the time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant or licensee or permittee in the same manner as provided in **Section 7-1-13** hereof. The decision of the City Council on such appeal shall be final.

**7-1-15 LICENSE TO BE POSTED.** It shall be the duty of every person conducting a licensed business in this Municipality to keep his license posted in a prominent place on the premises used for such business at all times.

**7-1-16 PRODUCE: EXCLUSIONS.** Nothing contained in this Chapter shall be construed as to require any person engaged in the sale of fruits, vegetables, or other foods for human consumption grown on the premises occupied by him or her should obtain any permits required by this Chapter. It shall be unlawful for any person who offers for sale any such food product on his or her own premises anywhere within the corporate limits of the City. (**Ord. No. 1274; 08-13-90**)

**ARTICLE II – TRANSIENT, MERCHANTS, ITINERANT VENDORS AND SOLICITORS**

**DIVISION I – DEFINITIONS**

**7-2-1**            **DEFINITIONS.** The following words and phrases, when used in this Chapter shall have the meanings respectfully ascribed to them by this Section, unless specified otherwise:

**“GARAGE AND YARD SALES”** means any sale conducted in any residential district where tangible personal property is offered for sale in or out of any building or structure.

**“GOODS, WARES OR MERCHANDISE”** means any tangible personal property which is normally used for personal, family or household purposes.

**“ITINERANT VENDOR”** means any person who transports tangible personal property for retail sale within this City who does not maintain in this City an established office, distribution house, sales house, warehouse, service center or residence from which such business is conducted. However, this Chapter does not apply to any person who delivers tangible personal property within this City who is fulfilling an order for such property which was solicited or placed by mail or other means. This Chapter does not apply to any person holding a valid license, nor does this Chapter apply to pushcarts or pushcart operations, which are provided for in Chapter 8 of this Title.

**“PERSON”** means any individual, corporation, partnership, trust, firm, association or other entity.

**“SOLICITOR”** means any person who goes from one residential unit or business to another for the purpose of:

- (A)            seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, insurance, or services of any kind for any kind of consideration;
- (B)            seeking to obtain subscriptions to books, magazines, periodicals, newspapers, or other type or kind of publication or;
- (C)            selling goods, products or merchandise.

**“TRANSIENT MERCHANT”** means any person who is engaged temporarily in the retail sale of goods, wares or merchandise in this City and who, for the purpose of conducting such business, occupies any building, room, vehicle, structure of any kind, vacant lot, or parcel of property. However, this Chapter does not apply to any person selling goods, wares or merchandise which are raised, produced or manufactured by him, to any person selling vegetables, fruit or perishable farm products at an established City market, to any person operating a stand or booth on or adjacent to property owned by him or upon which he resides, or to any person operating a stand or booth at a trade show, exposition, convention or similar event.

**7-2-2 - 7-2-3**            **RESERVED.**

## DIVISION II – TRANSIENT MERCHANTS AND ITINERANT VENDORS

**7-2-4**      **LICENSE REQUIRED.**

(A)      **License Required.** It is unlawful for any person, either as principal or agent, to conduct business as a transient merchant or itinerant vendor in this City without first having obtained a license and complying with the requirements of the Retailers' Occupation Tax Act by obtaining a certificate of registration. A license may be obtained by filing a written license application with the City Clerk's office no less than **ten (10) business days** in advance of the proposed activity. **(35 ILCS 120/1 et seq.)**

(B)      **Contents of Application.** The applicant shall complete a license application which shall include the following:

- (1) The name, residence, telephone number and driver's license number of the individual applying for the license;
- (2) The address of the principal place of business, which must include a street address of the applicant and a telephone number;
- (3) If the applicant is employed by another person or entity, the name of the employer, his residence address(es) and telephone number, and if the applicant is a corporation, the residential address, phone numbers and driver's license number of each corporate officer;
- (4) The location at which the applicant intends to sell his goods, wares or merchandise and the dates such sales will take place;
- (5) The nature of the business to be conducted;
- (6) A copy of the applicant's certificate of registration under the Retailers' Occupation Tax Act, **35 ILCS 120/1 et seq.**;
- (7) The type of goods, wares or merchandise to be sold or offered for sale;
- (8) A complete inventory of the goods the applicant shall offer for sale;
- (9) A list of all licenses to conduct business as a transient merchant or an itinerant vendor obtained by the applicant in this State in the **twelve (12) months** preceding the filing of the application;
- (10) Whether the applicant has been convicted of a criminal offense or ordinance violation (other than traffic or parking offenses) in any jurisdiction and, if so, a list of such convictions with date and prosecuting jurisdiction;
- (11) The names and addresses of any individuals or business enterprises expected to participate in the business. Any new individuals or business enterprises added after the submission of the application must be submitted to the City Clerk within **twenty-four (24) hours**;
- (12) If a vehicle is to be used, a description of the same, together with the license number or other means of identification;
- (13) The State and Federal tax identification numbers of the applicant and any individuals or business enterprises expected to participate in the business; and
- (14) If a food and drink license is required by the Franklin County Health Department, a copy of said license. Providing false information or failure to complete the application will result in the denial of the license.

(C)      **Surety Required.** The applicant shall file with the City Clerk's office the application, along with a surety bond issued by an insurance company having authority to do business in Illinois or a cash deposit. The amount of the bond or deposit shall be equal to **fifty percent (50%)** of the wholesale value of the merchandise that the applicant shall offer for sale; however, the amount of the bond or deposit shall not be less than **One Thousand Dollars (\$1,000.00)** nor more than **Ten Thousand Dollars (\$10,000.00)**.

(D)      **Surety Held by State.** The City Clerk's office shall transfer the deposit or bond to the office of the Illinois Attorney General within **fourteen (14) days** after the applicant ceases to do

business within the City and the Illinois Attorney General shall hold such deposit or bond for **two (2) years** as set forth in the Transient Merchant Act adopted by the General Assembly.

(E) **Term of License.** Any licensee issued pursuant to this Section shall run from **May 1** through **April 30** of each fiscal year. A license application fee of **One Hundred Dollars (\$100.00)** shall be required at the time of application in the form of cash, certified check or money order from any person wishing to conduct business as either a transient merchant or itinerant vendor. The license application fee shall not be refunded if the license is denied.

(F) **Granting of License.** A license to conduct business under this Article may be granted to a corporation, partnership or firm. Such a corporation, partnership or firm may use more than one agent or employee in conducting business within this City under the same license. However, in such cases, this Section shall not be construed to authorize more than one agent or employee to conduct business at one and the same time. If a corporation, partnership or firm wishes to have more than one agent or employee to conduct business at one and the same time, multiple licenses under this Article will be required.

**7-2-5 STANDARDS FOR LICENSE ISSUANCE.**

(A) **Investigation of Applicants.** Within **two (2) business days** of receipt of a completed license application, the City Clerk shall cause copies thereof to be sent to:

- (1) The Chief of Police or the Chief of Police's designee who shall cause an investigation to be made as to the applicant's criminal record, if any, and compliance with all applicable laws and ordinances of the State and the City.
- (2) The Zoning Administrator or the Zoning Administrator's designee who shall review the application for compliance with this Code.
- (3) The City Treasurer shall examine the City's records to determine if the applicant owes any outstanding fee, fine or other amount to the City. No license shall be issued to any applicant who has unpaid fines, fees, or other financial obligations outstanding with the City. Any applicant having unpaid fines or other fees owed the City for any purpose shall bring those accounts current prior to the issuance of a registration certificate.

These Departments shall report back to the City Clerk's office within **ten (10) business days** whether the application is in accordance with applicable provisions of this Code.

**(225 ILCS 465/1 et seq.)**

(B) **Additional Information.** Applicants shall cooperate with such investigation and furnish such additional information as may be reasonably requested in furtherance of said investigation.

**7-2-6 DENIAL OF LICENSE.** Upon receipt of the information provided by the City departments in relation to the application, the City Clerk shall cause the license to be issued within **five (5) business days**, unless the applicant is determined to be unfit to hold a license in the City in accordance with the provisions of the "License Denial" provision of this Chapter.

**7-2-7 DENIAL OF LICENSE.** If any of the following factors have been committed, the application for the license shall be denied:

- (A) Any of the material statements made in the application to be false;
- (B) The applicant has been charged with or received a disposition of guilt either through supervision, probation or conviction for any offense involving theft, burglary, fraud, bribery or moral turpitude under the laws of the State of Illinois, of any other state, or of the United States within **five (5) years** of the date of application;



(C) The applicant or his employer has had a previously issued license under this or a similar article revoked by the City or by any other municipality within **five (5) years** of the date of the application;

(D) The applicant or his employer has been convicted of violating any provisions of this Article within **five (5) years** of the date of application;

(E) The applicant has not secured a food and/or drink license, if required, from the Franklin County Health Department;

(F) The applicant has outstanding debt with the City. The City Clerk shall deny the license application and shall provide written notification of such denial to the applicant in person or by first class mail.

**7-2-8 REVOCAION OF LICENSE.**

(A) **Grounds for Revocation.** A license issued hereunder shall be revoked by the City Clerk, or the City Clerk's authorized representative, if the holder of the license:

(1) Has violated any of the provisions of this Chapter, the laws of the State, or the ordinances of the City while engaged in the business of a transient merchant or itinerant vendor;

(2) The applicant has been charged with or received a disposition of guilt either through supervision, probation or conviction for any offense involving theft, burglary, fraud, bribery or moral turpitude under the laws of the State of Illinois, of any other state, or of the United States within **five (5) years** of the date of application;

(3) Has knowingly furnished false or misleading information or withheld relevant information on any application for license or in investigation into any such license;

(4) Has engaged in fraud, misrepresentation or false statements in the course of carrying out his business as a transient merchant or itinerant vendor;

(5) Has conducted his business as a transient merchant or itinerant vendor in an unlawful manner or in such a manner as to constitute a breach of the peace or as to constitute a menace to the health, safety or general welfare of the public;

(6) No longer has a valid licensee's bond, as provided for in this Chapter.

(B) **Notice.** Immediately upon such revocation, written notice shall be given by the City Clerk or the City Clerk's authorized representative to the license holder, in person, or by first class mail addressed to the applicant's address set forth in the license application. Such notice shall state the action taken and the reasons supporting such action. Immediately upon the delivery or mailing of such notice, the license shall become null and void.

**7-2-9 APPEAL OF LICENSE DENIAL OR REVOCATION.**

(A) **Notice of Appeal.** Any person denied a license or permit under this Article or any person who has had his license revoked pursuant to this Article may appeal to the Finance Commissioner by filing a written notice of appeal with the City Clerk's office no later than **five (5) business days** after the final action of denying or revoking the license has been initiated. Such appeal shall contain a written statement setting forth the grounds of the appeal. The appealing party shall submit whatever documentation it believes is relevant along with the written notice of appeal for the Finance Commissioner's consideration.

(B) **Decision of Finance Commissioner Final.** The Finance Commissioner shall grant or deny the appeal, with or without an evidentiary hearing, no later than **ten (10) business days** from the date the City Clerk receives notice of the appeal. Either way, the decision of the Finance Commissioner is final and the person aggrieved shall comply with the provisions of the Illinois Administrative Review Act.

(C) **Reapplication Waiting Period.** If a license or permit is denied or revoked either by the City Clerk, or the Finance Commissioner if an appeal is filed, no application for a merchant or vendor license shall be considered by the City for at least **six (6) months** from the date the denial or revocation is effective.

**7-2-10 LICENSE TO BE CARRIED ON PERSON AND EXHIBITED UPON REQUEST.**  
Every transient merchant or itinerant vendor shall carry the permit issued to him under this Article on his person at all times while conducting business as a transient merchant or itinerant vendor in this City. It shall also be the duty of every transient merchant or itinerant vendor to exhibit such permit and allow any information contained thereon to be documented when requested to do so by any law enforcement officer, any City official, or at the request of any citizen of this City.

**7-2-11 TRANSFER.** No license issued pursuant to this Article may be transferred, sold or assigned to another person.

**7-2-12 FAILURE TO OBTAIN LICENSE.**  
(A) **Impound Property of Merchant or Vendor.** If any person makes retail sales as a transient merchant or itinerant vendor without having obtained a license pursuant to this Article, the City may hold the inventory, truck or other personal property of the person until a license is obtained to conduct business as a transient merchant or itinerant vendor. If the property is held by the City for more than **sixty (60) days** and the person whose property is being held has not obtained a license pursuant to this Article, the City may petition the Circuit Court for an order for the sale of the property being held. If judgment is in favor of the City, proceeds of the sale of the property, less reimbursement to the City for the reasonable expenses of storage and sale of the property, shall be returned to the owner of said property. Said reimbursement expenses shall be deposited in the General Fund of the City.

(B) **Prima Facie Evidence.** It shall be prima facie evidence that a person is a transient merchant or itinerant vendor under this Article if the person does not transact business from a fixed location or if the person does not own or lease for a term of at least **six (6) months**, the property from which the business is conducted.

**7-2-13 EXEMPTIONS FROM FEE REQUIREMENTS.** The following persons or groups shall be required to obtain a license under this Article, but shall not be required to pay the fees provided for in this Article:

(A) Any person selling goods, wares or merchandise which are raised, produced or manufactured by him, including farmers, artisans or other persons wishing to peddle or to hawk farm products, orchard products or articles of their own make or labor, including milk, butter, chickens or other articles of their own make or ingenuity;

(B) Any person selling vegetables, fruit or perishable farm products which were grown, raised or produced by him at an established City market;

(C) Any person operating a stand or booth on or adjacent to property owned by him upon which he resides;

(D) Any person conducting sales of natural trees, wreaths or greenery during a holiday season;

(E) Any bona fide local charitable or civic organization that conducts sales of goods or merchandise for the purpose for which such charitable or civic organizations exists; and,

(F) All such persons or classes of persons exempted by State statute.

**(735 ILCS 5/3-101)**

**7-2-14            EXEMPTIONS FROM LICENSE REQUIREMENTS.**

(A)            **Youth Organizations.** Members of the Girl Scouts, the Boy Scouts, and other such youth organizations which are sponsored by the elementary and secondary schools in the City who sell merchandise on behalf of such organizations.

(B)            **Nonprofit Organizations.** Sales, consumer shows or exhibitions of collectibles conducted or sponsored by governmental, civic, patriotic, fraternal, educational, religious or benevolent organizations which have been in active and continuous existence for at least **one (1) year** prior to the holding of the sale, or which are incorporated as a not-for-profit corporation by the State, unless done for the financial gain of the individual, corporation or other business entity so engaged in such activity.

(C)            **Garage and Yard Sales.** "Garage and yard sales", as defined in **Section 7-2-1** of this Chapter.

(D)            **Concessions.** Sales incidental to sporting events, concerts or performances of plays, circuses or similar presentations where said sales are conducted by the person producing the event.

(E)            **Trade Shows.** Individuals or business enterprises participating in a consumer show or exhibition of collectibles for which a sponsor's license has been issued, where they are listed on the sponsor's license application.

(F)            **Political Solicitations.** Persons soliciting on behalf of a candidate for public office or on behalf of a political party.

(G)            **Delivery Carriers.** Any person delivering newspapers, fuel, dairy products, or bakery products to regular customers on established routes.

**7-2-15            LICENSES GRANTED TO FIRMS OR CORPORATIONS.** It shall be unlawful for a nonresident of the City to enter into a business arrangement or agreement with a resident of the City for the purpose of evading this Article.

**7-2-16            INTERSTATE COMMERCE.** Nothing in this Article shall be construed or enforced so as to be in derogation of interstate commerce.

**7-2-17            PENALTY.** Any person who violates any provision of this Chapter shall be subject to a fine of not less than **Fifty Dollars (\$50.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. A separate offense shall be deemed committed on each day that a violation continues. A violation of this Chapter is hereby determined to be a nuisance which may be abated or enjoined by the City. Nothing in this Chapter shall exempt the City or any person from seeking civil remedies against any person who is in violation of this Article.

