

Chapter 18 BUSINESSES

**Chapter 18 BUSINESSES** <sup>(1)</sup>

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**Cross reference**— Amusements and entertainment, ch. 6; cable communications, ch. 22; food handling establishments, § 34-31 et seq.; food handler's certificate, § 34-61 et seq.; smoking in public areas and places of employment, § 34-91 et seq.; sales and use tax, § 74-31 et seq.; transient occupancy tax, § 74-71 et seq.; vehicles for hire, ch. 86; zoning, ch. 90; home occupations, § 90-72; food vending carts, § 90-74. [\(Back\)](#)

**State Law reference**— Businesses generally, Business and Professions Code § 1 et seq. [\(Back\)](#)

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ARTICLE I. IN GENERAL

**ARTICLE I. IN GENERAL**

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**Secs. 18-1—18-30. Reserved.**

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ARTICLE II. BUSINESS LICENSES

**ARTICLE II. BUSINESS LICENSES**

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**Sec. 18-31. Purpose of article.**

The purpose of this article is to license, for revenue, the carrying on in the city of various lawful businesses, professions, trades, callings or occupations.

(Ord. No. 1158; Code 1984, § 6000)

**Sec. 18-32. License fee additional to other fees; compliance with other regulations.**

Persons required to pay a license fee for transacting and carrying on any business under this article shall not be relieved from the payment of any permit or license fee or tax for the privilege of doing such business legally required under any other ordinance of the city, and shall remain subject to regulatory provisions of other ordinances.

(Ord. No. 1158; Code 1984, § 6001)

**Sec. 18-33. License not to authorize business otherwise prohibited.**

The payment of a license fee required by the provisions of this article or any other ordinance, and its acceptance by the city, and the issuance of such license to any person, shall not entitle the holder thereof to carry on any business unless he has complied with all the requirements of this Code and all other applicable laws, and shall not entitle the holder to carry on any business in any building or on any premises designated in such license if such building or premises is situated in a zone or locality in which the conduct of such business is in violation of any law.

(Ord. No. 1158; Code 1984, § 6002)

**Sec. 18-34. Unlawful manner of operation.**

The granting of a license in connection with carrying on any business shall not be deemed a permit to conduct the business in an unlawful manner or at a place prohibited by law or ordinance.

(Ord. No. 1158; Code 1984, § 6003)

**Sec. 18-35. Duration of license.**

The duration of any license issued under this article shall be limited as follows:

- (1) If the license fee is an annual license fee, the license shall expire on December [31](#) following the issuance of the license.
- (2) If the license fee is a daily license fee, the license shall expire at midnight of the last day for which the license was issued; provided, however, that such license may be issued for a greater period of time than provided in this section, but not to exceed the close of the fiscal year established for business licenses. In such cases, the license fee for the entire period shall be due and payable at once.
- (3) Quarterly license periods, for new businesses only, shall be as follows:
  - a. January 1 through March [31](#)
  - b. April 1 through June 30.
  - c. July 1 through September 30.

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d. October 1 through December [31](#)

(Ord. No. 1158; Code 1984, § 6004)

**Sec. 18-36. Effect of article on past actions and obligations.**

Neither the adoption of this article nor its superseding of any portion of any other ordinance of the city shall in any manner be construed to affect prosecution for violation of any other provisions committed prior to the effective date of this article, or be construed as a waiver of any license or any penal provision applicable to any such violation, or be construed to affect the validity of any bond or cash deposit or license fees due required by this Code to be posted, filed or deposited, and all rights and obligations thereunder appertaining shall continue in full force and effect.

(Ord. No. 1158; Code 1984, § 6005)

**Sec. 18-37. Validity of existing licenses.**

Where a license for revenue has been issued to any business by the city and the fee paid therefor under the provisions of any section heretofore enacted, and the term of such license has not expired, then the license fee prescribed for such business by this article shall not be payable until the expiration of the term of such unexpired license.

(Ord. No. 1158; Code 1984, § 6006)

**Sec. 18-38. Fictitious names.**

No license shall be issued to any person conducting or carrying on any business, as enumerated in this article or any other ordinance, under a fictitious name, unless an affidavit is filed in the office of the county clerk or collector of the city showing the true name of the owners of such business; provided, however, that such license may be issued in the true name of the owners of the business without the filing of such affidavit.

(Ord. No. 1158; Code 1984, § 6007)

**Sec. 18-39. Transfer of license.**

No license granted or issued under the provisions of this article or any other ordinance shall be in any manner transferred or assigned, nor shall it authorize any person other than those therein mentioned or named to do business without the written consent of the collector endorsed thereon. At the time any such license is assigned or transferred, the person applying for such transfer or assignment shall make application for a license showing that he is continuing the same business already licensed and paying a transfer fee.

(Ord. No. 1158; Code 1984, § 6008)

**Sec. 18-40. Seizure of unlicensed coin-operated machines.**

(a) Any coin-operated machine, device or game being used as such without a license under this article and found on any commercial premises or public place in the city may be seized by the collector. Such a machine shall be redeemable by the true owner only, within a period not exceeding 60 days, upon the payment of costs of seizure, if any, to the city, together with the license fee, plus penalty, if

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any, for the period during which such machine was installed, used or maintained without a city license.

- (b) If the true owner cannot be found after reasonable inquiry, or if the owner fails to redeem such machine, then the machine may be confiscated and sold by the collector at the end of 60 days, after notice by registered mail to the last known address, if any, of the owner. The proceeds of the sale shall be credited to the general fund of the city.

(Ord. No. 1158; Code 1984, § 6009)

**Cross reference**— Amusements and entertainment, ch. 6.

**Sec. 18-41. Proof of state contractor's license.**

In any trade or profession where a state contractor's license is required by the state, the applicant shall provide satisfactory evidence to the collector that the required state license is then current and valid before a city business license will be issued. A city business license fee may be deposited with the collector and, when so deposited, shall be held until satisfactory evidence of the state license is provided, for a period not to exceed 15 days. Such deposits, when the transaction therefor is not completed within 15 days, shall be considered forfeited and thereafter deposited in the general fund of the city.