**7-2-18 - 7-2-24        RESERVED.**

## DIVISION III – SOLICITORS

**7-2-25      REGISTRATION REQUIRED.**

(A)      **Registration Required.** It shall be unlawful for any person to engage in business as a solicitor without first having registered with the City Clerk's office and receiving a solicitor's permit.

(B)      **Contents of Form.** An applicant registering as a solicitor shall complete a registration form supplied by the City Clerk's office containing the following:

- (1)      The applicant's full name and residence addresses for the past **two (2) years**, the length of time of the applicant's residence at each address, and the applicant's business address, if other than the current residence address;
- (2)      The applicant's date of birth, social security number, driver's license state and number, and brief physical description including height, weight, hair and eye colors;
- (3)      If the applicant is employed by another person or entity, the name of the employer, its residential address and telephone number(s), and if the applicant is a corporation, the residential addresses and phone numbers of its officers;
- (4)      The general location within the City in which the applicant intends solicit and the dates such solicitation will take place;
- (5)      The nature of the business the applicant intends to conduct and proposed method of operating in the City;
- (6)      The nature of the products or services in which the applicant is interested;
- (7)      The names of the manufacturers of such products and/or of the organization he is representing;
- (8)      Whether the applicant will receive any monetary compensation or portion of monies collected;
- (9)      Information regarding the prior application, use or revocation of a solicitor's permit in this City, if any, including the date or approximate date of the previous application for a solicitor's permit;
- (10)     Information regarding whether the registrant has been convicted of a criminal offense or ordinance violation (other than traffic or parking offenses) in any jurisdiction and, if so, a list of such convictions with date and prosecuting jurisdiction.

**7-2-26      REGISTRATION FEE.** Each applicant shall pay to the City Clerk an annual registration fee **One Hundred Fifty Dollars (\$150.00)** for the term **May 1** through **April 30** each fiscal year, or a fee of **Ten Dollars (\$10.00)** per day, per each individual solicitor on behalf of the license holder. If an annual fee is paid after **May 1**, then the fee shall be prorated on a monthly basis for the remainder of the license year. All fees shall be paid at time application is submitted and shall be nonrefundable.

**7-2-27      STANDARDS FOR SOLICITOR'S PERMIT ISSUANCE.** Upon receipt of a completed application for registration, the City Clerk shall cause copies thereof to be sent to the following City Departments no later than **five (5) days** after receipt of the application:

(A)      **Police Department.** The Chief of Police or the Chief of Police's designee who shall cause an investigation to be made as to the applicant's criminal record, if any, and compliance with all applicable laws and ordinances of the State and the City.

(B) **Finance Department.** The Finance Commissioner or the Finance Commissioner's designee who shall examine the City's records to determine if the applicant owed any outstanding fee, fine or other amount to the City.

**7-2-28 ISSUANCE OF PERMIT.** No later than **five (5) business days** after receiving the reports from the City Departments referred to in this Article, the City Clerk shall issue a solicitor's permit if the City Clerk determines that:

- (A) The material statements made in the application are true;
- (B) The applicant has not been charged with or received a disposition of guilt either through supervision, probation or conviction for any offense involving theft, burglary, fraud, bribery or moral turpitude under the laws of the State of Illinois, of any other state, or of the United States within **five (5) years** of the date of application;
- (C) The applicant or his employer has not had a previously issued solicitor's permit revoked by the City or by any other municipality within **five (5) years** of the date of the application;
- (D) The applicant or his employer has not been convicted of violating any provisions of this Article within **five (5) years** of the date of application.

**7-2-29 SOLICITOR'S PERMIT DENIAL.**

(A) **Notification of Denial.** If the City Clerk determines that the applicant has not met one or more of the above conditions, the City Clerk shall deny the issuance of the permit and shall give written notification of such denial to the applicant by first class mail to the applicant's address listed on the application.

(B) **Financial Obligations Outstanding.** No permit shall be issued to any applicant who has unpaid fines, fees, or other financial obligations outstanding with the City. Any applicant having unpaid fines or other fees owed the City for any purpose shall bring those accounts current prior to the issuance of a solicitor's permit.

**7-2-30 REVOCAION OF PERMIT.**

(A) **Reasons for Revocation.** A permit issued under this Article shall be revoked by the City Clerk, or the City Clerk's authorized representative, if the holder of the permit:

- (1) violates any of the provisions of this Article or any ordinance of City, or of any State or Federal law; or,
- (2) ceases to possess the qualifications and character required in this Article for the original registration; or,
- (3) Has made false statements or misrepresentations in the registration application; or,
- (4) Conducts solicitation activities contrary to the conditions of the permit requirements; or,
- (5) Conducts solicitation activities in an unlawful manner or in such manner as to create a public nuisance or in such way as to constitute a danger to the health, safety or welfare of the public.

(B) **Notice of Revocation.** Immediately upon such revocation, written notice shall be given by the City Clerk or City Clerk's authorized representative to the permit holder, in person, or by first class mail, addressed to the address set forth in the registration application, stating the action taken and the reasons supporting such action. Immediately upon the delivery or mailing of such notice, the solicitor's permit shall become null and void.

**7-2-31 APPEAL OF PERMIT DENIAL OR REVOCATION.**

(A) **Appeal.** Any person denied a solicitor's permit or whose solicitor's permit has been revoked may appeal such action to the Finance Commissioner by filing a written notice of appeal with the City Clerk.

(B) **Grounds of Appeal.** Appeals must be filed within **three (3) business days** after revocation or denial of the permit, and shall contain a written statement setting forth the grounds of the appeal. The appealing party shall submit whatever documentation it desires the Finance Commissioner to consider when ruling on the merits of the appeal.

(C) **Decision of Finance Commissioner Final.** The written decision of the Finance Commissioner shall be made available to the appealing party no later than **five (5) business days** after the City receives the appeal. The decision of the Finance Commissioner is final.

**7-2-32 PERMIT TO BE CARRIED ON PERSON AND EXHIBITED UPON REQUEST.**

Every solicitor shall carry the permit issued to him under this Article on his person at all times while conducting business as a solicitor in this City. It shall also be the duty of every solicitor to exhibit such permit when requested to do so by any law enforcement officer or other departmental personnel designated by the City Clerk.

**7-2-33 NONTRANSFERABLE.** No license issued pursuant to this Article may be transferred, sold or assigned to another person.

**7-2-34 DISCLOSURE REQUIREMENTS.**

(A) **Identification Required.** Every person soliciting shall, before entering any dwelling, identify himself to the occupant by name, state which individual, partnership, corporation, group, or association he represents; and state the identity of the merchandise or services he is offering to sell.

(B) **Sales Order for Later Delivery.** If the solicitor takes a sales order for the later delivery of the merchandise, then at the time the order is taken, the following information shall be provided the buyer in a written statement:

- (1) The terms of the agreement;
- (2) The amount paid in advance, whether full, partial, or no advance payment is paid;
- (3) The name, address and telephone number of the seller;
- (4) The delivery or performance date; and,
- (5) Whether a guarantee or warranty is provided and, if so, the terms thereof.

**7-2-35 POSTED PREMISES.**

(A) **Solicitation Prohibited.** No person shall solicit on any premises if the premises is posted against solicitation by means of a notice prominently displayed, on which is printed the following legend, or words of similar meaning:

***NO SOLICITORS, NO PEDDLERS***

(B) **Sign Displayed.** A premises shall be presumed to prohibit soliciting if there is exhibited, on or near the main entrance to the premises or on or near the main door, a sign of at least **three inches by four inches (3" X 4")** in size, which bears the above legend, or similar legend, in letters at least **one (1) inch** in height.

(C) **Duty of Solicitor.** It shall be the duty of each solicitor upon going into any premises in the City upon which soliciting is to take place to first examine the premises for the notice provided in subsection (B) above. If a notice is posted, then the solicitor, whether registered or not, shall immediately and peaceably depart.

**7-2-36            PROHIBITED PRACTICES.**

(A)            **False Representation.** A solicitor shall not misrepresent or make false, deceptive, or misleading statements concerning the quality, quantity, or character of any merchandise offered for sale, the purpose or his identity, or the identity of the organization he represents. A solicitor shall not sell or barter any goods, services, merchandise or wares other than those specified in his solicitor's permit.

(B)            **Obstruct Rights-of-Way.** No person shall impede the free use of sidewalks or streets by pedestrians or vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

(C)            **Selling Upon Streets.** No person shall stand in or on a public street for the purpose of soliciting contributions from the occupant of a motor vehicle.

(D)            **Refusal to Depart Premises.** No person shall solicit at, or remain on the premises of, any dwelling or business premises after having been asked by the occupant or business person thereof to leave the premises.

(E)            **Bad Behavior.** No solicitor shall conduct himself in a disorderly or unlawful manner.

(F)            **Create Noise.** No solicitor shall make, or cause to be made, any loud or obnoxious noise of such volume sufficient to disturb the peace of the residents of the City.

(G)            **Disregard for Hours.** No person shall solicit at residential dwellings without prior written consent of the occupant except between the hours of **nine o'clock (9:00) A.M.** and **nine o'clock (9:00) P.M.** Monday through Saturday and **noon (12:00)** and **nine o'clock (9:00) P.M.** on a Sunday or on a State or national holiday. For solicitation on business premises, solicitation is only permitted during the hours that the business is open to the public.

**7-2-37            EXCEPTIONS.**

(A)            The registration and fee requirements of this Article shall not apply to the following:

- (1)            Officers or employees of the City, County, State or Federal Government, or any subdivision thereof, when on official business.
- (2)            Person soliciting funds on behalf of a "bona fide not-for-profit reorganization", as defined in Section 5-10-1 of this Title.
- (3)            Persons soliciting on behalf of a candidate for public office or on behalf of a political party.
- (4)            Any person under the age of **seventeen (17) years** is not required to register as a solicitor with the City Clerk's office, but shall disclose to any business or resident their organizational affiliation and purpose of the solicitation.

(B)            This Section does not exempt these individuals from complying with the remaining requirements of this Article.

**7-2-38            NO AGREEMENT TO EVADE.** It shall be unlawful for a nonresident of the City to enter into an oral or written business arrangement or agreement with a resident of the City for the purpose of evading this Article.

**7-2-39            INTERSTATE COMMERCE.** Nothing in this Article shall be construed or enforced so as to be in derogation of interstate commerce.

**7-2-40            REGULATIONS: INTERSECTIONS.**

(A)            Entitles seeking permission to solicit on the streets of the City shall first obtain approval of the Chief of Police by completing and submitting to the Police Chief of the City an application

with all required documentation not less than **ten (10) days** in advance of the date requested for solicitation.

(B) The solicitation will only be approved for entities registered with the Attorney General as a charitable organization, as provided by "an act to regulate solicitation and collection of funds for charitable purposes, providing for violations thereof, and making an appropriation therefor," approved July 26, 1993, as amended, by the Illinois State Legislature, and as required by **625 ILCS 5/11-1006(C)(1)**.

(C) The requesting entity must be engaged in a state wide fund-raising activity.

(D) The soliciting entity must be liable for any injuries to any person or property during the solicitation, which is causally related to an act of ordinary negligence of the soliciting agent, and shall provide to the Chief of Police proof of insurance of liability coverage in an amount not less than **One Million Dollars (\$1,000,000.00)**.

(E) Any person engaged in the act of solicitation shall be **sixteen (16) years** of age or more and shall be wearing a high visibility vest.

(F) The solicitation may take place at a location that will not adversely affect the orderly flow of traffic at the location.

(G) The soliciting entity and any person soliciting therefor must otherwise comply with all applicable state law, including but not limited to **625 ILCS 5/11-1006**.

**(Ord. No. 01-27; 11-13-01)**

**7-2-41** **PENALTY.** Any person who violates any provision of this Article shall be subject to a fine of not less than **Fifty Dollars (\$50.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. A separate offense shall be deemed committed on each day that a violation continues. All violations of this Article are hereby determined to be a nuisance which may be abated or enjoined by the City. Nothing in this Article shall exempt the City or any person from seeking civil remedies against any person who is in violation of this Article.

**7-2-42 - 7-2-43** **RESERVED.**

**(Unless Otherwise Noted Ord. No. 99-25; 09-27-99)**

#### **DIVISION IV – GARAGE AND YARD SALES**

**7-2-44** **TIME PERIOD FOR OPERATION.** Garage and yard sales, as defined in **Section 7-2-1** of this Chapter, are restricted from being held prior to **7:00 A.M.** or after **8:00 P.M.**

**7-2-45** **LIMITATION.** No garage and/or yard sales shall be conducted in **one (1) location** for more than **two (2) days** in a **four (4) week** period in a residential or business zoned area within the corporate City limits.

**7-2-46** **FINES.** Any person who violates this Division shall be subject to a fine of not more than **Fifty Dollars (\$50.00)**. A separate offense shall be deemed committed on each day that a violation continues. A violation of this Division is hereby determined to be a nuisance which may be abated or enjoined by the City. Nothing in this Division shall exempt the City or any person from seeking civil remedies against any person who is in violation of this Division.

**(Ord. No. 99-39; 11-22-99)**



**ARTICLE III - PEDDLERS**

**7-3-1**            **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefor.

**7-3-2**            **DEFINITION.** "Peddle" shall mean the selling, bartering, or exchanging or the offering for sale, barter or exchange of any tangible personal property upon or along the streets, highways, or public places of this Municipality or from house-to-house, whether at one place thereon or from place-to-place, from any wagon, truck, pushcart, or other vehicle or from movable receptacles of any kind, but shall not include the delivery of any item previously ordered or the sale of items along delivery routes where the purchaser has previously requested the seller to stop and exhibit his items. Nor shall 'peddle' be taken to include the solicitation of orders by sample where the goods are not delivered at the time the order is taken.

**7-3-3**            **APPLICATIONS.** A person desiring a license may obtain the same by making application with the Clerk and providing the following information:

- (A)                Name and physical description of applicant.
- (B)                Permanent home and address and local address if operating from such an address.
- (C)                A brief description of the business and of the goods to be sold.
- (D)                Name and address of the employer, if any.
- (E)                The length of time for which the right to do business is desired.
- (F)                Evidence that the agent is acting on behalf of the corporation he represents.
- (G)                Statement of the applicant's criminal record other than a traffic record.
- (H)                The last **three (3) municipalities** where the applicant carried on business immediately preceding the date of application to this Municipality and the address from which such business was conducted in those municipalities.

**7-3-4**            **INVESTIGATION OF APPLICANTS.** Upon receipt of each application, it shall be referred to the Chief of Police, who shall investigate the business and moral character of the applicant. If the facts show the applicant unfit to receive the license, then it shall be denied.

**7-3-5**            **HOURS.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Code or not, to engage in peddling as herein defined prior to **10:00 A.M.** or after **5:00 P.M.** of any weekday or at any time on a Sunday or on a State or National holiday.

**7-3-6**            **FRAUD.** No licensed peddler or hawker shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee while acting as a peddler in this Municipality, or shall barter, sell or peddle any goods or merchandise or wares other than those specified in his application for a license.

**7-3-7**            **PHOTOGRAPHS.** **Two (2) photographs** of the applicant and such of its employees as will be used in the peddling or merchandising, taken within **sixty (60) days immediately** prior to the filing of the application, which pictures shall be **two inches by two inches (2" x 2")**, showing the head and shoulders of the applicant or its agent(s) and/or employee(s) in a clear and distinguishing manner.

**7-3-8**            **UNWANTED PEDDLING.** Nothing contained in this Chapter, nor the issuance of any license hereunder shall entitle the licensee to go in or upon any private residence for the purpose of peddling if such licensee, his agents or employees are directed to depart from said private residence by the owner or person in charge thereof.

**7-3-9**            **PEDDLERS AS NUISANCE.** The practice of going in and upon private residences, business establishments or offices in the Municipality by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences and business establishments or offices for the purpose of disposing of and/or peddling or hawking of merchandise is hereby declared to be a nuisance and is punishable as a violation of this Code. No person shall peddle in a public square.

**7-3-10**           **DUTY OF POLICE TO ABATE.** The Police Department of this Municipality is hereby required and directed to suppress the same and to abate any such nuisance as described in **Section 7-3-9.**

**7-3-11**           **EXCLUSIONARY PROVISION.** The provisions of this Article shall not apply to persons employed or representing an established merchant, business firm, or corporation located and regularly doing business in the Municipality or to farmers selling any food items raised or produced by themselves and/or to permanently established residents who are voters in the Municipality or anyone duly licensed.

**7-3-12**           **FEES.** The license fees per person to be charged for licenses to peddle in this Municipality, each payable in advance, are hereby fixed and established as follows:

- (A)            **Daily License:**                            **\$10.00 per person per day**
- (B)            **Annual License:**                           **\$75.00 per person per year**

**7-3-13**           **DELINQUENT PAYMENT OF CITY DEBT.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purpose of this Section, "licensee" shall refer to the license applicant, its officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-15; 05-10-04)**

**(See 65 ILCS Sec. 5/11-42-5)**

## ARTICLE IV - COIN-OPERATED MACHINES

**7-4-1**        **DEFINITIONS.** Definitions of terms as used in this Article, unless the context otherwise clearly indicates, are as follows:

**"BOARD"** means the Illinois Gaming Board.

**"COIN-OPERATED AMUSEMENT DEVICE"** means any amusement machine or device operated by means of the insertion of a coin, token, or currency for the purpose of amusement or skill and for the playing of which a fee is charged. The term includes, but is not limited to juke boxes, electronic video games, pinball machines or other similar games. The term does not include vending machines in which there are not incorporated gaming or amusement features.

**"GAMBLING"** means: (i) the playing of a game of chance or skill for money or other thing of value including but not limited to baccarat, twenty-one, poker, craps, slot machines, a video game of chance, roulette, Klondike, punchboard, faro, keno, numbers ticket, push card, jar ticket, pull tab, bingo, lotteries, and raffles; (ii) wagering on the result of any game, contest or any political nomination, appointment or election; (iii) the playing or use of any gambling device or the operation, keeping, owning, use, purchase, exhibition, rental, sale, or bargain for the sale or lease of any gambling device; (iv) the ownership or possession of any books, instruments or apparatus by means of which bets or wagers have been recorded or registered; (v) sale of pools upon the result of any game or contest of skill or chance, political nominations, appointments or elections; (vi) the establishment or promotion of any lottery or the sale, or offering for sale, or to knowingly possess or transfer any policy ticket or similar device; and (vii) the knowing advertisement of any lottery or policy game including the drafting, printing or publishing of any lottery ticket, share, policy ticket or similar device, (viii) the knowing transmittal of information as to wagers, betting odds or chances by telephone, telegraph, radio, semaphore or similar means, or the knowing installation of equipment for telephone, telegraph, radio, semaphore or similar means, or the knowing installation of equipment for the transmission or receipt of such information except that nothing herein shall prohibit the transmission or receipt of such information for the use of news reporting of sporting events or contests.

**"GAMBLING DEVICE"** means any clock, tape machine, video machine, video gaming terminal, slot machine, mechanism, table, furniture, fixture, equipment, instrument or other thing used for the reception of money or other thing of value on chance or skill or upon which the action of money or other thing of value is staked, hazarded, bet, won or lost, or which is primarily for use for gambling. A "gambling device" shall not include: (i) a coin-operated mechanical device played for amusement which awards the player with the right to replay such mechanical device and is so constructed or devised as to make the result for the operation thereof depend, in part, upon the skill of the player and which does not return to the player money, property or right to receive money or property; or, (ii) vending machines by which full and adequate return is made for the money invested and there is no element of chance or hazard.

**"LICENSED ESTABLISHMENT"** means any licensed retail establishment where alcoholic liquor is drawn, poured, mixed or otherwise served for consumption on the premises and includes any such establishment that has a contractual relationship with an inter-track wagering location licensee under the Illinois Horse Racing Act of 1975, provided any contractual relationship shall not include any transfer or offer of revenue from the operation of video gaming under the Video Gaming Act, **230 ILC 40/1 et seq.**, to any licensee licensed under the Illinois Horse Racing Act of 1975. Provided, however, that the licensed establishment that has such a contractual relationship with an inter-track wagering location licensee may not, itself, be (i) an inter-track wagering location licensee, (ii) the corporate parent or subsidiary of any licensee licensed under the Illinois Horse Racing Act of 1975, or (iii) the corporate subsidiary of a corporation that is also the corporate parent or subsidiary of any licensee licensed under the Illinois Horse Racing Act of 1975. "Licensed establishment" does not include a facility operated by an organization licensee, an inter-track wagering licensee, or an inter-track wagering location licensee

licensed under the Illinois Horse Racing Act of 1975 or a riverboat licensed under the Riverboat Gambling Act, except as provided in this paragraph.

**"LICENSED FRATERNAL ESTABLISHMENT"** means the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

**"LICENSED VETERANS ESTABLISHMENT"** means the location where a qualified veteran's organization that derives its charter from a national veteran's organization regularly meets.

**"LICENSED TRUCK STOP ESTABLISHMENT"** means a facility: (i) that is at least a **three (3) acre** facility with a convenience store; (ii) with separate diesel islands for fueling commercial motor vehicles; (iii) that sells at retail more than **ten thousand (10,000) gallons** of diesel or biodiesel fuel per month; and (iv) with parking spaces for commercial motor vehicles. The requirement of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least **ten thousand (10,000) gallons** per month.

**"LOTTERY"** means any scheme or procedure whereby one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win such prizes, whether such scheme or procedure is called a lottery, raffle, gift, sale, or some other name.

**"OPERATOR"** is hereby defined to be any person, firm, corporation, partnership, association or club who sets up for operation by another or leases or distributes for the purpose of operation by another, any device(s) herein defined, whether such setting up for operation, leasing or distributing be for a fixed charge or rental, or on the basis of a division of the income from such device or otherwise.

**"POLICY GAME"** means any scheme or procedure whereby a person promises or guarantees by an instrument, bill, certificate, writing, token or other device that any particular number, character, ticket or certificate shall, in the event of any contingency in the nature of a lottery, entitle the purchaser or holder to receive money, property or evidence of debt.

**"PROPRIETOR"** is hereby defined to be any person, firm, corporation, partnership, association or a club who, as the owner, lessee or proprietor has under his or its control any establishment, place or premises in or on which such device is placed or kept for use or play or on exhibition for the purpose of use or play.

**"VIDEO GAMING TERMINAL"** means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, as authorized by the Board utilizing a video display and microprocessors in which the play may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

**7-4-2**            **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to operate, conduct or maintain for gain or profit, or to own when operated, conducted or maintained for gain or profit, any Pinball Machines, Electronic Games, Bowling Alley, Billiard Tables, Bagatelle Tables, Pigeon-Hole Tables, Pool Tables, or any other table or implement kept for a similar purpose in any place of public resort, and coin-operated machines designated for amusement purposes operated in the City, without first obtaining a license to do so, as hereinafter provided and set forth.

**7-4-3**            **APPLICATION.** Application for license shall be verified by oath or affidavit and contain the following information:

(A)                The name, age and address of the applicant in the case of an individual and, in the case of a co-partnership, of the persons entitled to share in the profits thereof; and in the case of a corporation, the date of incorporation, the objects for which it was organized, the names and addresses

of the officers and directors; and if a majority in interest of the stock of such corporation is owned by one person or his nominee(s), the name and address of such person(s).

(B) The citizenship of the applicant, his place of birth; or if a naturalized citizen, the time and place of his naturalization.

(C) The address of the place where the applicant proposes to operate.

(D) A statement whether the applicant has made a similar application for a similar license on premises other than those described in the application and the disposition of such other application.

(E) A statement that the applicant has never been convicted of a felony and is not disqualified to receive the license under this Section.

**7-4-4 PROHIBITED LICENSEES.** No license under this Section shall be issued to:

(A) Any person who is not a citizen of the United States.

(B) Any person who is not of good character and reputation in the community.

(C) Any person who has been convicted of a felony under the laws of Illinois; or of being the keeper of a house of ill-fame; or of pandering or other crime or misdemeanor opposed to decency or morality.

(D) Any person whose license issued under this Chapter has been revoked for cause.

(E) Any partnership, unless all of the members of the partnership are qualified to obtain such license.

(F) Any corporation if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation, would not be eligible to receive a license for any reason other than citizenship or residency within this Municipality.

(G) Any person whose place of business is conducted by a manager or agent unless the manager or agent is of legal age and possesses the same qualifications required of the licensee.

(H) Any person who does not own the premises for which a license is sought, or does not have a lease therefor for the full period for which the license is to be issued.

**7-4-5 TERM OF LICENSE - FEES.** The license fee shall be paid annually, in advance, on the **first (1<sup>st</sup>) day of January** of each year. If additional machines or devices are to be installed or displayed from time to time, the license shall be obtained before display or installation. Machines or devices installed on or after **July 1<sup>st</sup>** of each year shall have a license fee of **one-half (1/2) or fifty percent (50%)** of the annual license fee. The license shall expire on the **31<sup>st</sup> of December** of each year. The licenses hereinabove set forth and required shall be issued for **one (1) year** duration from the date of issuance, and the amount of such license fees shall be as follows:

(A) For coin-operated machines and electronic games designated for amusement purposes, operated within the City, there shall be an annual fee of **Twenty-Five Dollars (\$25.00)** per machine.

(B) For business operating Bowling Alleys, Billiard Tables, Bagatelle Tables, Pigeon-Hole Tables, Pool Tables, and any other tables or implements kept for a similar purpose in any place of public resort, within the City, there shall be an annual fee of **One Hundred Twenty Dollars (\$120.00)**, payable at the rate of **Thirty Dollars (\$30.00)** per quarter, payable in advance.

(C) For Pinball Machines, operated within the City, there shall be an annual license fee of **Twenty-Five Dollars (\$25.00)** for each such machine, payable in advance.

(D) For the Video Gaming Terminals described under the Illinois Video Gaming Act, there shall be an annual license fee of **One Hundred Dollars (\$100.00)** for each such machine.

**7-4-6 DELINQUENT PAYMENT OF CITY DEBT.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an

outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purpose of this Section, "licensee" shall refer to the license applicant, its officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-15; 05-10-04)**

**7-4-7            NON-ASSIGNABILITY OF LICENSE.** The location of a license may be changed only upon the written permission of the Mayor. Any license issued hereunder shall be non-assignable and non-transferable.

**7-4-8            PLACEMENT; GAMBLING PROHIBITED.**

(A) All licensed devices shall, at all times, be kept and placed in plain view of any person or persons who may frequent or be in any place of business where such devices are kept or used.

(B) **Prizes and Awards Prohibited.** It shall be unlawful, unless otherwise specified in this Section, for any person receiving a license pursuant to this Article to give or award a cash prize or equivalent to any person playing any of the tables, devices or machines enumerated hereinabove under tournament, league or any other individual or competitive play.

(C) **Licensed Establishments.** Any business, liquor or food licensee within the corporate limits of the City that allows gambling to occur on premises in violation of this Section shall be subject to having his/her/its license immediately revoked for a period of **sixty (60) days**. Any business, liquor or food licensee within the corporate limits of the City that allows gambling to occur on premises in violation of this Section a second time shall have his/her/its license permanently revoked and, thereafter, barred from obtaining a business, liquor or food license within the City.

(D) **Seizure of Unauthorized Gambling Devices and Gambling Funds.** Any gambling device which is not authorized by this Section shall be subject to immediate seizure and confiscation by the City. Any money or other thing of value intrinsically related to acts of gambling not authorized by this Section shall be seized and forfeited as contraband. Disposition of such gambling devices and funds seized or confiscated shall be made in accordance with the law.

(E) Except as otherwise permitted in this Section, it shall be unlawful for any person to gamble within the corporate City limits, or for any person or entity, owns, occupies, or controls an establishment within the corporate City limits, to knowingly permit others to gamble on said premises.

**7-4-9            PERMITTING GAMBLING.** The gambling prohibition shall not apply to any game or gaming even for which a license or permit has been by the Illinois Gaming Board pursuant to the *Illinois Video Gaming Act, 230 ILCS 40/1 et seq.*, provided that such game or gaming event is conducted in full and complete compliance with all requirements of such act and all rules and regulations of the Illinois Gaming Board. Further, a licensee, licensed by the Illinois Department of Revenue may conduct and allow bingo play in accordance with the Bingo License and Tax Act, under **230 ILCS 25/1 et seq.**

**7-4-10          HOURS OF OPERATION.** If amusement devices licensed by this Article are operated in a place of business where the hours of such business are restricted, the operation of such devices therein is limited to the same hours.

**7-4-11          DISPLAY OF LICENSE.** Every licensee shall frame and hang his license in a conspicuous place in the licensed premises.

**7-4-12**      **RIGHT OF ENTRY.** The Chief of Police has the power to and shall inspect any place, building or premises in which any licensed device or devices are operated or set up for operation at such times and intervals as he may deem necessary for the proper enforcement of this Article.

**(Ord. No. 2012-15; 07-09-12)**

## ARTICLE V - JUNK DEALERS

**7-5-1**            **DEFINITIONS.**

**"JUNK"** as used in this Chapter shall be held to mean and include scrap and old iron, steel, chain, brass, copper, magnesium, aluminum, tin, lead or other base metals, scrap lumber, old rope, old bags, rags, waste paper, paper clippings, scraps of woolens, clips, bagging, rubber and glass, and empty bottles of different kinds or sizes when the number of each kind or size is less than **one (1) gross**, any wrecked or dilapidated motor vehicle, engine, or machinery received, stored or held for more than **ninety (90) days**, and all articles and things discarded or no longer used as a manufactured article composed of or consisting of any **one (1)** or more of the materials or articles herein mentioned.

**"JUNK DEALER"** as used in this Chapter shall be held to mean and include every person, firm, partnership, or corporation that shall engage in the business of buying, selling, bartering or exchanging, or shall collect, receive, store or hold in possession for sale, barter or exchange, any of the things in and by this section defined as "junk".

**"JUNK YARD"** as used in this Chapter shall be held to mean and include the premises on which a junk dealer is engaged in the business of buying, selling, bartering, exchanging, or collecting, receiving, storing or holding in possession for sale, barter, or exchange, any of the things in and by this section defined as "junk"

**(Also see Chapter 24, Article VII and Chapter 25)**

**7-5-2**            **PHYSICAL REQUIREMENTS.** The minimum physical requirements at all times for each junk yard shall be as follows:

(A)                The premises where the junk yard is located shall not have more than **two (2) entrances** thereto and **two (2) exits** therefrom, each of which shall not exceed **fifteen (15) feet** in width at the perimeter of the premises.

(B)                The premises where the junk yard is located shall be enclosed on its perimeter with a solid, non-transparent, vertical wall or fence of a minimum height of **seven (7) feet** measured from ground level, excepting for the entrances and exits permitted by paragraph (A) above.

(C)                The aforesaid solid, non-transparent wall or fence and the gates or doors, if any, at the aforesaid entrances and exits shall not contain any sign, poster or advertising matter of any kind whatsoever, excepting **one (1) sign** of the licensee thereon not exceeding **one hundred (100) square feet** in size.

(D)                The public streets and alleys adjacent to the junk yard shall not have junk thereon. **(See Chapter 40 – Zoning)**

**7-5-3**            **LICENSE REQUIRED.** It shall be unlawful for any person to keep, maintain, conduct or operate a junk yard within the corporate limits of the City without first obtaining a license to do so as herein provided. A separate license shall be secured for each junk yard located on non-contiguous lots, blocks, tracts or parcels of land.