(Ord. No. 1158; Code 1984, § 6010)

**Sec. 18-42. Adoption of fees.**

The fees for the licenses provided for in this article are hereby set as indicated by the various categories. The fees set forth in this article may be amended by resolution of the city council at such time and in such manner as the city council shall deem advisable.

(Ord. No. 1158; Code 1984, § 6011)

**Sec. 18-43. Administrative rules and regulations.**

The collector, with the approval of the city council, may adopt reasonable rules and regulations for the purpose of administering the provisions of this article. The regulations shall be in writing and be filed in the office of the collector, and shall be open to public inspection.

(Ord. No. 1158; Code 1984, § 6012)

**Sec. 18-44. Definitions.**

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

*Building tradesman* means any person engaged within the city in any trade, art, calling, avocation or occupation of the building trades not licensed as a contractor by the state.

*Business* includes professions, shows, exhibitions, games, trades and occupations and all and every kind of calling or enterprise, whether or not carried on for profit.

*Business license.* A business license constitutes evidence that license fee obligations prescribed in this article have been satisfied.

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*Commercial travelers or selling agents* means persons taking orders for the sale of goods, wares or merchandise or service to dealers maintaining a bona fide place of business in the city, at wholesale, for resale purposes, or to persons who use the goods, wares or merchandise in fabricating products within the city.

*Conduct and carry on* mean engaging in, carrying on, owning, maintaining, managing or operating any business, trade, art, profession, calling, employment or occupation or any commercial, industrial or professional pursuit, vocation or enterprise in the city.

*Employee and self-employment.* The term "employee" means a person who receives his compensation from an employer who withholds the necessary federal and state taxes, carries workers' compensation insurance, and assumes all other responsibilities as an employer. Any person who is not an employee shall be deemed self-employed and in business for himself.

*Family billiard parlor* means a place of business wherein billiards, bagatelle or pool are played, whether or not compensation is charged for the use of facilities. It shall not include a place having not more than one coin-operated pool or billiard table maintained as an incident to some other type of business or activity.

*Fixed place of business* means the place at which the principal tools, equipment or machinery used by any person are customarily stored or located or at which are maintained the principal stock of materials or supplies and the books and records used by any person in his work in the city.

*Garage sale* means a garage, yard, lawn, patio or similar type sale held anywhere on any residential premises for the purpose of disposing of personal property.

*Gross receipts* includes the total of amounts actually received or receivable from sales within the city and the total amounts actually received or receivable for the performance of any act or service within the city, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise. Included in gross receipts shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Excluded from gross receipts shall be the following:

- (1) Cash discounts allowed and taken on sales.
- (2) Credit allowed on property accepted as part of the purchase price, if the property may later be sold.
- (3) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser.
- (4) Such part of the sale price of property returned by the purchaser upon rescission of the contract of sale as is refunded either in cash or by credit.
- (5) Amounts collected for others where the business is acting as an agent or trustee, to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the collector with the names and addresses of the others and the amounts paid to them.
- (6) That portion of the receipts of a general contractor which represent payments to subcontractors, provided that such subcontractors are taxed under this article, and provided the general contractor furnishes the collector with the names and addresses of the subcontractors and the amounts paid each subcontractor.
- (7) Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business shall not be excluded.

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- (8) As to a real estate broker, that portion which represents commission paid another broker who operates from a separate office and pays a license fee to the city.
- (9) As to a retail gasoline dealer, a portion of his receipts from the sale of motor vehicle fuels equal to the motor vehicle fuel license tax imposed by and previously paid under the provisions of Revenue and Taxation Code § 7301 et seq.
- (10) As to a retail gasoline dealer, the special motor fuel tax imposed by section 4041 of [title 26](#) of the United States Code, if paid by the dealer or collected by him from the consumer or purchaser.
- (11) As to a telephone company, interstate toll revenues.
- (12) As to a public utility operating in the city under a franchise from the city which makes franchise payments to the city, that portion of gross receipts used in calculating the franchise fees.

*Handyman* means any person who provides casual labor or services and who limits himself to noncommercial advertising, who is not engaged in the same or like business elsewhere.

*License collector* and *collector* mean the city manager or his authorized designee or representative charged with the administration of the business license tax program.

*Number of employees.* The number of employees shall be the average number engaged in the business during the preceding fiscal year, or during such portion thereof as the business was in operation. In the case of beginning businesses, the number shall be estimated by the applicant and the fee paid on the estimate, but the fee shall be adjustable to the actual number within 30 days after the close of the year. The application for the business license each calendar year shall correctly set forth the number of employees applicable to the determination of the license fee. For the computation of the number of employees, three parttime employees working no more than 25 hours each per week shall equal one fulltime employee.

*Out-of-town business* means every person conducting or carrying on a business within the city but not having a fixed place of business within the city.

*Owner-builder* means a person who acts as or employs a contractor, subcontractors, specialty contractors or workmen under his supervision and direction by the hour or day, for the purpose of constructing improvements on real property owned by him within the city. He shall pay fees pursuant to this article the same as a general building contractor, unless his only building activity is construction on his own property which is not offered or intended for sale within one year from the date of completion.

*Permit* means any written authorization or permission to conduct, manage or carry on a business activity within the city. A business license does not constitute a permit.

*Person* includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, companies, business or common law trusts, societies and individuals transacting and carrying on any business in the city, other than as an employee.

*Premises* means all lands, structures and places, and also the equipment and appurtenances connected or used therewith, of any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

*Rental of property and accommodations* means every person or company engaged in the business of renting, leasing, providing, exchanging or trading, without loss of ownership, any land, dwelling, building, structure or portion thereof for the purpose of occupancy, sleeping, lodging, boarding or other use and accommodation. The license fee for the rental of properties is determined by ownership of the property. Agents acting for property owners are responsible for payment of the license fee on rentals. Such rental and accommodations shall include but are not limited to:



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- (1) Business property rental, including buildings or portions thereof used for any business, commercial or industrial purposes or land used for any purpose.
- (2) Residential property rental, including apartments, recreation vehicle parks, trailer parks and mobile home parks.
- (3) Accommodations, including any boardinghouse, hospital, hotel, inn, lodginghouse, motel, rest home, roominghouse or sanitarium.

*Rummage sale* means a sale of donated articles and goods for the purpose of nonprofit charitable functions.