**7-5-4**            **APPLICATION.** Before any license under the provisions of this Section is issued, any person desiring to operate a junk yard in this City shall first make a verified application in writing to the Clerk in the absence of provision to the contrary, stating thereon the full name of the applicant, his residence address, the trade name of the applicant, the legal description of the premises where the junk yard is to be located, the size and approximate location of each entrance thereto and exit therefrom, whether or not the premises where the junk yard is to be located is enclosed on its perimeter with a solid, non-transparent wall or fence of a minimum height of **seven (7) feet**, measured from ground level, excepting the entrances and exits, and whether or not the public streets and alleys adjacent



to the premises where the junk yard is to be located have junk thereon. If the applicant is a firm of partnership, the names and residence addresses of all the partners and in the case of a corporation, the names and residence addresses of the president and secretary shall be stated in the application.

**7-5-5**            **DISQUALIFICATION.** Any applicant for a license to keep, maintain, conduct or operate a junk yard shall be disqualified for any of the following reasons:

- (A)                Not a person of good character.
- (B)                Falsification of an application for a license hereunder.
- (C)                License for a junk yard theretofore issued to the applicant has been revoked during the preceding **twenty-four (24) months.**
- (D)                Failure to meet any one of the minimum physical requirements for a junk yard as specified in **Section 7-5-2** hereof.

**7-5-6**            **LICENSE.** Any and all licenses issued hereunder shall state that such license is issued in the name of the junk dealer solely for the purpose of keeping, maintaining, conducting and operating a junk yard, the expiration date thereof, the legal description of the premises where the junk yard is to be located, that the license shall be used and the privileges thereof exercised only at the described premises, and that such license is non-assignable and non-transferable.

Such license shall further provide that it is issued subject to all the provisions of this Chapter; that upon the first conviction for a violation of any of the provisions of this Chapter, in addition to the fine, such junk yard shall remain closed for a period of **thirty (30) days**; that upon the second conviction for a violation of any of the provisions of this Chapter, such license shall become null and void, and the licensee shall forfeit all sums paid for such license, and that the licensee, by the acceptance of such license expressly agrees to all the terms and conditions thereof, and to the terms and provisions of this Section and all amendments thereto.

**7-5-7**            **LICENSE FEE.** The annual license fee for each junk yard shall be **Two Hundred Dollars (\$200.00)** payable in advance with the filing of the application for license, and shall not be subject to pro rata reduction for a portion of the year, either because of the application for or because of revocation of a license; provided, however, that only **one (1)** annual license fee shall be payable for licenses which may be issued whenever the applicant desires to keep, maintain, conduct or operate junk yards on lots, blocks, tracts, or parcels of land which are situated on directly opposite sides of and abut upon each side of a public street or alley. Where such place of business is not located in the City, but the operator carries on the business of buying or collecting or bartering for the items heretofore enumerated within the City, the annual fee shall be **Two Hundred Dollars (\$200.00)** for each junk dealer. The fee is payable as provided in this Code.

**7-5-8**            **DELINQUENT PAYMENT OF CITY DEBT.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purposes of this Section, "licensee" shall refer to the license applicant, if officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-13; 05-10-04)**

**7-5-9**            **MINORS.** No licensee hereunder shall purchase or receive any article whatsoever from any minor, without the written consent of their parents or guardians.

**(See 65 ILCS Sec. 5/11-42-3)**

**ARTICLE VI - TAXICABS**

**7-6-1**        **DEFINITIONS.** The following words and phrases, when used in this Article shall have the meanings set out herein:

**"Certificate"** means a Certificate of Public Convenience and Necessity issued by the City Clerk, authorizing the holder thereof to conduct a taxicab business in the City.

**"Cruising"** means the driving of a taxicab on the streets, alleys, or public places of the City in search of or soliciting prospective passengers for hire.

**"Driver's License"** means the permission granted by the City Council to a person to drive a taxicab upon the streets of the City.

**"Holder"** means a person to whom a Certificate of Public Convenience and Necessity has been issued.

**"Open Stand"** means a public place alongside the curb of a street or elsewhere, in the City, which has been designated by the City Council as reserved exclusively for the use of taxicabs.

**"Person"** includes an individual, a corporation, or other legal entity, a partnership, and any unincorporated association.

**"Taxicab"** means a motor vehicle regularly engaged in the business of carrying passengers for hire, carrying not more than **six (6) passengers** and not operated on a fixed route.

**"Waiting Time"** means the time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion if due to any cause other than the request, act or fault of a passenger or passengers.

**7-6-2**        **CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED.** No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the City, without having first obtained a Certificate of Public Convenience and Necessity from the City Clerk.

**7-6-3**        **APPLICATION FOR CERTIFICATE.** An application for a Certificate shall be filed with the City Clerk upon forms provided by the City, and that application shall be verified under oath and shall furnish the following information:

- (A)            The name and address of the applicant.
- (B)            The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to said judgments.
- (C)            The experience of the applicant in the transportation of passengers.
- (D)            The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals.
- (E)            The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.
- (F)            Such further information as the City Council of this City may require.

**7-6-4**        **ISSUANCE OF CERTIFICATE.** If the City Council finds that further taxicab service in the City is required by the public convenience and necessity and that the applicant is fit, willing and able to perform such public transportation and to conform to the provisions of this Chapter, and the rules promulgated by the City Council, then the City Clerk shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under that certificate and the date of issuance; otherwise, the applicant shall be denied.

In making the above findings, the City Council shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions and the character, experience and responsibility of the applicant.

**7-6-5**        **LIMITATION OF FRANCHISES.** No Certificate shall be issued or continued in operation unless the holder thereof has paid an annual license fee for the right to engage in the taxicab business. The license fees shall be for the municipal year and shall be in addition to any other license fees or

charges established by proper authority and applicable to said holder or the vehicle or vehicles under his operation and control.

**7-6-6**            **LIABILITY INSURANCE REQUIRED.** No Certificate of Public Convenience and Necessity shall be issued or continued in operation unless there is in full force and effect liability insurance coverage for each vehicle authorized in an amount meeting State requirements, for bodily injury to any **one (1)** or more persons sustained in the same accident and for the property damage resulting from any **one (1) accident.**

**7-6-7**            **TRANSFER OF CERTIFICATES.** No Certificate of Public Convenience and Necessity may be sold, assigned, mortgaged or otherwise transferred without the consent of the City Council.

**7-6-8**            **SUSPENSION AND REVOCATION OF CERTIFICATES.** A certificate issued under the provisions of this Chapter may be revoked or suspended by the City Council if the holder thereof has (a) violated any of the provisions of this Chapter; (b) discontinued operations for more than **thirty (30) days**; (c) has violated any law of the City, or the State of Illinois; the violations of which reflect unfavorably of the fitness and character of the holder to offer public transportation.

Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

**7-6-9**            **TAXI DRIVER'S LICENSE.** No person shall operate a taxicab for hire upon the streets of the City, and no person who owns or controls a taxicab shall permit it to be so driven at any time for hire, unless the driver of that taxicab shall have first obtained a Taxicab Driver's License or Permit issued under the provisions of this Chapter which further comply with the requirements of the State of Illinois.

**7-6-10**          **APPLICATION FOR DRIVER'S LICENSE.** An application for a Taxicab Driver's License shall be filed with the City Clerk on forms provided by the City and such application shall be verified under oath and shall contain the following information:

(A)            Applicant must have a State Chauffeur's License or equivalent allowing one to operate a taxicab within the State of Illinois.

- (B)            Applicant must furnish **three (3) photos** as follows:
- (1)            One to be placed on the license.
  - (2)            One to be filed with the City Clerk.
  - (3)            One to be filed with the Police Department.

**7-6-11**          **ISSUANCE OF LICENSE; DURATION; ANNUAL FEE.** Upon approval of an application for a taxicab driver's license, the City Clerk shall issue a license to the applicant which shall bear the name, address, signature and photograph of the applicant.

**7-6-12**          **DISPLAY OF LICENSE.** Every driver licensed under this Chapter shall post his driver's license in such a place as to be in full view of all passengers while such driver is operating a taxicab.

**7-6-13**          **SUSPENSION AND REVOCATION OF LICENSE.** The City Council is hereby given the authority to suspend any driver's license issued under this Chapter for a driver's failing or refusing to comply with the provisions of this Chapter; such suspension to last for a period of not more than **ten (10) days.** The City Clerk is also given authority to revoke any driver's license for failure to comply with the provisions of this Chapter; however, a license may not be revoked unless the driver has received notice and has had an opportunity to present evidence on his/her behalf.

**7-6-14**      **FAILURE TO COMPLY WITH CITY, STATE AND FEDERAL LAWS.** Every individual licensed under this Chapter shall comply with all City, State and Federal laws. Failure to do so will justify the City Clerk's suspending or revoking a license.

**7-6-15**      **VEHICLES; EQUIPMENT; MAINTENANCE.**  
(A)      **Periodic Inspections.** Every vehicle operating under this Chapter may be periodically inspected by the Police Department or the City's designated representative up to **three (3) times** per year to insure the continued maintenance of safe operating conditions.  
(B)      **Vehicles Must be Kept in a Clean and Sanitary Condition.** Every vehicle operating under this Chapter shall be kept in a clean and sanitary condition.

**7-6-16**      **REFUSAL OF PASSENGERS TO PAY LEGAL FARE.** It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this Chapter after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service. **(See 65 ILCS 5/11-42-6)**

**7-6-17**      **CERTIFICATE FEE.** The fee for each certificate issued under this Chapter shall be **One Hundred Dollars (\$100.00)** annually. The fee may be pro-rated on a quarterly basis.

**7-6-18**      **DELINQUENT PAYMENT OF CITY DEBT.** No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purposes of this Section, "licensee" shall refer to the license applicant, if officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-12; 05-10-04)**

**(Unless Otherwise Noted Ord. No. 09-04; 12-14-09)**

**(See 65 ILCS Sec. 5/11-42-2)**

## ARTICLE VII – RAFFLES AND POKER RUNS

**7-7-1 DEFINITIONS.** The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(A) **"Business":** A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

(B) **"Charitable Organization":** An organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit on the public.

(C) **"Educational Organization":** An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

(D) **"Fraternal Organization":** An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those that otherwise would be cared for by the government.

(E) **"Hardship":** A non-profit fundraising organization that has not been in existence continuously for a period of **five (5) years** immediately before making application for a license that the County determines to be organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident, or disaster.

(F) **"Key Location":** The location where the poker run concludes and the prize or prizes are awarded.

(G) **"Labor Organization":** An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

(H) **"Licensee":** An organization which has been issued a license to operate a raffle.

(I) **"Net Proceeds":** The gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle or poker run.

(J) **"Non-Profit":** An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to any one as a result of the operation.

(K) **"Poker Run":** An event organized by an organization licensed under this Chapter in which participants travel to multiple predetermined locations, including a key location, drawing a playing card or equivalent item at each location, in order to assemble a facsimile of a poker hand or other numeric score. "Poker run" includes dice runs, marble runs, or other events where the objective is to build the best hand or highest score by obtaining an item at each location.

(L) **"Raffle":** A form of lottery, as defined in Section 28-2(b) of the Criminal Code of 2012, conducted by an organization licensed under this Act, in which:

- (1) the player pays or agrees to pay something of value for a chance, represented and differentiated by as number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;
- (2) the winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

(M) **"Religious Organization":** Any church, congregation, society, or organization founded for the purpose of religious worship.

(N) **"Veterans' Organization":** An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

**7-7-2 REQUIREMENT OF LICENSE.**

(A) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a raffle, or to sell, offer for sale, convey, issue, or otherwise transfer for value a chance on a raffle without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

(B) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a poker run without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

**7-7-3 APPLICATION FOR A LICENSE FOR A RAFFLE.**

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a raffle shall file an application therefore with the City Clerk on the forms provided by the City Clerk.

(B) Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, raffles manager and any other members responsible for the conduct and operation of the raffle;
- (5) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle;
- (6) The maximum retail value of each prize awarded by a licensee in a single raffle;
- (7) The maximum price which may be charged for each raffle chance issued or sold;
- (8) The maximum number of days during which chances may be issued or sold;
- (9) The area in which raffle chances will be sold or issued;
- (10) The time period during which raffle chances will be sold or issued;
- (11) The date, time, and name and address of the location or locations at which winning chances will be determined;
- (12) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (13) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a raffle shall be accompanied by a non-refundable filing fee. Such fee shall be paid by cash, credit card or cashier's check. The City Clerk shall refer the application to the Mayor.

**NOTE: The governing statute states that all licensing systems for raffles shall provide for limitations upon (1) the aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle, (2) the maximum retail value of each prize awarded by a licensee in a single raffle, (3) the maximum price which may be charged for each raffle chance issued or sold and (4) the maximum number of days during which chances may be issued or sold.**

**7-7-4            APPLICATION FOR A LICENSE FOR A POKER RUN.**

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a poker run shall file an application therefore with the City Clerk on the forms provided by the City Clerk.

(B) Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle or poker run, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, and any other members responsible for the conduct and operation of the raffle or poker run;
- (5) The name, address, and telephone number of all locations at which the poker run will be conducted;
- (6) The time period during which the poker run will be conducted;
- (7) The time of determination of winning chances and the location or locations at which the winning chances will be determined;
- (8) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (9) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a poker run shall be accompanied by a non-refundable **Twenty-Five Dollar (\$25.00)** filing fee. Such fee shall be paid by cash, cashier's check, or credit card. The City Clerk shall refer the application to the Mayor.

**7-7-5            LICENSEE QUALIFICATIONS.**

(A) Raffle licenses and poker run licenses shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objects, or to a non-profit fundraising organization that the Mayor determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster. The Mayor may waive the **five (5) year** requirement under this Section for a bona fide religious, charitable, labor, business, fraternal, educational, or veterans' organization that applies for a license to conduct a raffle or poker run if the organization is a local organization that is affiliated with and chartered by a national or State organization that meets the **five (5) year** requirement. The following are ineligible for any raffle or poker run license;

- (1) Any person who has been convicted of a felony;
- (2) Any person who is or has been a professional gambler or gambling promoter;
- (3) Any person who is not of good moral character;
- (4) Any organization in which a person defined in subsection (1), (2) or (3) of this Section has a proprietary, equitable, or credit interest or in which such person is active or employed;
- (5) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is an officer, director, or employee, whether compensated or not; and
- (6) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is to participate in the management or operation of a poker run as defined in this Section.

**7-7-6            LICENSE ISSUANCE.**

(A)            The Mayor shall review all raffle license applications and all poker run license applications. The Mayor shall, within **thirty (30) days** from the date of application, accept or reject a raffle or poker run license application. If an application is accepted, the Mayor shall forthwith issue a raffle or poker run license to the applicant.

(B)            A raffle license or poker run license shall specify:

- (1)            The area or areas within the County in which raffle chances will be sold or issued or a poker run will be conducted;
- (2)            The time period during which raffle chances will be sold or issued or a poker run will be conducted; and
- (3)            The time of determination of winning chances and the location or locations at which the winning chances will be determined.

(C)            Any license issued under this Article shall be non-transferable.

(D)            A license shall be valid for one raffle event or one poker run only, unless the Mayor specifically authorized a specified number of raffles or poker runs to be conducted during a specified period not to exceed **one (1) year**.

(E)            A raffle license or poker run license may be suspended or revoked for any misrepresentation on the application, any violation of this Article or State law, or when such raffle or poker run or portion thereof is conducted so as to constitute a public nuisance or to disturb the peace, health, safety or welfare.

(F)            **Prominent Display of License.**

- (1)            A raffle license shall be prominently displayed at the time and location of the determination of the winning chances.
- (2)            A poker run license shall be prominently displayed at each location at which the poker run is conducted or operated.