*Solicitor* and *soliciting* mean any person who travels or goes from house to house within the city and peddles, hawks, vends or sells any goods, wares, medicines or merchandise carried or caused to be carried or conveyed by the person peddling, hawking, vending or selling the goods, wares or merchandise, or who solicits or takes orders at retail for any services, goods, wares or merchandise for future performance or delivery. The term "solicitor" includes and means a peddler. This definition shall not apply to a properly cleared solicitor for a charitable organization.

*Sworn statement* means an affidavit sworn to before a person authorized to take oaths, or a declaration of certification made under penalty of perjury.

(Ord. No. 1158; Code 1984, § 6014)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

**Sec. 18-45. License required; exemptions; certificate of compliance.**

- (a) *License required; license fee imposed.* There is hereby imposed upon the businesses, trades, professions, callings and occupations specified in this article license fees in the amounts prescribed in this article. It is unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the city without first having procured a license from the city to do so and paying the fee prescribed in this article, or without complying with any and all applicable provisions of this article.
  - (1) This section shall not be construed to require any person to obtain a license prior to doing business within the city if such requirement conflicts with applicable statutes of the United States or of this state. Persons not so required to obtain a license prior to doing business within the city shall nevertheless be liable for payment of the fees imposed under this article.
  - (2) Nothing in this section shall be deemed to exempt any person from complying with other provisions of this article or any other law or regulation requiring a permit or other approval from the city council or any city department, board, commission or other entity or public official, to conduct any business or activity.
- (b) *Branch facilities, separate businesses and dual classifications.*
  - (1) *Branches and separate businesses.* Except as otherwise specifically provided in this Code, a separate license must be obtained for each business and for each branch establishment or location of a business. A separate license must be obtained for each separate business not ordinarily an accepted part of a licensed business, although carried on at the same location as such licensed business. Each license shall evidence fee payment only, for the business licensed thereby at the location and in the manner designated in such license.
  - (2) *Separate computation of license fee.* Where a license fee is imposed by this article upon any business, and such business is conducted with branch establishments or at separate fixed

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places, the fee shall be computed as if each such branch or place were a separate and independent business.

- (3) *Dual classification.* Whenever a business may reasonably be classified under two or more separate, specific categories set forth in this article with differing bases for fee computation, the fee shall be computed using the basis which will render the highest fee.
- (c) *Evidence of doing business.* When any person, by use of signs, circulars, cards, telephone book, answering service, newspapers or any commercial means, advertises, holds out or represents that he is in business in the city, or when any person holds an active license or permit issued by a governmental agency indicating that he is in business in the city, and such person fails to deny that he is in business by a sworn statement given to the collector, then these facts shall be considered prima facie evidence that he is conducting a business in the city.
- (d) *Interstate commerce.* Nothing contained in this article shall be construed as imposing a license fee on or otherwise regulating or restricting foreign or interstate commerce, and any business or portion thereof which is embraced in the term "interstate commerce" or in the term "foreign commerce" is hereby specifically exempted from its provisions; provided, however, that every person claiming to be entitled to such exemption shall file a verified statement with the collector disclosing the interstate or other character of the business upon which he claims the benefit of such exemption, which statement shall contain the following information:
- (1) The name and location of the person for whom orders are to be solicited or secured.
  - (2) The kind of goods, wares or merchandise to be sold or delivered, and the place from which the goods, wares or merchandise are to be shipped.
  - (3) The name and address of the local or state manager.
  - (4) The method of solicitation or taking orders, and the method of delivery.
  - (5) The location of any warehouse, factory or plant within the state from which goods, wares or merchandise are to be delivered.
  - (6) A copy of the order blank, contract form or other papers used by the applicant in taking such orders, which shall be filed with the license collector.
  - (7) The name and permanent address of the individual making out the application for the license.

In addition to filing such statement, the applicant shall also complete a form of written statement required from the chief of police as set forth in subsection (g) of this section. Upon the filing of such statement with the collector and the chief of police, the statement shall then be presented to the city attorney, and if it appears to him that under the law the applicant is entitled to exemption from the payment of a license fee the city attorney shall thereupon recommend the issuance of a license certificate without the payment of a fee, and the collector shall thereupon forthwith comply with such recommendation. If the city attorney shall recommend the denial of such exemption, then no exemption shall be granted to such applicant, and in such event the applicant shall have such recourse as may be permitted by law.

(e) *Exemptions generally.*

- (1) *Charitable or nonprofit organizations.* The provisions of this article shall not be deemed or construed to require the payment of a license fee to conduct any business, occupation or activity from any institution or organization which is conducted wholly for the benefit of charitable purposes or from which profit is not derived, either directly or indirectly, by any person; nor shall any license fee be required for the conducting of any entertainment, concert, exhibition or lecture dealing with scientific, historical, political, literary, religious or other educational subjects within the city, the receipts whereof are to be appropriated to any service organization, church or school, or to any religious, charitable or benevolent purpose; nor shall

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any license fee be required for the conducting of any entertainment, dance, concert, exhibition or lecture by any service club or religious, charitable, fraternal, educational, military, state, county or municipal organization or association, whenever the receipts thereof are to be appropriated for the purposes and objects for which such organization or association was formed, and from which profit is not derived, either directly or indirectly, by any person. Nothing contained in this section shall be deemed to exempt any such organization or association from complying with the provisions of this article or any other ordinance of the city requiring a permit or certificate of compliance as set forth in this article.

- (2) *War veterans.* Subject to the requirements of this article, every person honorably discharged from any of the armed forces of the United States, and physically unable to earn his livelihood by manual labor, shall be permitted to hawk, peddle and vend any materials, goods, wares or merchandise, the sale of which is not prohibited by law, without the payment of any license fee required under this article, providing that the applicant shall file with or exhibit to the collector, as proof of his right to such exemption, the following documents and information:
- a. A certificate of honorable discharge from any of the armed forces of the United States, or a certified or exemplified copy thereof.
  - b. A certificate of disability signed by any practicing physician or surgeon employed by the United States government, the county or the city.
  - c. Two copies of a photograph of the applicant taken within three years from the date of the application, one of which shall be attached to the license certificate if the license is issued, and one of which shall be retained by the collector.
  - d. The permanent residence address of the applicant.