(G)            **Miscellaneous Provision for Poker Run License.** Any poker run license issued shall cover the entire poker run, including locations other than the key location. Each license issued shall include the name and address of each location at which the poker run will be conducted.

**7-7-7            CONDUCT OF RAFFLES AND POKER RUNS.**

(A)            The operation and conduct of raffles and poker runs are subject to the following restrictions:

- (1)            The entire net proceeds of any raffle or poker run must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.
- (2)            No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle or poker run.
- (3)            No person may receive any remuneration or profit for participating in the management or operation of the raffle or poker run.
- (4)            A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this Article. A premises where a poker run is held is not required to obtain a license if the name and location of the premises is listed as a predetermined location on the license issued for the poker run and the premises does not charge for use of the premises.
- (5)            Raffle chances may be sold or issued only within the area specified on the raffle license and winning chances may be determined only at those locations specified on the license for a raffle. A playing card or equivalent item may be drawn only within the area specified on the poker run license and winning hands or scores may be determined only at those locations specified on said license.
- (6)            A person under the age of **eighteen (18) years** may participate in the conducting of raffles or chances or poker runs only with the permission



of a parent or guardian. A person under the age of **eighteen (18) years** may be within the area where winning chances in a raffle or winning hands or scores in a poker run are being determined only when accompanied by his parent or guardian.

(B) If a lessor rents premises where a winning chance on a raffle or a winning hand or score in a poker run is determined, the lessor shall not be criminally liable if the person who uses the premises for the determining of winning chances does not hold a license issued by the City.

**7-7-8 MANAGER - BOND.**

(A) All operations of and conduct of raffles and poker runs shall be under the supervision of a single poker run manager designated by the organization. The manager or operator of the raffle or poker run must be a bona fide member of the organization holding the license for such a raffle or poker run and may not receive any remuneration or profit for participating in the management or operation of the raffle or poker run.

(B) The manager shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** conditioned upon his honesty in the performance of his duties. Terms of the bond shall provide that notice shall be given in writing to the City not less than **thirty (30) days** prior to its cancellation.

(C) The Mayor is authorized to waive this bond requirement by including a waiver provision in the license issued to an organization under this Article provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

**7-7-9 RECORDS.**

(A) Each organization licensed to conduct raffles and chances or poker runs shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances in a raffle or winning hands or scores in a poker run are determined. All deductions from the gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

(B) Gross receipts from the operation of raffles or poker runs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles or poker runs. The person who accounts for the gross receipts, expenses, and net proceeds from the operation of raffles or poker runs shall not be the same person who accounts for other revenues of the organization.

(C) Each organization licensed to conduct raffles or poker runs shall report monthly to its membership, and to the City Clerk, its gross receipts, expenses and net proceeds from raffles or poker runs, and the distribution of net proceeds itemized as required by this Section.

(D) Records required by this Section shall be preserved for **three (3) years**, and the organization shall make available their records relating to operation of poker runs for public inspection at reasonable times and places.

(E) The City shall maintain the records required by this Section in compliance with the "Raffles and Poker Runs Act" and the Local Records Act, **50 ILCS 205/1 et seq.**

**7-7-10 LIMITED CONSTRUCTION.** Nothing in this Article shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity, or device other than raffles or poker runs as provided for herein.

**7-7-11**      **DELINQUENT PAYMENT OF CITY DEBT.**    No licensee shall become delinquent on payments for any services, loans or other contractual agreements received by the licensee or the licensed establishment from the City. For the purpose of this Section, a licensee shall be considered to be delinquent if the licensee is currently in arrears for more than **fifteen (15) days** on an outstanding debt owed to the City, or has been in arrears for more than **fifteen (15) days** on a payment to the City for services, loans or other contractual agreements, **two (2)** or more times within a **two (2) year** period. For the purposes of this Section, "licensee" shall refer to the license applicant, if officers, directors, registered agents and any stockholders owning **five percent (5%)** or more of the corporate stock and any individual or partner as listed on the application currently in effect. **(Ord. No. 2004-11A; 05-10-04)**

## ARTICLE VIII – ADULT ENTERTAINMENT

**7-8-1 PURPOSE AND INTENT.** It is the purpose and intent of this Article to regulate sexually oriented businesses to promote the health, safety, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the City, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses.

**7-8-2 DEFINITIONS.** The words and phrases defined herein shall have the meanings hereinafter ascribed to them unless a different meaning is clearly indicated by the context.

(A) **Adult Entertainment Facility** means any commercial establishment, except an adult theater, semi-nude model studio, or sexual encounter center, including but not limited to a nightclub, bar, restaurant, or gentlemen’s club, which regularly features any one or more of the following:

- (1) persons who appear semi-nude or in a state of semi-nudity;
- (2) live performances which are characterized by their emphases upon exposure of “specified sexual activities” or “specified anatomical areas”.

(B) **Adult Motel** means a motel, hotel or similar commercial establishment which offers private accommodations to the public, 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 their emphasis upon the exhibition or description of “specified sexual activities” or “specified anatomical areas” and which advertises the availability of such sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, and which (i) offers a sleeping room for rent for a period of time less than **ten (10) hours** or (ii) allows a tenant or occupant to sub-rent the sleeping room for a time period of less than **ten (10) hours**.

(C) **Adult Store or Adult Bookstore** means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that are characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas”; or
- (2) instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities”;
- (3) films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by their emphasis upon matters exhibiting or describing “specified sexual activity” or “specified anatomical areas” and which are shown within a viewing room as hereinafter defined on still or motion picture projectors, slide projectors or similar machines or computers or other image producing machines.

A principal business purpose exists if the establishment has a significant or substantial portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial section of its sales or display or floor space to the sale or rental for any form of consideration any one or more of the items described above. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as an adult store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult store so long as one of its principal business purposes are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

(D) **Adult Theater** means a theater, concert hall, auditorium or similar commercial establishment which has a room(s) for viewing or viewing areas, each of which are **one hundred fifty (150) square feet** or greater in size and which for any form of consideration regularly features any one of the following:

- (1) films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration;
- (2) persons who appear semi-nude or in a state of semi-nudity or live performances which are characterized by their emphasis upon the exposure of "specific sexual activities" or "specific anatomical areas".

(E) **Semi-Nude Model Studio** means any place where a person, who regularly appears in a state of semi-nudity is provided for money or any form of consideration to be viewed or observed or sketched or drawn or painted or sculptured or photographed or similarly depicted by other persons. Semi-nude Model Studio shall not include a modeling class operated:

- (1) by a college, junior college, or university supported entirely or partly by taxation; or
- (2) by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (3) in a structure:
  - (a) which has no sign visible from the exterior of the structure and other advertising that indicates a semi-nude person available for viewing and
  - (b) where, in order to participate in a class a student must enroll at least **three (3) days** in advance of the class; and
  - (c) where no more than one model is on the premises at any one time.

(F) **Special Encounter Center** means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- (1) physical contact in the form of wrestling or tumbling between persons of the opposite sex;
- (2) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of semi-nudity.

(G) **Escort** means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie for another.

(H) **Escort Agency** means a person or business association who furnishes, offer to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(I) **Nude or State of Nudity** means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or anal cleavage with less than a fully opaque and non-transparent covering, the showing of the female breast with less than a fully opaque and non-transparent covering of any part of the nipple and areola, or the showing of the covered male genitals in a discernibly turgid state.

(J) **Semi-Nude or Semi-Nudity** means a state of dress in which non-transparent and opaque clothing covers from view no more than the human buttocks, anus, anal cleft and cleavage, pubic area, male genitals, female genitals, vulva and the female breast below a horizontal line across the top of the areola at its highest point and the human male genitals in a discernibly turgid state, even if completely and opaquely covered. This definition shall include the entire lower portion of the human female breasts, but shall not include any portion of the cleavage of the human breasts exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola and nipple are not exposed in whole or in part.

(K) **Operate or Cause to Operate or Operator** shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually

oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, or has an ownership interest in the business.

(L) **Person** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(M) **Premises** means the real property upon which the sexually oriented business is located, and all appurtenances thereto and the structure and buildings thereon, including but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee.

(N) **Public Park or Recreation Area** means public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths or similar public land open to the public within the City which is under control, operation, or management of the City or other governmental, charitable, or not-for-profit authority.

(O) **Public Place** means any location frequented by the public or where the public is present or likely to be present or any location where a person may reasonably be expected to be observed by members of the public or any location that is readily visible to the public or any location where the public has a right to go or is invited.

(P) **Regularly Features** means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the establishment.

(Q) **Religious Institution** means any church, synagogue, mosque, temple, regular place of worship or building which is used primarily for religious worship and related religious activities.

(R) **Residential District or Use** means the R-1 (Low-Density Residential), R-2 (Medium-Density Residential), R-3 (Medium Density), R-4 (High Density).

(S) **School** means any public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergarten, elementary schools, primary schools, intermediate schools, junior high schools, high schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

**7-8-3 LOCATION OF SEXUALLY ORIENTED BUSINESSES.** It shall be prohibited within the City to locate an adult entertainment facility, adult store/bookstore, adult movie theater, adult motel, semi-nude model studio, escort service or special encounter center within **one thousand (1,000) feet** of the property boundaries of any of the following:

- (A) a religious institution;
- (B) a school;
- (C) a public park;
- (D) a cemetery;
- (E) public housing;
- (F) the boundary of any residential district;
- (G) any property actually occupied, devoted to or utilized for residential use, regardless of zoning designation.

**7-8-4 LICENSE REQUIRED.**

(A) No person shall operate a sexually oriented business without a valid sexually oriented business license issued by the City.

(B) No person who operates a sexually oriented business shall employ a person to work and/or perform services on the premises of a sexually oriented business, if such employee is not in possession of a valid sexually oriented business employee license issued to such employee by the City.

(C) No person shall obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person by the City.

**7-8-5 APPLICATION FOR SEXUALLY ORIENTED BUSINESS LICENSE.**

(A) An application for a sexually oriented business license, whether original or renewal, must be made by each operator or operators of the sexually oriented business on a form provided by the City. The application must be submitted to the City Clerk and shall be marked by the City Clerk with the date and time of receipt. The application shall be subject to approval or denial by the Zoning Administrator and Fire Chief. The application form shall request and the applicant shall be required to provide information described within subparagraph (B) herein.

(B) The application for a sexually oriented business license and the applicant shall be required to provide the following information:

- (1) The name and current mailing address of the applicant(s);
- (2) Written proof of age in the form of a certified birth certificate or picture identification issued by a governmental agency of person signing application;
- (3) The street address and legal description of the tract of land on which the establishment is to be located;
- (4) An affirmative statement that the applicant(s) within the preceding **twelve (12) months** has not had any similar license issued revoked.

(C) The applicant has an affirmative duty to supplement an application with information received subsequent to the date that the application is filed with the City. None of the items set forth within paragraph (A) and (B) herein, except the name and current address of the applicant(s) shall be required for a renewal application if the applicant states in writing under oath that the documents and information previously furnished to the City with the original application or previous renewals thereof remain correct and current.

**7-8-6 APPLICATION FOR A SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE.**

(A) Applications for a sexually oriented business employee license to work and/or perform services as an employee in a sexually oriented business, whether original or renewal, must be personally submitted to the City Clerk by the person to whom the employee license shall issue; the City Clerk shall mark each application with the date and time of receipt. Each application for an employee license shall be accompanied by the application fee. Application forms shall be supplied by the City.

(B) Each applicant for an employee license shall be required to give the following information on the application form:

- (1) The applicant's name;
- (2) Written proof of age with a certified form of a birth certificate or picture identification issued by a governmental agency;
- (3) Current mailing address;
- (4) An affirmative statement that the applicant within the preceding **twelve (12) months** has not had any similar license revoked.

**7-8-7 FEES.**

(A) Every application for a sexually oriented business license (whether for a new license or for renewal of existing license shall be accompanied by a **One Thousand Dollar (\$1,000.00)** non-refundable application, inspection and license fee, which shall be paid annually.

(B) All license applications and fees shall be submitted to the City Clerk.

**7-8-8**            **INSPECTION.** Each applicant, licensee, or operator of a sexually oriented business shall permit representatives of the City, including but not limited to Building, Inspection, Zoning, Police & Fire personnel, and representatives of State agencies and entities to inspect the premises of and the activities upon a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business or any period that any employee or the licensee is on or within the premises. If an applicant for new license is pending and if the sexually oriented business is not open for business inspection shall occur between the hours of **8:00 A.M.** to **5:00 P.M.**

**7-8-9**            **EXPIRATION OF LICENSE.** A sexually oriented business license shall be an annual license and shall expire on **November 1** of each year and may be renewed only by making application as provided in this Article. Application for renewal shall be made at least **thirty (30) days** before the expiration date. No application for renewal shall be made sooner than **sixty (60) days** before expiration.

**7-8-10**           **SUSPENSION.** The City may suspend a sexually oriented business license or employee license for a period not to exceed **thirty (30) days** if it determines by a preponderance of the evidence that the licensee has knowingly:

- (A)                violated or is not in compliance with any provision of this Article;
- (B)                refused to allow an inspection of the sexually oriented business premises as authorized by this Article or given false information during an inspection.

**7-8-11**           **REVOCAION.**

(A)                The City shall revoke or shall deny renewal of a sexually oriented business license if it determines by a preponderance of the evidence that any one of the following has occurred:

- (1)                A licensee gave false or misleading information in the responses, drawings, or the material submitted during the application process;
- (2)                A licensee has engaged in or with knowledge permitted any act which violates any Federal, State or Local Statute or Ordinance;
- (3)                A licensee has engaged in or with knowledge permitted the possession, use, or sale of controlled substances on the premises;
- (4)                A licensee has engaged in or with knowledge permitted the sale, use, possession, or consumption of alcoholic beverages on the premises;
- (5)                A licensee has engaged in or with knowledge permitted prostitution on the premises;
- (6)                A licensee has engaged in or with knowledge permitted gambling on the premises;
- (7)                A licensee has engaged in or with knowledge permitted any act of sexual intercourse, sodomy, or copulation or masturbation to occur in or on the licensed premises;
- (8)                A licensee has with knowledge permitted a person under **eighteen (18) years** of age to enter the establishment or to remain on the premises;
- (9)                A licensee has attempted to sell his business license or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee of the business;
- (10)              A licensee has with knowledge permitted another person to possess and use or represent the licensee’s license as his own;
- (11)              A licensee has engaged in or with the knowledge permitted a person or persons to engage in “specified sexual activities” on the premises of the sexually oriented business; provided that this subsection (11) shall not apply to the erotic movements or the erotic touching of one’s own genitals, pubic area, buttocks, anus, or breasts, whether covered or

uncovered, by a danger or performer during the course of a live performance.

- (12) A licensee has with knowledge operated the sexually oriented business or has been employed by a sexually oriented business during a period of time when the licensee's license was suspended.

A revocation shall occur as a result of any of the above referenced activities performed or initiated by the licensee, owner, employee or agent acting on behalf of the licensee.

(B) When the City revokes a license, the revocation shall continue for **one (1) year**, and the licensee shall not be issued a sexually oriented business license nor a sexually oriented business employee license for **one (1) year** from the date the revocation became effective. No period of any stay pending or during an appeal shall be included within the **one (1) year** revocation period.

**7-8-12                    LICENSING PROCEDURE AND LICENSING DECISIONS.**

(A) Subject to this Article, if the City Clerk or his designee determines that facts exist for denial of a new license or denial of a renewal or suspension of a license or revocation of a license, the City Clerk or his designee shall notify the applicant or licensee (respondent) in writing of the denial or of the intent to suspend or revoke the license, including the grounds therefore, by personal delivery or by U.S. certified mail. The notification shall include a statement of the respondent's rights of appeal under this subsection. The notification shall be personally served or mailed by certified mail to the mailing address on file with the City Clerk for the respondent. Within **ten (10) business days** of receipt of such notice, the respondent may provide to the City Clerk or his designee a written response that shall include a statement of reasons why the respondent believes the license should not be denied, suspended or revoked. If no response is received by the City Clerk then a final notice of denial, suspension, or revocation shall be served upon respondent by personal service or certified mail. If a response is received, within **five (5) business days** of the receipt of the response, the City Clerk or Hearing Officer shall notify respondent in writing of a hearing date on the respondent's denial, suspension or revocation proceeding. Within **ten (10) business days** of the receipt of respondent's written response the Hearing Officer shall conduct a hearing at which hearing the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, to present evidence and witnesses on his own behalf and to cross-examine witnesses; witnesses shall be sworn and the proceeding recorded. The City Clerk shall also be represented by counsel and shall bear the burden of proving by a preponderance of the evidence the grounds for denying, suspending, or revoking the license. The Hearing Officer shall issue and serve upon respondent by personal service or by U.S. certified mail a written opinion within **five (5) business days** after conclusion of the hearing. If applicable, respondent shall receive a final notice of denial or suspension or revocation which shall be included in the Hearing Officer's Order; said final notice shall include a statement advising the respondent of the right to appeal under this subsection. If the Hearing Officer finds that no grounds exist for denial of the license then the City Clerk or his designee shall issue the license to the applicant, or if the City Clerk fails to issue said license within **two (2) business days**, the Hearing Officer shall issue the license. Business day means any day that City Hall is open to the public for the transaction of business.

(B) When a decision to deny, suspend or revoke a license becomes final, the applicant or licensee whose application for a license has been denied or whose license has been suspended or revoked shall have the right to seek judicial review and to appeal or challenge such action to any court competent jurisdiction and proper venue. If a court action challenging the Hearing Officer's decision is initiated, the City shall timely and without delay prepare and transmit to the court a transcript of the hearing.

(C) An applicant for a new sexually oriented business license, as opposed to a renewal, may but is not required to participate in the appeal (hearing) process set forth within paragraph (A) above. An applicant whose application for a new license has been denied by the City Clerk and who disagrees with the decision may at the applicant's sole election:

- (1) participate in the appeal process as set forth within paragraph (A) above  
or



- (2) give written notice to the City Clerk after notice of denial of the license, of the applicant's "Intent to Open" the sexually oriented business without a license on the **tenth (10<sup>th</sup>)** calendar day after the date of the Written Notice of Intent to Open is filed in the Office of the City Clerk; upon filing, said Notice shall be marked by the City Clerk with the date and time of filing.

If the applicant elects to give Written Notice of Intent to Open as provided above, then the City must within the **ten (10) day** period designated within the Notice of Intent to Open petition the Illinois Second Judicial Circuit Court or any Court of competent jurisdiction and proper venue and obtain injunctive relief or other appropriate relief. The Court in which the petition for injunctive relief or other judicial relief is filed shall determine whether the applicant meets the requirements for issuance of a sexually oriented business license and to determine the validity of any provision thereof that the applicant does not meet and shall in accordance with Article XI, Part I of the Illinois Code of Civil Procedure or other applicable statute grant such relief as the Court deems necessary and appropriate. If the City fails to petition for injunctive relief or if the Court fails to issue the injunctive relief or grant such other relief as requested denying the license or enjoining the sexually oriented business from opening prior to expiration of the **ten (10) day** period described within the Notice of Intent to Open, the license shall be deemed to be issued, although the licensee and the licensed premises must still comply with all provisions of this Article, the same as if the license had been issued by the City Clerk, as a failure or inability of the City to obtain injunctive relief or other judicial relief does not excuse compliance by the licensee with any provision of this Article, except the license requirement or such requirement as determined by a Court not to be applicable or enforceable. The license and licensee shall, except as provided within this Article, also be subject to all provisions of a license. If the City does not petition for injunctive relief or other judicial relief within the **ten (10) day** period described within the Notice of Intent to Open and if the license is deemed to be issued, the City may nonetheless petition the Court of injunction relief or other judicial relief for initiate proceedings under this Article, to suspend or revoke the license; provided, however, that a "license deemed to be issued" shall be entitled to the same stay of proceedings to preserve the status quo as provided for a license actually issued by the City Clerk. In addition, if an applicant elects to seek an appeal to the City Hearing Officer of a decision of the City Clerk denying a license, the applicant shall still retain and be entitled to exercise its rights under this subparagraph and give the "Written Notice of Intent to Open" after the Hearing Officer issues a final notice of denial.

(D) An applicant for a new sexually oriented business employee license, as opposed to a renewal, may but is not required to participate in the appeal (hearing) process set forth within paragraph (A) above. An applicant whose application for a new employee license has been denied by the City Clerk and who disagrees with the decision may at the applicant's sole election:

- (1) participate in the appeal process as set forth within paragraph (A) above or
- (2) give written notice to the City Clerk after notice of denial of the license, of the applicant's "Intent to Be Employed" by the sexually oriented business without a license upon expiration of **twenty-four (24) hours** from the date and time the Written Notice of Intent to be Employed is filed in the Office of the City Clerk; upon filing, said Notice shall be marked by the City Clerk with the date and time of filing.

If the applicant elects to give Written Notice of Intent to be Employed as provided above, then the City must within the **twenty-four (24) hour** period designated within the Notice of Intent to be Employed Petition the Illinois Second Judicial Circuit Court or any court of competent jurisdiction and proper venue and obtain injunctive relief or other appropriate relief. The Court in which the petition for injunctive relief or other judicial relief is filed shall determine whether the applicant meets the requirements for issuance of a sexually oriented business employee license and determine the validity of any provision thereof that the applicant does not meet and shall in accordance with Article XI, Part I of the Illinois Code of Civil Procedure or other applicable statute grant such relief as the court deems necessary and appropriate. If the City fails to petition for injunction relief or if the Court fails to issue the injunctive relief or grant such other relief as requested denying the license or enjoining the applicant from being employed prior to expiration of the **twenty-four (24) hour** period described within the Notice of Intent to be Employed, the license shall be deemed to be issued, although the licensee must still comply

with all provisions of the license issuing process the same as if the license had been issued by the City Clerk, as a failure or inability of the City to obtain injunctive relief does not excuse compliance by the licensee with any provision of this Article, except the license requirement. The license and licensee shall, except as provided within this Article shall be subject to all its provisions relating to renewal of a license, suspension of a license, or revocation of a license. If the City does not petition the Court for injunctive relief or other judicial relief within the period described within the Notice of Intent to be Employed and if the license is deemed to be issued, the City may nonetheless petition for injunctive relief or other judicial relief or initiate proceedings under this Article to suspend or revoke the license; provided, however, that a "license deemed to be issued" shall be entitled to the same stay of proceedings to preserve the status quo as provided for a license actually issued by the City Clerk. In addition, if an applicant elects to seek an appeal to the City Hearing Officer of a decision of the City Clerk denying a license, the applicant shall still retain and be entitled to exercise its rights under this subparagraph and give the "Written Notice of Intent to be Employed" after the Hearing Officer issues a final notice of denial.

(E) Notwithstanding any provisions of this subsection, in the event the licensee appeals the denial of a renewal application or the suspension of a license or revocation of a license, the status quo immediately prior to such denial, suspension or revocation shall be maintained throughout the pendency of the appeal including the hearing process within subparagraph (A) above up to and including judicial review as provided within subparagraph (B) above. Upon a judicial decision being entered, the stay to preserve the status quo provided herein shall cease and the order or decision of the court shall determine whether an additional stay is appropriate, required or permitted by law.

**7-8-13      TRANSFER OF LICENSE.** A licensee shall not transfer his/her license to another person, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the premises designated in the application.

**7-8-14      ALCOHOLIC BEVERAGES.** The sale, use, possession, or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited. A business license shall have an affirmative duty to deny entry to any person in possession of alcoholic liquor and shall have an affirmative duty not to permit or allow any person in possession of alcoholic liquor to remain on premises. No licensee, employee, agent, patron or any other person shall sell, possess, use or consume alcoholic beverages upon the premises of a sexually oriented business.

**7-8-15      EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.**  
(A) No licensee of a sexually oriented business shall allow any semi-nude employee or the merchandise or activities of the sexually oriented business (except the parking, traffic, and pedestrian access activities of patrons) to be visible from any place outside the structure in which the sexually oriented business is situated. The licensee shall not permit any patron or patrons or other person to stand, congregate, loiter, or to gather in groups upon the exterior premises of the sexually oriented business or allow the vehicular parking and traffic areas and the pedestrian access areas to be used for any purpose except movement of traffic, parking of motor vehicles and access of patrons and other persons to and from the sexually oriented business establishment.

(B) No licensee of a sexually oriented business shall allow the exterior portion of the sexually oriented business to have flashing lights, search lights, spot lights, photographs, silhouettes, drawings or pictorial representations in any manner. No exterior portion of the establishment shall be painted any color than an achromatic color, although this subparagraph does not require the painting of an otherwise unpainted exterior portion of a sexually oriented business. "Exterior portion" shall mean any part of the physical structure of an establishment, including a wall, veneer, door, fence, roof, roof covering, window, or similar item which is visible from the public right-of-way or from any property adjoining the premises of the sexually oriented business or from any location off of the premises of the sexually oriented business. "Achromatic" means colorless, zero in saturation, or lacking in hue; for purposes of this subsection, the definition of achromatic shall include, without limitation, white, black,

grays, tans, and light earth tones, but any bold, vivid, neon, fluorescent, or extremely bright coloration that attracts attention shall be excluded from the definition of achromatic.

(C) Notwithstanding any other City Ordinance, Code, or Regulation to the contrary, no operator of a sexually oriented business, no sexually oriented business nor any other person shall erect, construct, or maintain any sign for a sexually oriented business except one freestanding on-premises sign and one wall-flush mount on-premises sign, each of which shall comply with all zoning requirements. The display surface of each sign shall:

- (1) not contain any flashing lights;
- (2) be a flat plane, rectangular or square in shape;
- (3) not contain any photographs, silhouette, drawing or pictorial representation in any manner;
- (4) each letter forming a word shall be of solid color and each letter shall be of the same print type, size and color; the background behind such lettering on the display surface shall be of a uniform and solid color.

**7-8-16      ADDITIONAL REGULATIONS FOR ADULT MOTELS.**

(A) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated **two (2)** or more times in a period of time that is less than **ten (10) hours** creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Article.

(B) No person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, shall rent or subrent a sleeping room to a person and, within **ten (10) hours** from the time the room is rented, rent or subrent the same sleeping room again.

(C) For purposes of subsection (B) of this Section, the terms "rent" or "subrent" means the act of permitting a room to be occupied for any form of consideration.

(D) Notwithstanding the provisions of any other building or applicable code, the sleeping room shall not have less than **one hundred fifty (150) square feet** of floor space.

(E) An adult motel shall not provide closed circuit television transmissions, films, motion pictures, video cassette slides or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specific anatomical areas" within any room or area, except within a sleeping room.

(F) The licensee of an adult motel shall insure that each sleeping room and accessory rooms are clean and sanitary. Such duty shall be fulfilled if the licensee:

- (1) maintains a regular cleaning schedule of at least **one (1)** cleaning per rental of the room, documented by appropriate logs;
- (2) all garbage, trash, body fluids, and excrement discovered during each inspection and cleaning are immediately removed and all areas where same are present are cleaned with disinfectant;
- (3) all solid waste and debris generated within a room are removed from the room each time that a room is cleaned and placed in closed trash receptacles and all waste, debris and garbage generated by the adult motel is removed from the premises of the adult motel at least once each week by a garbage or trash service or other lawful means;
- (4) not less often than once each week the entire room shall be cleaned with a disinfectant, including at least the floors, all walls within **forty-eight (48) inches** of the floor, and all surface areas of any furniture, fixtures or appliances; and
- (5) all linen, including but not limited to towels, sheets and other similar non-disposal personal hygiene items shall be changed and removed with each rental of a sleeping room and shall be laundered with soap or other disinfectant prior to re-use.

(G) Neither the business licensee nor any employee of an adult motel shall be nude or semi-nude when upon the premises of the sexually oriented business except within the sleeping room

or other room occupied as the private personal room of same when no patron is present or during the bona fide use by same of a single sex restroom for its intended purpose. No patron shall be nude or semi-nude when a business licensee or any employee of the adult motel is present. No live entertainment shall be provided by a licensee within any room rented to or occupied by a patron nor within any room or other area upon the premises of an adult motel.

**7-8-17      ADDITIONAL REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS IN VIEWING ROOMS.**

(A) No sexually oriented business, except an adult store shall exhibit on the premises in a viewing room of less than **one hundred fifty (150) square feet** of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas.

(B) An adult store having one or more viewing rooms on the premises shall comply with the following requirements:

- (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, specifying the location of each viewing room, and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed **thirty-two (32) square feet** of floor area with no dimension greater than **eight (8) feet**. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus **six (6) inches**. The City shall waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- (2) The above-described diagram shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station or a viewing room shall be made without the prior approval of the City.
- (4) The licensee of the premises shall ensure that at least one licensed employee is on duty for each manager's station and situated in each manager's station at all times that any patron is present inside the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Each viewing room shall have one side completely open, with the open side being of the same width and height as the directly opposite wall of the viewing room. A viewing room shall have no other means or point of access except the open side. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premise shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted to access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

- (6) The licensee shall ensure that at all times the view area specified in subsection (B)(5) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks, benches, chairs, or other materials or in any manner.
- (7) Each viewing room must be illuminated at all times in the manner described within subparagraph (8) below; no person shall enter or remain in any viewing room which is not illuminated.
- (8) Each viewing room and the entire premises of the sexually oriented business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than **five (5) foot-candles** as measured at the floor level. The lighting control or switch shall be inaccessible to any patron or other person except the licensee or an employee of the sexually oriented business.
- (9) The licensee and each employee present on the premises shall ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (10) No licensee or employee present on the premises shall allow openings of any kind to exist between viewing rooms or between a viewing room and any restroom or other adjoining room or to exist in any wall of a viewing room.
- (11) No person shall make or attempt to make an opening of any kind between viewing rooms or other adjoining rooms.
- (12) No door, curtain, or other covering or obstruction shall be attached, situated, or installed on any viewing room which obstructs or may obstruct the direct line of sight, in whole or in part, into the viewing room or any part thereof from the manager's station. No person (including a patron) shall obstruct the direct line of sight into the viewing room with any curtain, covering, or other article or item or in any manner.
- (13) The licensee or an employee shall, during each business day, at hourly intervals inspect the walls within each viewing rooms to determine if any openings or holes exist.
- (14) The licensee shall cause all floor coverings in viewing rooms to be nonporous, easily cleanable surfaces, with no rugs or carpeting. The licensee shall cause all wall surfaces and ceiling surfaces in viewing rooms to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used as the exterior surface within a viewing room within **forty-eight (48) inches** of the floor.
- (15) The licensee shall cause all walls of a viewing room to be constructed of material not readily susceptible to breach or any opening without the aid of a drill, saw or similar device or tool.
- (16) The licensee and each employee present on the premises shall ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (B)(1) of this Article.
- (17) The licensee and each employee present on the premises shall ensure that no specified sexual activity occurs in or on the licensed premises.
- (18) The licensee and each employee present on the premises shall ensure that not more than **one (1) person** is present in viewing room at any time. No person (including an employee) shall enter a viewing room that is occupied by another person.
- (19) A licensee or employee who discovers **two (2)** or more patrons or other persons in a viewing room or discovers any person making or attempting

- to make an opening of any kind between viewing rooms shall immediately escort such persons from the premises.
- (20) A licensee or employee who discovers an opening of any kind in a wall of a viewing room shall immediately upon discovery secure such room and prevent entry into the room by any patron until such time as the wall has been repaired to remove the opening. Repair of any opening in a viewing room shall be in a manner that is as structurally substantial as the original construction.
  - (21) The licensee shall post a conspicuous sign at each entrance within the interior of the sexually oriented business and within each viewing room, which sign shall state all of the following:
    - (a) That no loitering is permitted in viewing room.
    - (b) That the occupancy of viewing rooms is limited to **one (1) person.**
    - (c) That the open side of a viewing room is not permitted to be blocked or obstructed by any covering or article.
    - (d) That any specified sexual activity on the premises is prohibited.
    - (e) That the making of openings between viewing rooms or any wall of a viewing room is prohibited.
    - (f) That violators will be required to leave the premises; repeat violators will be permanently barred from the premises.
    - (g) That violations of subparagraphs (b), (c), (d) and (e) of this paragraph are unlawful.
  - (22) The licensee shall ensure that each viewing room is clean and sanitary. Such duty shall be fulfilled if the licensee complies with the following cleaning procedures:
    - (a) The licensee shall maintain a regular cleaning schedule of at least **one (1)** thorough cleaning per day, documented by appropriate logs.
    - (b) The licensee shall direct and require an employee to inspect at hourly intervals each viewing room for garbage, trash, body fluids and excrement and to immediately upon discovery remove and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least once each week. Prior to collection, solid waste shall be stored in a manner that prevents access by animals or members of the public and which will not facilitate the creation of a health nuisance.
    - (c) Thorough cleaning of the entire interior of a viewing room (except that portion **four (4) feet** above the floor surface and the ceiling) shall be done using a disinfectant. Cleaning shall include floors, walls, seating, monitors, video cameras, and windows and other surfaces.