Upon presentation of such documents and information, the collector shall issue a license certificate without fee, providing he is satisfied that the applicant is entitled thereto under the provisions of this section. No license certificate issued under this subsection shall be assigned or transferred, and no person except the person named in the license certificate shall be permitted to carry on any of the business authorized thereunder. The exemption provided by this section is personal to the veteran exempted, and shall not apply to a distributing or other business conducted by such veteran in which others are employed, or to any business other than house-to-house or place-to-place hawking, peddling or vending of goods, wares or merchandise, or soliciting of orders therefor, by such veteran personally and individually.

- (3) *Domestic household help and babysitting.* The license provisions of this article shall not be deemed to include or apply to domestic household help in the employ of an individual homeowner, or a babysitter caring for less than five children in total at any one time at a given address, including the sitter's own children.
- (4) *Age and small income exemptions.* The provisions of this section shall not apply to any person under 18 years of age or over 65 years of age and whose annual gross income from any such business is less than \$600.00 annually.
- (5) *Filing for exemptions; businesses exempted by federal or state law.*
- a. No provision in this article shall be deemed or construed to require the payment of a business license fee by any person transacting and carrying on any business exempt by virtue of the constitution or applicable statutes of the United States or of the state from the payment of such fees as are prescribed in this article.
  - b. Any person claiming an exemption pursuant to this section shall file an application, including a sworn statement, with the collector, stating the facts upon which such

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exemption is claimed. In the absence of such statement substantiating the claim, such person shall be liable for the payment of the fees imposed in this article.

- c. Any person having claimed exemption pursuant to this section who has filed an application therefor and has been issued a fee-free license or permit, and who thereafter violates the conditions upon which such exemption is based, shall then become liable for the payment of the previously exempted fees.
  - d. The collector shall, upon a proper showing contained in the application, issue a permit to such person claiming exemption under this section without payment to the city of the license fee required in this article.
  - e. The collector, after giving notice and reasonable opportunity for hearing to a permittee, may revoke any permit granted pursuant to the provisions of this section upon information that the permittee is not entitled to the exemption as provided in this section.
- (6) *Waiver or reduction of fee.* The city council, for good and satisfactory cause shown, may order the issuance of a license for less than the fees provided in this article, or without the payment of any fee whatsoever.
- (f) *Sale of home-raised produce.* The provisions of this article shall not be deemed or construed to require the payment of a license fee by any person peddling exclusively any eggs, fruits, vegetables or other produce raised upon the lands of such person situated within the city; provided that such person shall furnish good and satisfactory proof and evidence to the collector that all such products were raised by such applicant upon his own lands situated within the city and that such products must be inspected and approved by the state agricultural department if subject to inspection and approval. Proof of that inspection shall be attached to the application for the permit.
- (g) *Certificate of compliance.* For the protection of the public peace, health, safety and general welfare of the city, it is deemed necessary that in some instances a certificate of compliance must first be obtained before a permit or license shall be issued to persons seeking to conduct certain specified businesses. Whenever in this article such a certificate of compliance is requested, it shall first be necessary for the applicant to file an application in such form as may be adopted by the respective official or city officials from whom such certificate of compliance is required. Satisfactory evidence must be produced and presented in support of business residence addresses of the persons by or for whom the application is filed, the nature of the business to be conducted, the location where such business is to be conducted, the proposed route, if any, of the applicant's operations, the names and addresses of three responsible persons who have known the applicant for more than three years, the period of time the applicant has been engaged in the business sought by him to be licensed under this article, the places where the applicant has been engaged in such businesses, any convictions for violation of any law, appropriate fingerprints of the applicant plus the required state processing fee, and such other pertinent information concerning the applicant as may be deemed necessary or proper to consider in recommending or denying the applicant the permit or license applied for. The collector shall have the authority to require a certificate of compliance when, in his discretion, he deems it necessary for those categories of business not specifically mentioned in this article as requiring such certificates of compliance.

(Ord. No. 1158; Code 1984, § 6015)

**Sec. 18-46. Issuance of license.**

- (a) *Application generally.* Before any license is issued to any person, such person shall make application therefor to the collector. The applicant shall state the name of the person to whom the license is to be issued, the nature of the trade or business to be pursued, the place where such business will be

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conducted and such other information as may be required by the collector for the enforcement of the provisions of this article or any other ordinance.

- (b) *Processing of application.* Upon application being made as provided in this article and when the applicant has tendered the license fee required, the collector shall process the application. If it is an application for a license for a new business or if he otherwise deems it necessary, he may submit a copy thereof to other departments as appropriate, including the health officer if health and sanitation may be involved, in order to be able to advise the applicant whether the business and premises to be occupied meet the requirements of state law and city ordinances and any other applicable regulations.
- (c) *Handling of application where legal impediments exist to conducting of business.* Whenever it appears to the collector that an application for a business license involves a proposed business activity for which other permit or licensing requirements are applicable under local, state or federal laws, ordinances or regulations before such business activity could lawfully be conducted in the city or at the particular location proposed, or involves a proposed business activity which could not lawfully be conducted in the city or at the particular location proposed, the collector shall so inform the applicant, and ascertain whether, in view of such circumstances, the applicant desires to withdraw the application pending removal of the legal impediments, if such removal is possible. If the applicant nonetheless insists upon submitting the application, the collector shall accept the required fee for a time period not to exceed 90 days, and issue a receipt therefor, which shall contain language clearly stating that such receipt is not to be deemed in any way an official sanction for the conducting of the proposed business. If the time period exceeds such 90-day period and the impediments have not been removed, all monies held by the collector shall be considered forfeited and deposited to the general fund.
- (d) *Contents.* Any license shall show the following:
  - (1) The kind of business thereby licensed.
  - (2) The name and location of such business.
  - (3) The amount of the license fee.
  - (4) The date of expiration of such license.
  - (5) Such other information as deemed necessary by the collector.
- (e) *Duplicate license.* A duplicate license may be issued by the collector to replace any license previously issued under this article which has been lost or destroyed, upon the licensee filing a sworn statement as to such fact, and, at the time of filing such statement, paying a fee as prescribed in the license schedule.
- (f) *Transfer; amendment for changed location or name.* No license issued under this article shall be transferable. A licensee holding a valid business license permit for a particular place or name may, upon submitting an application and fee as prescribed in the license fee schedule, request the license to be amended to cover the operation of the business at a new location.
- (g) *Issuance of fee-free permit or license.* All applications for a fee-free permit or license shall be referred to the collector, and he shall have the power in the first instance to determine the merits of such applications and to approve or reject the application. If he finds that the application should be approved, he shall issue to the applicant a fee-free permit or license. If he rejects the application, the applicant shall have the right to appeal to the city council.