A person having a duty or required to perform an act under subsection (1) through (22) of subsection (B) above commits a violation if he knowingly fails to perform the act or fails to fulfill that duty.

(C) No sexually oriented business, except an adult store, shall have a viewing room as defined within this Article. No viewing room shall exhibit a live performance. No adult store shall exhibit any film, videocassette, or other video reproduction, except within a viewing room.

**7-8-18            ADDITIONAL REGULATIONS FOR ADULT THEATERS.**

(A) Each adult theater shall provide seating only in individual chairs with arms or in seats separated from each other by immovable arms and not on couches, benches or any other multiple

person seating structures. The number of seats shall equal the maximum number of persons who may occupy the adult theater.

(B) Each adult theater shall have a continuous main aisle alongside the seating area in order the each person seated in the adult theater shall be visible from the aisle at all times. Excluding any public entrance(s) from the exterior of the sexually oriented business, each adult theater shall have its door or entryway or point of access constructed of such material and in such manner that not less than **fifty percent (50%)** of its door or entryway or point of access permits unobstructed visibility into adjoining area from outside the door or entryway.

(C) Each adult theater shall have a sign posted at a conspicuous place at or near each entranceway to the auditorium or similar area that lists the maximum number of persons that may occupy the auditorium area, which number shall not exceed the number of seats in the auditorium area.

(D) Each adult theater shall have an attendant on duty within each theater at all times that a theater is occupied by **one (1)** or more patrons. No attendant, licensee, nor any other employee nor any patron upon the premises of an adult theater shall be nude or semi-nude, except as provided within this Article.

(E) Each theater shall be inspected at the conclusion of each film or performance or every **five (5) hours**, whichever occurs more often, and any area of seating, aisle or floor where any semen, body fluid or other foreign substance is discovered shall be cleaned with a disinfectant and all debris or items discarded by patrons shall be removed from the theater and placed in a closed trash receptacle; provided all chairs and seats, aisles and floors shall in all events be disinfected at least one time daily. All debris and trash shall be removed from the premises at least once each week by a garbage or trash service or other lawful means.

**7-8-19      ADDITIONAL REGULATIONS CONCERNING ALL SEXUALLY ORIENTED BUSINESSES.**

(A) No person shall knowingly within any area where a patron is permitted access or within any area visible to a patron within or upon a sexually oriented business premises, appear nude or in a state of nudity regardless of whether such nudity is expressive in nature. This subparagraph shall not be construed to apply to a person engaged in the bona fide use of a single sex restroom for its intended purpose or to an occupant(s), not otherwise visible to the public, within a room of an adult motel rented by one or more of the occupants when no licensee or employee of the sexually oriented business is present.

(B) No person shall, knowingly in a sexually oriented business engage in specified sexual activity, provided that this subparagraph (B) shall not apply to nor prohibit the erotic movements or the erotic touching of one's own genitals, pubic area, buttocks, anus, or breasts by a dancer or performer during the course of a live performance.

(C) Except as otherwise provided within this Article, no person shall knowingly within any area where a patron is permitted access or within any area visible to a patron within or upon a sexually oriented business premises appear semi-nude unless the person is an employee who, while semi-nude (1) shall be at least **four (4) feet** from any patron or customer and (2) shall be on a permanent, securely fastened raised stage at least **two (2) feet** above the floor and (3) shall be within the interior of the structure of the sexually oriented business. This provision requires that the outer edge of the entire stage shall be at least **four (4) feet** from any patron or patron seating; said **four (4) foot** distance shall be clearly designated by a rail, by floor markings or by the seating and table arrangement; and, in addition, the licensee shall post clearly visible signs upon the stage, visible from all area of patron seating near the stage, informing patrons of the **four (4) foot** requirement. No patron shall knowingly enter upon any stage occupied by a semi-nude employee nor enter within **four (4) feet** of the edge of the stage occupied by a semi-nude employee nor otherwise enter or remain at a distance within **four (4) feet** or less from any semi-nude employee within a sexually oriented business. If any body part of either the semi-nude employee or the patron or customer is within a distance of **four (4) feet**, same shall be considered to be an entry into the **four (4) foot** prohibited area. This subparagraph shall not be construed to apply to a person engaged in the bona fide use of a single sex restroom for its intended purpose or to an occupant(s), not otherwise visible to the public, with a room of an adult motel rented by one or more of the occupants when no licensee or employee of the sexually oriented business is present.

(D) No employee, while semi-nude in a sexually oriented business, shall receive any pay or gratuity from any patron or customer, nor shall any patron or customer pay or give any gratuity to any employee while said employee is semi-nude in a sexually oriented business; except, however, that tips or gratuities for dancers or performers while semi-nude may be paid or given if placed in a designated receptacle(s) within the premises not located on the dancing or performing stage and not located in violation of the distance requirement stated within subparagraph (C) above.

(E) No employee, while semi-nude, shall knowingly touch in any manner a patron or customer or the clothing of a patron or customer knowingly touch in any manner an employee or the clothing of any employee while said employee is semi-nude in a sexually oriented business.

(F) No licensee or any employee upon the premises shall knowingly permit or allow any person upon the licensed premises to engage in or participate in any conduct which violates any provision of this Article.

(G) A sign stating the provisions of paragraph (A), (B), (C), (D), and (E) above shall be posted near each entrance of the sexually oriented business in such a manner as to be clearly visible to all patrons, employees or other persons upon entering the sexually oriented business.

(H) Except as provided within this Article, the interior premises of each sexually oriented business, except the sleeping room of an adult motel, shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place in which patrons are permitted access at an illumination of not less than **two (2) foot candles** as measured at the floor level. The licensee and any employee present on the premises shall insure that the illumination described above is maintained at all times that the premises is occupied by patrons or is open for business. The lighting control or switch shall be inaccessible to any patrons or other person except the licensee or an employee of the sexually oriented business.

(I) No business licensee nor any employee present on the premises shall knowingly permit any patron access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to this Article. Each such area where patrons are not permitted access shall be marked by an appropriate sign denying access. No patron shall enter or attempt to enter or remain in any area of the sexually oriented business which has been designated by a sign as an area in which patrons are not permitted.

(J) Except for a viewing room within an adult store or a sleeping room and its accessory room within an adult motel, no sexually oriented business shall have a private room or an individual room or a personal room for use by any patron; moreover, except within an adult motel, no area upon the same floor level within a building of a sexually oriented business where patrons are permitted access, excluding restrooms, shall be separated from other areas where patrons are permitted access by any door, curtain, obstruction, or other barrier which blocks entry or access or which blocks visibility into said area; and no area within a structure of a sexually oriented business where patrons are permitted access but which is situated upon another floor level or within another building shall be separated by any locked door or other inaccessible barrier which blocks entry or access into said area and any such area shall have its door, entryway, or point of access constructed of such material and in such manner that not less than **fifty percent (50%)** of its door or entryway or point of access permits unobstructed visibility into adjoining areas from outside the door or entryway. Except for a sleeping room in an adult motel, no door or passageway or point of access or means of entry or access to any area within an sexually oriented business when patrons are permitted access shall have any lock or be capable of being barricaded or otherwise obstructed from other areas where patrons are permitted access; provided the public entrances on the exterior of a sexually oriented business may have a lock, although said public entrances shall remain unlocked at any time that a patron is upon the premises. Nothing here shall prohibit a conference room, party room, or similar group facility upon the premises of a cabaret for which patron access is restricted by an attendant provided such room or facility meets all of the requirements of this Article.

(K) All restrooms in a sexually oriented business shall be equipped with standard toilets sinks, and other traditional lavatory facilities. Not less often than daily, restrooms shall be inspected by the sexually oriented business and cleaned with disinfectant, and any item discarded by a patron and other wastes shall be removed and each trash receptacle emptied. The interior of each restroom shall be equipped with overhead lighting fixtures sufficient intensity to illuminate every place within the restroom at an illumination of not less than **fifteen (15) foot candles** as measured at the



floor level. It shall be the duty of the licensee and of any employee present on the premises to insure that the illumination described herein is maintained at all times that the sexually oriented business premises is occupied by patrons or open for business; the lighting control or switch shall be inaccessible to any patron or other person or other person except the licensee or an employee of the sexually oriented business. No live performance nor any printed matter or video reproductions or similar materials characterized by or depicting or describing of "specified sexual activities" or "specified anatomical area" shall be provided, allowed or present at any time in the restrooms of the sexually oriented business. Separate male and female restrooms shall be provided for and used by the patrons and employees of the sexually oriented business. No female person shall use a restroom designated for a male person and no male person shall use a restroom designated for a female person. No restroom shall be used as a dressing room for any employee. The interior of each restroom shall not be visible to any person except from within the interior of the restroom.

(L) Separate male and female dressing rooms shall be provided for exclusive use by employees of the sexually oriented business and no patron shall be permitted or allowed access to said dressing rooms; nor shall the interior of the dressing room be visible to any person except from within the interior of the dressing room. No person, except the licensee or an employee of the sexually oriented business shall enter into any dressing room or other room provided for the exclusive benefit and use of an employee of a sexually oriented business; provided that the subparagraph shall not apply to an employee of another business solely on the sexually oriented business premises to deliver goods or materials, foods and beverages, or to perform maintenance or repairs to the premises, provided, however, that any such person shall remain in such areas only for the purpose and to the extent and time necessary to perform their job duties.

(M) The failure of a licensee to erect or maintain any sign or the failure of the sign to be visible shall not excuse any patron or other person from compliance with any provisions of this Article nor shall same be a defense to any action against any patron or other person under this Article.

**7-8-20            PROHIBITION AGAINST MINORS IN A SEXUALLY ORIENTED BUSINESS.**

(A) No person shall knowingly allow a person under the age of **eighteen (18) years** to be employed by a sexually oriented business nor shall any person knowingly allow a person under the age of **eighteen (18) years** to enter upon or remain upon the premises of a sexually oriented business nor shall a person knowingly allow a person under the age of **eighteen (18) years** to purchase any good or serviced from any sexually oriented business.

(B) No person under the age of **eighteen (18) years** shall be employed by a sexually oriented business nor shall any person under the age of **eighteen (18) years** enter upon or remain upon the premises of a sexually oriented business nor shall a person under the age of **eighteen (18) years** of age make any purchase of goods or services from a sexually oriented business.

(C) Each sexually oriented business shall insure that any employee is stationed as an attendant at each public entrance to the interior of the sexually oriented business at all times during such sexually oriented business' regular business hours. The attendant shall prohibit any person under the age of **eighteen (18) years** from entering the sexually oriented business. For purposes of preventing the violation of this subsection, the sexually oriented business may refuse to permit entry to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is **eighteen (18) years** or older.

The licensee shall not permit entry of any person (except an employee of the sexually oriented business) into the sexually oriented business without first demanding and receiving from said person the presentation of some form of positive identification containing proof of age **eighteen (18) years** or older issued by a public officer in the performance of his official duties. A reasonable belief by the licensee or his agent or his employee that a person is **eighteen (18) years** of age or over shall not be a defense to any action under this Article unless said licensee, agent or employee shall have demanded and received some form of positive identification as above described that such person is **eighteen (18) years** of age or over.

No person shall give or furnish to any person under the age **eighteen (18) years** any false or fraudulent written, printed or photostatic evidence of the age and identity of such person nor any person give or furnish to any person under the age of **eighteen (18) years** evidence of age and identification of

any other person; nor shall any person under the age of **eighteen (18) years** present or offer to any licensee, licensee's agent or employee any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purposes of obtaining entry into a sexually oriented business, nor shall any person under the age of **eighteen (18) years** have in his or her possession any false or fraudulent written, printed or photostatic evidence of age and identity.

**7-8-21            HOURS OF OPERATION.**

(A) No sexually oriented business, except for an adult motel, may remain open at any time except as follows:

(1) **Monday – Saturday.** Between the hours of **12:00 P.M.** and **12:00 A.M.** on each day.

(2) **Sunday.** All sexually oriented businesses shall be closed.

(B) Each licensee shall require and shall have all non-employees (which specifically includes but is not limited to all patrons and customers) off of the premises as defined within this Article within **ten (10) minutes** after the closing time provided herein and shall require and have all employees, except cleaning and maintenance employees described within this subparagraph (D), off of the premises within **twenty (20) minutes** after the closing times provided herein, which **ten (10) minutes** and **twenty (20) minutes** respectively shall be considered a grace period to all times for closing and for the named persons to leave the premises. Notwithstanding the grace period herein all business activities shall cease at the closing hours specified herein.

(C) Whenever time is referred to in this subsection, it shall be understood and is hereby enacted that the same shall be consistent with the official time of the City, whether the same shall be central standard time or central daylight savings time.

(D) No person, including but not limited to any employee, licensee or patron, except the business licensee (i.e., licensed operator) or a paid employee who is on duty for and actually engage in cleaning or maintenance of the premises shall remain in or at a licensed premises after the closing and grace times specified herein above.

**7-8-22            NOTICES.**

(A) Any notice required or permitted to be given by the City Clerk or any other City office, division, department or other agency under this Article to any applicant or licensee may be given either personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application filed with the City Clerk, or within any written notice of address change that has been received by the City Clerk. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail to a sexually oriented business is returned by the postal service, the City Clerk or his designee shall within **twenty-four (24) hours** cause it to be posted at the principal entrance to the business, although only the mailing is required to be completed within any other time period or deadline established by this Article.

(B) Any notice required or permitted to be given to the City Clerk by any person under this Article shall not be deemed given until and unless it is received in the office of the City Clerk.

(C) It shall be the duty of each applicant who is designated on the license application and each licensee to furnish notice to the City Clerk in writing of any change of mailing address.

**7-8-23            CALCULATION OF TIME.** The time within which any act required by this

Article is to be done shall be computed by excluding the first day and including the last day, unless the last day is Saturday, Sunday, or a Federal or State of Illinois holiday, in which case it shall be excluded. If the day immediately following each Saturday, Sunday or holiday is also a Saturday, Sunday or holiday then such succeeding day shall also be excluded.

**7-8-24            INJUNCTION, PENALTIES AND REMEDIES.**

(A)            A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this Article or any person who violates any provision of this Article is subject to a suit for injunction in any court of competent jurisdiction.