(Ord. No. 1158; Code 1984, § 6016)

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**Sec. 18-47. Payment and collection of fee.**

- (a) *Due date for payment; proration.* Unless otherwise specifically provided, all annual license fees are due and payable on January 1 of each year and shall be delinquent after January 31.
- (1) Each person required to have a license shall be liable for the payment of the fee for the full term, except that a new license fee shall be prorated, except as otherwise provided in this article, to the first quarter of operation, or to the date of the business license application, whichever is sooner.
  - (2) Any person making application for a license for the first time or making application for a license which was not issued to that person in the preceding fiscal year shall be considered a new applicant for purposes of prorating fees.
  - (3) When a person makes application for a license as a new owner of an existing business, and when the preceding owner has paid the annual business license fee for the current year, the new owner shall be issued a license for the unexpired term of the preceding owner's license for a transfer fee plus ten percent of the current annual business license fee for that business; provided that the new owner shall otherwise have his application processed as though he were a new license applicant.
  - (4) Unless otherwise specifically exempted, persons conducting out-of-town businesses shall be required to pay a license fee for a full term, regardless of the date of application.
- (b) *Delinquency.* All renewal license fees shall be delinquent if not paid on or before January 31. A penalty of ten percent of the license fee shall be added to delinquent license fees on the first day of the succeeding month after the due date thereof, and an additional penalty of 20 percent shall be added thereto on the first day of each succeeding month thereafter; provided that the amount of such penalties to be added shall not exceed 100 percent of the license fee due. Fees for quarterly licenses shall be delinquent 30 days following the expiration of the license.
- (c) *Penalty for commencing business without obtaining license.* A penalty of 50 percent of the prescribed license fee or \$20.00, whichever is higher, shall be added to the license fee for any business starting operations before first applying for and securing a business license, unless otherwise provided.
- (d) *Extension of time for payment.* In addition to all other powers conferred upon him, the collector shall have the power, for good cause shown, to extend the time for filing any required sworn statement or application for a period not exceeding 30 days, and in such case to waive any penalty that would otherwise have accrued, except that ten percent of any fee determined to be payable shall be added thereto.
- (e) *Fees deemed debt to city.* The amount of the fee of any license imposed under this article shall be deemed a debt to the city, and any person carrying on any business mentioned in this article without having a license from the city to do so shall be liable to an action in the name of the city in any court of competent jurisdiction, for the amount of license fee imposed in this article on such business.
- (f) *Legal action for collection.* The city attorney or the collector may, on behalf of the city, take all appropriate legal action in order to collect such debts owing to the city, and may commence or defend in the name of the city, in any court of competent jurisdiction, an action relating to any amount of license fee, penalties and interest alleged by the collector to be due the city, or an action to collect the amount of any delinquent fee, together with penalties and interest due.
- (g) *Payment of court costs.* In case of recovery by the plaintiff, court costs shall be added to the judgment as costs to be collected from the defendant.

(Ord. No. 1158; Code 1984, § 6017)

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**Sec. 18-48. Assessment of fee by collector.**

- (a) *Authority of collector.* If any person fails to file any statement required by this article within the time prescribed, or if, after demand therefor made by the collector, he fails to file a corrected statement, or if any person subject to a license fee imposed under this article fails to apply for a license, or if any such person disputes the amount of the fee due to the categorization of the business involved, the collector may determine the amount of license fee due from such person by means of such information as he may be able to obtain.
- (b) *Use of additional information.* If the collector is not satisfied with the information supplied in statements or applications filed, he may determine the amount of any license fee due by means of any information he may be able to obtain.
- (c) *Notice of assessment; hearing.* If such a determination is made, the collector shall give a notice of the amount so assessed by serving such notice personally or by depositing it in the United States post office at the city, postpaid, addressed to the person so assessed, at his last known address. Such person may, within 15 days after the mailing or serving of such notice, make application in writing to the collector for a hearing on the amount of the license fee. If such application is made and the collector does not thereupon make an adjustment in the assessment satisfactory to the applicant, the collector shall cause the matter to be set for hearing within 30 days before the city council. The collector shall give at least ten days' notice to such person of the time and place of hearing in the manner prescribed in this subsection for serving notices of assessment. The council shall consider all evidence produced, and shall make findings thereon, which shall be final. Notices of such findings shall be served upon the applicant in the manner prescribed in this subsection for serving notices of assessment.

(Ord. No. 1158; Code 1984, § 6018)

**Sec. 18-49. Enforcement of article; revocation or suspension of license.**

- (a) *Remedies cumulative.* The conviction and punishment of any person for engaging in any business without first obtaining a license to conduct such business shall not relieve such person from paying the license fee due and unpaid at the time of such conviction, nor shall the payment of any license fee prevent a criminal prosecution for the violation of any of the provisions of this article. All remedies prescribed under this article shall be cumulative, and the use of any one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this article.
- (b) *Criminal prosecution.* Nothing in this article shall prevent a criminal prosecution for any violation of the provisions of this article.
- (c) *Display of license.* Every person having a license shall produce and exhibit the license whenever requested to do so by any police officer or by any officer authorized to issue, inspect or collect licenses.
- (d) *Posting and keeping of license.* All licenses shall be kept and posted in the following manner, and no person having a duty to do so shall fail, refuse or neglect to comply with the following regulations:
  - (1) Any licensee transacting and carrying on a business at a fixed place of business in the city shall keep the license posted in a conspicuous place upon the premises where such business is carried on.
  - (2) Any licensee transacting and carrying on business, but not operating in a fixed place of business in the city, shall keep the license upon his person at all times while transacting and carrying on such business within the city.

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- (3) Any licensee using a motor vehicle in connection with his business shall affix the license or a copy of the license to the righthand lower corner of the windshield of such vehicle, as authorized by the vehicle code.
- (4) No license certificate shall be exhibited or kept in a conspicuous place by any person when such license has terminated, has become delinquent, or has been revoked or suspended.
- (e) *Errors in statement of fee.* In no case shall any mistake by any officer or employee of the city in stating the amount of a license fee prevent or prejudice the collection by the city of what should be actually due from any person carrying on a business subject to a license fee under the provisions of this article.
- (f) *Errors in issuance of license.* The city shall not be bound by the mistake of any officer or employee of the city in issuing a license contrary to the terms of this article.
- (g) *Authority and duties of collector.* The collector and his deputies are hereby appointed inspectors of licenses, and, in addition to their several other duties, are hereby authorized, directed and empowered to investigate all places of business and all persons conducting any business in the city, and shall have the power and authority:
  - (1) To enter, free of charge, at any reasonable time, any place of business for which a license is required under this article, to demand the exhibition of a license therefor for the current term of and from the person then and there in charge or apparent charge of such business, and if such person shall then be deemed guilty of an infraction he shall be punishable as provided in this article.
  - (2) To make arrests for the violation of any of the provisions of this article or any other business license ordinance.
  - (3) To file complaints in the proper court against any and all persons violating any of the provisions of this article or any other business license ordinance.

It shall be the duty of the collector to prepare and issue a license certificate to every person paying a license fee authorized under this article.

- (h) *Revocation of license.* Any license issued pursuant to the provisions of this article may be revoked by the city council for what it may deem good and sufficient reasons, in order to preserve the peace, health, safety and general welfare of the city. Such revocation shall be made only upon a hearing held before a quorum of the city council, after ten days' written notice to such licensee, stating the grounds of complaint against him and stating the time and place where such hearing will be held. Service of such notice shall be deemed complete by either delivery to the licensee personally or by posting the notice in a conspicuous place on the premises where such licensee is conducting his business, at least ten days prior to the date set for such hearing. Such hearing may be continued from time to time by the city council. The findings and conclusions by the city council thereon shall be final and conclusive, with the right of appeal by the licensee to any court of competent jurisdiction.
- (i) *Suspension of license.* The license to conduct any business for which a license has been issued may be suspended forthwith, if, in the judgment of the fire chief, police chief, health officer, building inspector, streets supervisor or city council, such suspension is necessary to preserve the peace, health, safety or general welfare of the city. Such suspension shall not continue for more than 15 days, unless, within 15 days, an order to show cause why the license should not be revoked has been issued and a hearing ordered thereon as provided in subsection (h) of this section, in which event such suspension may continue until the hearing has been held and the matter disposed of by the council.

(Ord. No. 1158; Code 1984, § 6019)



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**Sec. 18-50. Appeals.**

- (a) Any person aggrieved by the denial of an application for a business license, denial of an application for renewal of a business license, revocation or suspension of a business license, or any other decision of an administrative officer or agency with respect to the issuance or refusal to issue a business license ("administrative decision") may appeal the administrative decision by filing an appeal in the office of the city clerk within 15 calendar days from the date notice of the administrative decision was mailed to the applicant or licensee. If the 15th day falls on a Saturday, Sunday or city holiday, the appeal may be filed on the next day the city hall is open. The appeal document must be actually received in the office of the city clerk within the applicable time period and not just mailed within such time. The person who files such an appeal shall be known as the "appellant."
1. The written appeal shall be accompanied by an appeal fee in an amount as set by city council resolution. The appeal shall set forth the administrative decision being appealed and the reasons why the decision should be reversed or modified. The city clerk shall promptly forward a copy of the appeal to the city manager.
  2. In the event an appeal is timely filed, an administrative decision concerning the denial of renewal of a business license or the suspension or revocation of a business license shall not be effective until a final decision by the hearing officer has been made pursuant to this section. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of that person's right to an appeal. If no timely appeal is filed, the administrative decision shall become effective upon expiration of the period for filing an appeal.
  3. Upon receipt of a timely appeal, the city clerk shall make arrangements for the selection of a hearing officer to conduct the appeal hearing. The hearing officer shall be a person knowledgeable in municipal affairs, including, but not limited to, attorneys, retired judges, a reputable firm providing mediators and arbitrators, local government officials, or the State Office of Administrative Hearings or its successor office. Not less than 15 days prior to the appeal hearing the city clerk shall notify the city manager and the appellant of the name of the hearing officer who has been selected to hear the appeal. Within ten days of the date of mailing the notice of the hearing officer the appellant may request the city clerk recuse a hearing officer for reasons of actual prejudice against the party's cause. The city clerk shall then request a mediation and arbitration firm or the office of administrative hearings as the designated hearing officer for the appeal hearing. The hearing officer shall be fair and impartial and shall have no bias for or against the city or the appellant.
  4. At the appeal hearing, the hearing officer shall receive oral and written evidence from the director of finance and the appellant.
    - a. The evidence presented need not comply with the strict rules of evidence set forth in the California Evidence Code, but shall be the type of evidence upon which reasonable and prudent people rely upon in the conduct of serious affairs.
    - b. The hearing officer shall have broad authority to control the proceedings and to provide for cross examination of witness in a fair and impartial manner. The hearing officer shall have authority to administer oaths to those persons who will provide oral testimony.
    - c. The city manager shall have the burden of proof to establish by clear and convincing evidence the facts upon which his or her decision is based.
    - d. The appeal hearing shall be recorded by audio recording. Any party may at its sole cost and expense utilize the services of a certified court reporter to prepare the verbatim record of the hearing. If a court reporter is used the transcript prepared shall be made available for purchase to both parties.