(B)            In addition, if any person, including but not limited to any licensee, employee, customer or patron, fails or refuses to obey or comply with or violates a provision of this Article, such person, upon conviction of such violation by a court of competent jurisdiction shall be punished by a fine of not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. Each violation or noncompliance shall be considered a separate and distinct offense. Each day of continued violation or noncompliance shall be considered as a separate offense.

(C)            All remedies and penalties provided for in this Article shall be cumulative and independently available to the City and the City shall be authorized to pursue any and all remedies to the fullest extent allowed by law.

**7-8-25            NUISANCE DECLARED.** Any sexually oriented business established in violation of this Article or operated or maintained with repeated or multiple violations of the provision of this Article shall be and the same is hereby declared to be unlawful and a public nuisance. For purposes of determining whether violations are "repeated" or "multiple" violations, any and all violations of this Article occurring within **twelve (12) month** calendar period shall be considered. The City may, in addition, to or in lieu of any other remedy set forth herein commence an action to enjoin or remove or abate such nuisance in such manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from establishing operating or maintaining a sexually oriented business contrary to the provisions of this Article.

**(Ord. No. 2011-22; 07-25-11)**

## ARTICLE IX – FIREWORKS CODE

**7-9-1 DEFINITIONS.** As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

**Common Fireworks:** Any fireworks designed primarily to produce visual or audible effects by combustion.

(A) The term includes:

- (1) Ground and hand-held sparkling devices, including items commonly known as dipped sticks, sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flitter sparklers;
- (2) Smoke devices;
- (3) Fireworks commonly known as helicopters, aerials, spinners, roman candles, mines and shells;
- (4) Class C explosives classified as common fireworks by the United States Department of Transportation, by regulations found in the Code of Federal Regulations.

(B) The term does not include fireworks commonly known as firecrackers, salutes, chasers, skyrockets, and missile-type rockets.

**Dangerous Fireworks:** Any fireworks not defined as a “common firework”.

**Fireworks:** Any composition or device, in a finished state, containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and classified as common or special fireworks.

**Special Fireworks:** Any fireworks designed primarily for exhibition display by producing visible or audible effects. The term includes:

- (A) Fireworks commonly known as skyrockets, missile-type rockets, firecrackers, salutes, and chasers; and
- (B) Fireworks not classified as common fireworks.

**7-9-2 SALE OF FIREWORKS UNLAWFUL.** It is unlawful for any person to sell any fireworks within the City other than those fireworks designated in **Section 7-9-5** of this Article, provided that this prohibition shall not apply to duly authorized public displays.

**7-9-3 POSSESSION, USE AND DISCHARGE OF DANGEROUS FIREWORKS UNLAWFUL.** It is unlawful for any person to sell, possess, use, transfer, discharge or explode any dangerous firework within the City; provided that this prohibition shall not apply to duly authorized public displays.

**7-9-4 PERMIT REQUIRED TO SELL OR DISPLAY FIREWORKS.** It is unlawful for any person to engage in the retail sale of or to sell fireworks or to hold, conduct, or engage in a public display of fireworks within the City without first having obtained a valid permit issued pursuant to the provisions of this Article.

**7-9-5 TIME LIMIT SET ON SALE AND USE.** No permit holder shall offer for retail sale or sell any fireworks within the City except from **12:00 Noon** on the **28<sup>th</sup> of June** to **12:00 Noon** on the **6<sup>th</sup> of July** of each year. No fireworks may be sold or discharged between the hours of **11:00 P.M.** and **9:00 A.M.** Provided, the sale and use of fireworks as provided in this Section shall be limited to the following:

Dipped stick, sparklers and smoke devices.

**7-9-6 PERMIT FEES.** The annual fee for a “seller’s permit” for the sale of fireworks as may be authorized under this Article, shall be **One Hundred Dollars (\$100.00)** per year for each seller’s permit, payable in advance. The fee for a “public display permit” for the public display of fireworks shall be **One Hundred Dollars (\$100.00)**, payable in advance, unless waived by the City Council.

**7-9-7 ISSUANCE – NONTRANSFERABLE VOIDING.**

(A) **Sellers.** Each seller’s permit issued under this Article shall be for only one retail outlet. The number of seller’s permits shall not be limited as long as all conditions are met as stated in **Section 7-9-11** of this Article. Each seller’s permit issued pursuant to this Article shall be valid only for the current year, shall be used only by the designated permittee and shall be nontransferable.

(B) **Public Display Permit.** Each public display permit issued pursuant to this Article shall be valid for the specific authorized public display event only, shall be used only by the designated permittee and shall be nontransferable. Any transfer or unauthorized use of a permit is violation of this Article and shall void the permit granted in addition to all other sanctions provided in this Article.

**7-9-8 APPLICATION FOR PUBLIC DISPLAY PERMIT.** Applications for a permit to conduct a public display of fireworks shall be made to the Fire Chief at least **fourteen (14) days** prior to the scheduled event. Applicants shall meet all qualifications and requirements of state law regarding public display of fireworks and all fire and safety requirements as set forth in the standards for public display, and as set forth in **Section 7-9-12** of this Article.

**7-9-9 APPLICATION FOR SELLER’S PERMIT—CONDITIONS FOR ISSUANCE.**

Applications for seller’s permits shall be made to the City Clerk annually on or after **April 1<sup>st</sup>** of the year for which the permit is issued and the filing period shall close on **April 15<sup>th</sup>** of such year unless extended by action of the City Council. Applications shall be signed by the retail seller, if an individual, or by the duly authorized officer, if an association or corporation. It is unlawful for a fireworks manufacturer, wholesaler or supplier to make application for or to obtain a retail sales permit on behalf of any retailer. Seller’s permits for the sale of those fireworks allowed pursuant to **Section 7-9-4** of this Article shall be issued only to applicants meeting the following conditions:

(A) The retailer or person in charge and responsible for the retail operation shall be **twenty-one (21) years** of age or older, of good moral character and of demonstrated responsibility.

(B) The applicant shall have a valid and current license issued by the State of Illinois authorizing the holder to engage in the retail sale of fireworks. **(See 425 ILCS 35)**

(C) The applicant shall own or have the right to possess a temporary fireworks stand complying with the requirements of this Article.

(D) The applicant shall procure and maintain a policy or policies of public liability and property damage insurance issued by a company or companies authorized to do business in the State of Illinois in the following minimum amounts: **Five Hundred Thousand Dollars (\$500,000.00)** for injuries to any one person in one accident or occurrence; **One Million Dollars (\$1,000,000.00)** for injuries to two or more persons in any one accident or occurrence; **Five Hundred Thousand Dollars (\$500,000.00)** for damage to property in any one accident or occurrence; **One Million Dollars (\$1,000,000.00)** combined single limit for any one accident or occurrence. In addition, the City is to be an additional named insured and the policy shall provide for the immediate notification of the City by the insurer of any cancellation of any policy.

(E) The permit holder’s location or place of business shall be only in those areas or zones within the City where commercial activities are authorized under applicable zoning law; provided, that the sale of those fireworks authorized by **Section 7-9-5** of this Article shall not be deemed an enlargement of an existing nonconforming use.

(F) The applicant shall post with the City a performance bond or a cash deposit in an amount not less than **Two Hundred Dollars (\$200.00)** conditioned upon the prompt removal of the temporary fireworks stand and the cleaning up of all debris from the site of the stand, which deposit shall be returned to the applicant only in the event that the applicant removes the temporary stand and cleans up all debris to the satisfaction of the City. In the event the applicant fails to do so, the performance bond or cash deposit shall be forfeited. In no event shall the applicant be entitled to the return of the performance bond or cash deposit if he or she has failed to remove the stand and clean up all debris by the **tenth (10<sup>th</sup>) of July** following the sales period.

(G) No seller's permit shall be issued for a location which fails to meet the criteria set forth in **Section 7-9-11** of this Article, including the minimum stand separation requirement. When necessary, in order to determine priority as to a proposed location, the earliest date and time of filing of an application for a seller's permit with the City Clerk shall be controlling.

**7-9-10 SALE FROM STANDS – EXCEPTIONS.** All approved fireworks as set forth in **Section 7-9-5** of this Article except toy paper caps containing not more than **twenty-five hundredths grain** of explosive compound for each cap and trick or novelty device not classified as common fireworks, shall be sold and distributed only from temporary stands.

**7-9-11 STANDARDS FOR TEMPORARY STANDS.** The temporary stands of all seller's permit holders shall conform to the following minimum standards and conditions:

(A) Temporary fireworks stands need not comply with all provisions of the Building Code; provided, however, that all such stands be erected under the supervision of the City Building Inspector, who shall require all stands to be constructed in a safe manner ensuring the safety of attendants and patrons. In the event any temporary stand is wired for electricity, the wiring shall conform to the electrical code.

(B) No temporary fireworks stand shall be located within **fifty (50) feet** of any other building or structure, nor within **two hundred fifty (250) feet** of any gasoline station, oil storage tank or premises where flammable liquids or gases are kept or stored.

(C) Each temporary fireworks stand must have at least two exits, which shall be unobstructed at all times.

(D) Each temporary fireworks stand shall have, in a readily accessible place, at least two, **two and one-half (2½) gallon** pressurized water fire extinguishers which are in good working order.

(E) All weeds, grass, and combustible material shall be cleared from the location of the temporary fireworks stand and the surrounding area to a distance of not less than **twenty-five (25) feet**, measured from the exterior walls of the temporary fireworks stand.

(F) No smoking shall be permitted in or near a temporary fireworks stand for a distance of not less than **fifty (50) feet** measured from the exterior walls of the temporary fireworks stand. Signs stating: **"No Smoking Within 50 Feet"** shall be posted on the exterior of each wall of the temporary fireworks stand.

(G) Each temporary fireworks stand shall have a person who is **eighteen (18) years** old or older in attendance at all times the stand is stocked. Stock from the stand shall not be removed and stored in any other building during the sales period without the express approval of the Fire Chief.

(H) All unsold stock and accompanying litter shall be removed from the temporary fireworks stand by **12:00 Noon** on the **seventh (7<sup>th</sup>) day of July** of each year.

(I) No temporary fireworks stand shall be located within **five hundred (500) feet** of any other temporary fireworks stand.

(J) Each temporary fireworks stand shall have provisions for sufficient off-street parking, at least **fifteen (15) spaces**, to avoid impeding a continuous flow of traffic at entrances and exits from the premises.

(K) No person shall discharge any fireworks within **two hundred fifty (250) feet** of the exterior walls of any temporary fireworks stand. Signs stating: **"No discharge of fireworks within 250 feet."** shall be posted on the exterior of all walls of the temporary fireworks stand.

**7-9-12 STANDARDS FOR PUBLIC FIREWORKS DISPLAYS.** All public fireworks displays shall conform to the following minimum standards and conditions:

(A) All public fireworks displays shall be planned, organized and discharged by pyrotechnician, "Pyrotechnician" means an individual who by experience and training has demonstrated the required skill and ability for safety setting up and discharging displays of special fireworks. All individuals shall have a license under the provisions of the Pyrotechnic Distributor and Operator Licensing Act. **(225 ILCS 227)**

(B) A permit must be obtained from the City and approved by the Fire Chief or designee prior to any display of public fireworks. The permit shall include the name of the applicant and his or her address, the name of the Pyrotechnician and his or her address; the exact location, date and time of the proposed display; the number, type and class of fireworks to be displayed the manner in which the fireworks are being stored prior to the public fireworks display; and shall include the name and address of the insurance company providing the bond required.

(C) A drawing shall be submitted to the Fire Chief showing a plan view of the fireworks discharge site and the surrounding area within a **five hundred (500) foot** radius. The drawing shall include all structures, fences, barricades, street fields, streams and any other significant factors that may be subjected to ignition or that may inhibit firefighting capabilities.

(D) When, in the opinion of the Fire Chief, such requirement is necessary to preserve the public health, safety and welfare, the permit may require that a Fire Department pumper and a minimum of two trained firefighters shall be on site **thirty (30) minutes** prior to and after the shooting of the event. The exhibitor shall repay the City for all costs to firefighters for such time.

(E) All combustible debris and trash shall be removed from the area of discharge for a distance of **three hundred (300) feet** in all directions.

(F) All unfired or "dud" fireworks shall be disposed of in a safe manner.

(G) A minimum of two 2A-rated pressurized water fire extinguishers and one fire blanket shall be required to be at the fireworks discharge site.

(H) The permit shall be immediately revoked at any time the Fire Chief or a designee deems such revocation is necessary due to noncompliance, weather conditions such as, but not limited to, extremely low humidity or high winds. The display shall also be cancelled by accidental ignition of any form of combustible or flammable material in the vicinity due to falling debris from the display.

(I) Areas of public access shall be determined by the Fire Chief or designer and maintained in an approved manner.

**7-9-13 USE OF FIREWORKS IN PUBLIC PARKS.** It shall be unlawful for any person to discharge or possess any fireworks upon public land or in any public park, owned by the City, provided, however, that such use shall be permitted under the following circumstances:

(A) This provision shall not apply to possession of fireworks in the otherwise lawful use of public rights of way such as sidewalks and planting strips. This subsection shall not be a defense to a charge of obstructing traffic or otherwise obstructing a public right of way.

(B) The Fire Chief shall designate limited areas for use during the hours permitted by the Article for the discharge of fireworks as allowed by **Section 7-9-5** of this Article. Otherwise lawful discharge and possession of fireworks as allowed by **Section 7-9-5** in such areas shall not be a violation of this Section. In doing so, the Fire Chief shall consider:

- (1) The sensitivity of the area's environment, wildlife and wildlife habitat;
- (2) The inconvenience and nuisance to abutting property owners;
- (3) The safety and suitability of the area as a place for the discharge of fireworks; and

(4) Danger of fire or other destruction of public property and improvements from the use of the fireworks.

(C) Upon designation of any area, it shall be signed and posted by **July 1<sup>st</sup>** of each year fro use on **July 4<sup>th</sup>** between the hours of **9:00 A.M.** and **11:00 P.M.** Designation of any area may be appealed in writing to the City Council by any citizen of the City. The decision of the City Council shall be final.

(D) Nothing in this Article shall be deemed to limit the authority of the City Council to allow event display of special fireworks under a permit issued in accordance with the provisions of the Code and State statutes.

**7-9-14**      **SPECIAL EFFECTS FOR ENTERTAINMENT MEDIA.** This Code does not prohibit the assembling, compounding, use and display of special effects of whatever nature by any person engaged in the production of motion pictures, radio, or television productions, theatricals or operas when such use and display is a necessary part of the production and such person possesses a valid permit issued by the City in accordance with **Sections 7-9-7** and **7-9-8** of this Code.

**7-9-15**      **NONPROHIBITED ACTS.** This Code does not prohibit the use of flares or fuses in connection with the operation of motor vehicles, railroads, or other transportation agencies for signal purposes or illumination or for use in forest protection activities.

**7-9-16**      **APPLICABILITY.** The provisions of this Code shall not be applicable to toy paper caps containing not more than **twenty-five hundredths grain** of explosive compound for each cap and trick nor to novelty device not classified as common fireworks.

**7-9-17**      **STATUS OF STATE LAW.** This Code is intended to implement applicable State law, to wit, **Chapters 225 ILCS 227 and 425 ILCS 35**, and shall be construed in connection, with that law and any and all rules or regulations issued pursuant to that law.

**7-9-18**      **ENFORCEMENT.** The Fire Chief or designee, is authorized to enforce all provisions of this Code and, in addition to criminal sanctions or civil remedies, may revoke any permit issued pursuant to this Code upon any failure or refusal of the permittee to comply with the lawful orders and directives of the Fire Chief or designee, or to comply with any provisions of this Code or the requirements of the community development code relating to temporary structures.

**7-9-19**      **RECKLESS DISCHARGE OR USE PROHIBITED.** It is unlawful for any person to discharge or use fireworks in a reckless manner which creates a substantial risk of death or serious physical injury to another person or damage to the property of another.