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- e. The hearing officer may continue the appeal hearing from time to time, but only upon written motion of a party showing good cause for the continuance. The party requesting the continuance shall pay the costs of the hearing officer, if any, for the cancelled hearing.
  - 1. The hearing officer may uphold, modify or reverse the administrative decision.
  - 2. Within ten days of the conclusion of the appeal hearing the hearing officer shall render his or her decision and make written findings supporting the decision. The hearing officer shall send the decision to the city clerk. Upon receipt of the hearing officer's decision, the city clerk shall notify the city manager and the appellant of the decision and provide them with a copy of the hearing officer's decision along with a proof of mailing.
  - 3. The hearing officer's decision shall be final and conclusive as to the city and the appellant and no appeal to the city council from the hearing officer's decision shall be available. Any legal action challenging the hearing officer's decision shall be filed within 90 days of the date of the proof of service of mailing of the hearing officer's opinion pursuant to § 1094.5 et seq. of the California Code of Civil Procedure.
- (b) Any notices which either party may desire to give to the other party in connection with the appeal under this section must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as, but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail first class mail postage prepaid addressed to the city at city hall or to the appellant at the address set forth in the notice of appeal. Notice shall be effective on the date of personal delivery or the date when the notice was deposited in the mail or reputable document delivery service.
- (c) If the hearing officer overturns the administrative decision or substantially modifies it in favor of the appellant the appeal fee shall be refunded to the appellant.
- (d) The city manager shall have the authority to establish all appropriate administrative regulations for the fair and efficient implementation of this section, conducting hearings and rendering decisions pursuant to this section.
- (e) Notwithstanding the procedures set forth in this section, the city manager shall have the authority to enter into settlement agreements with an appellant that justice may require and that are consistent with the purposes of this article.

(Ord. No. 1836, § 2(Exh. B), 5-10-11)

**Sec. 18-51. Confidentiality of information.**

It is unlawful for the collector or any of his deputies to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a license or pay a license fee, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof set forth in any statement or application, or to permit any statement or application or a copy of either, or any book containing any abstract or particulars thereof, to be seen or examined by any person; provided that nothing in this section shall be construed to prevent:

- (1) The disclosure to or the examination of records and equipment by another city official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this article or collecting fees imposed under this article.

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- (2) The disclosure of information to or the examination of records by federal or state officials or the tax officials of another city or county, if a reciprocal review arrangement exists, or to a grand jury or court of law, upon subpoena.
- (3) The disclosure of information and results of examinations of records of a particular business license applicant or relating to such applicant to a court of law in a proceeding brought to determine the existence or amount of any license fee liability of such applicant to the city.
- (4) The disclosure, after the filing of a written request to that effect, to the applicant himself or to his successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to the items included in the measure of any paid fee, any unpaid fees or amounts of fees required to be collected, interest and penalties, further provided, however, that the city attorney approves each such disclosure and that the collector may refuse to make any disclosure referred to in this subsection when, in his opinion, the public interest would suffer thereby.
- (5) The disclosure of the names and addresses of persons to whom licenses have been issued, and the general type or nature of their businesses.
- (6) The disclosure by way of public meeting or otherwise of such information as may be necessary to the city council in order to permit it to be fully advised as to the facts when an applicant files a claim for refund of license fees, or submits an offer of compromise with regard to a claim asserted against him by the city for license fees, or when acting upon any other matter.
- (7) The disclosure of general statistics regarding fees collected or business done in the city.

(Ord. No. 1158; Code 1984, § 6021)

**Sec. 18-52. Violation of article; penalty.**

- (a) Any person violating any of the provisions of this article, or who does not obtain a license prior to doing business, or who knowingly or intentionally misrepresents to any city official any material fact in procuring a license or permit or certificate of compliance provided for in this article, shall be deemed guilty of a misdemeanor, punishable as provided in [section 1-8](#)
- (b) The carrying on of any business, trade, calling, profession or occupation without complying with the requirements of this article is a separate violation of this article for each and every day that such business is carried on.

(Ord. No. 1158; Code 1984, § 6022; Ord. No. 1569, § 1, 8-26-98; Ord. No. 1836, § 3(Exh. C), 5-10-11; Ord. No. 1843, § 2, 11-8-11)

**Sec. 18-53. Fee rates generally.**

- (a) *Classification of rates.* The several rates of business license fees payable in connection with conducting or carrying on businesses within the city are as prescribed and classified in this article. Every person who engages in business, whether or not at a fixed place of business within the city, shall pay a license fee based upon one or more of the following:
  - (1) A fixed fee.
  - (2) The graduated scale as prescribed in this section.
  - (3) The graduated scale with minimum fee as prescribed.
  - (4) A gross receipts basis.

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The various categories into which particular businesses fall with regard to fee rates payable shall be as more specifically set forth in this article.

- (b) *Activities covered by license.* Each business for which a license fee is paid under this article shall include and embrace the several activities generally understood and accepted as customary to be associated with and a part of the business.
- (c) *Businesses not specifically mentioned.* In any case where business is conducted within the city, whether or not at a fixed place of business within the city, and such business is not specifically mentioned in this article, for the purpose of assigning a fee rate thereto, the business shall pay a license fee of \$50.00 plus the appropriate fee determined by the graduated scale basis of computation for employees.
- (d) *Graduated scale basis of computation for employees.* Whenever the term "graduated scale" is used in this article, it refers to the following basis of license fee computation. Whenever a license fee is to be computed on the basis of a graduated scale, it shall be computed on the basis of the number of employees as follows:

GRADUATED SCALE BASIS OF  
COMPUTATION FOR EMPLOYEES

Number of Fulltime Employees*	Fee (per year)
1 or 2	\$ 10.00
3 to 6	30.00
7 to 10	50.00
<u>11</u> to 14	70.00
<u>15</u> to 20	100.00
21 to 30	120.00
<u>31</u> to 40	150.00
41 to 50	200.00
51 or more	200.00, plus \$5.00 for each employee over 50 in number

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\*For the computation of the number of employees, three parttime employees working no more than 25 hours each, per week, shall equal one fulltime employee.

(Ord. No. 1158; Code 1984, § 6023)

**Sec. 18-54. Gross weight fixed fee scale.**

The following manufacturers' gross weight fixed fee scale shall apply to the special categories of delivery, trucking and transportation, including trailers and mobile homes being transported to the city by out-of-town businesses for the purpose of resale to or use by a wholesaler or manufacturer:

Combined Manufacturing	Fee per Truck Route (per year)
0 to 5,000	\$ 36.00
5,001 to 9,000	48.00
9,001 to 13,000	72.00
13,001 to 17,000	86.00
17,001 and over	100.00

(Ord. No. 1158; Code 1984, § 6024)

**Sec. 18-55. Vending gross receipts fee rates.**

- (a) *Generally.* Gross receipts license fees shall be based on the entire gross receipts which are directly attributable to any coin-operated machine used within the city, and no minimum license fee shall be imposed upon any business location, nor shall such license fee be measured by the number of business locations or machines of the licensee within the city, whose business is limited exclusively to the renting, leasing or operating of such machines.
- (b) *Basis.* The annual gross receipts upon which such rates are based shall be the annual gross receipts for the calendar year preceding the license year for business done within the city, except for a new business without a gross receipts record for the previous year.
- (c) *Tentative payment for new businesses.* New businesses shall estimate and pay the gross receipts fee for the period to be covered by the license to be issued. The amount of such license fee shall be tentative only, and such person shall, within 30 days after the expiration of the period for which such license was issued, furnish the collector, on a form to be furnished by the collector and signed under penalty of perjury, a statement showing the gross receipts during the period of such license, and the license fee for such period shall be finally ascertained and paid within 30 days of the close of the calendar year. A penalty as prescribed in this article shall be added to any license fee not paid.

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- (d) *Overpayment or underpayment.* If the amount paid is in excess of the amount due, the collector shall either credit the excess amount against the renewal license fee, or, if such amount paid was less than the amount due, the additional payment must be made within 30 days of the close of the calendar year for which the fee should have been paid.
- (e) *Renting, leasing and operating laundry equipment.* Notwithstanding other provisions of this section, the license fee for the conduct of any business of renting, leasing or operating laundry equipment, whether or not coin-operated, shall be based upon the annual gross receipts derived from such business within the city in accordance with the following schedule:

Annual Gross Receipts	Fee (per year)
\$0.00 to \$5,000.00	\$30.00
\$5,001.00 to \$10,000.00	35.00

Annual Gross Receipts	Fee (per year)
\$10,001.00 to \$20,000.00	40.00
\$20,001.00 to \$30,000.00	45.00
\$30,001.00 to \$40,000.00	50.00
\$40,001.00 to \$50,000.00	55.00
One-half of one percent for all in excess of \$50,000.00	

- (f) *Renting, leasing and operating coin-operated vending machines dispensing tangible personal property.* Notwithstanding any other provisions of this section, a license fee shall be imposed for the privilege of renting, leasing or operating coin-operated vending machines dispensing tangible vending personal property, by any individual or firm whose business is limited exclusively to or includes the renting, leasing or operating of such machines, on the gross receipts derived therefrom in accordance with the following schedule. A certificate of compliance is required.

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Gross Receipts	Fee (per year)
\$0.00 to \$2,500.00	\$25.00
\$2,501.00 to \$5,000.00	35.00
\$5,001.00 to \$10,000.00	40.00
\$10,001.00 to \$15,000.00	45.00
\$15,001.00 to \$20,000.00	50.00
\$20,001.00 to \$25,000.00	55.00
\$25,001.00 to \$30,000.00	60.00
\$30,001.00 to \$35,000.00	65.00
\$35,001.00 to \$40,000.00	70.00
\$40,001.00 to \$45,000.00	75.00
\$45,001.00 to \$50,000.00	80.00
One-half of one percent for all in excess of \$50,000.00	

(g) *Renting, leasing and operating coin-operated machines vending intangibles.* Notwithstanding the provisions of subsections (e) and (f) of this section, a license fee shall be imposed for the privilege of renting, leasing or operating coin-operated machines vending intangibles, by any individual or firm whose business is limited exclusively to or includes the renting, leasing or operating of such machines, on the gross receipts derived therefrom in accordance with the following schedule. A certificate of compliance is required.

Gross Receipts	Fee

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	(per year)
\$0.00 to \$2,500.00	\$ 45.00
\$2,501.00 to \$5,000.00	75.00
\$5,001.00 to \$10,000.00	90.00
\$10,001.00 to \$15,000.00	105.00
\$15,001.00 to \$20,000.00	120.00
\$20,001.00 to \$25,000.00	135.00
\$25,001.00 to \$30,000.00	150.00
\$30,001.00 to \$35,000.00	165.00
\$35,001.00 to \$40,000.00	180.00
\$40,001.00 to \$45,000.00	195.00
\$45,001.00 to \$50,000.00	210.00
One-half of one percent for all in excess of \$50,000.00	

(Ord. No. 1158; Code 1984, § 6025)

**Sec. 18-56. Fee for rental of apartments, mobile home rental space, storage space, etc.**

Each apartment, mobile home rental space in mobile home park, business office, hotel, motel, storage building, ministorage building, open area storage space, convalescent home, nursing home, hospital and business of a like nature or similar character may require a certificate of compliance. A minimum of \$40.00 per year will be charged for the first three units, plus an additional \$1.00 per year for each unit or space over three in number.



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(Ord. No. 1158; Code 1984, § 6026; Ord. No. 1555, 2-11-97)

**Sec. 18-57. Fee for retail sales.**

- (a) *Generally.* The retailing businesses listed in this section, and all other persons engaged in the business of making sales at a retail level where 75 percent of the total sales are at the retail level, shall be subject to one of the following tax methods. The licensee shall have the option of selecting either the gross receipts or the flat rate tax method.
- (b) *Gross receipts method.* The tax formula based on gross receipts is as follows:  
\$0.50 per \$1,000.00 for the first \$250,000.00 of gross receipts; then  
\$0.10 per \$1,000.00 for the first \$1,250,000.00 of gross receipts; then  
\$0.025 per \$1,000.00 in excess of \$1,500,000.00 of gross receipts.
- (c) *Applicability.* The following businesses shall be subject to this section:

Appliance			store
Auto			accessory
Bookstore*			
Candy			shop
Car			dealer
Carpet	and	rug	store
Children's			wear
Department			store
Drugstore			
Florist			
Furniture			store
Gift			shop
Grocer			
Hardware			store
Health		food	store
Ice		cream	store
Jewelry			store
Ladies			wear
Liquor			store
Lumberyard			
Mattress			shop
Meat			market
Men's			store
Music			store
Newspaper			office
Nightclub*			
Nursery			
Pet			store
Photo			shop*
Plant	and	pot	shop
Plumbing			supply
Pool			supply
Printer			
Restaurant			
Service			station

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Shoe			store
Sporting			goods
Tavern		and	bar
Tire			shop
Toy			store
TV	and	radio	store
Variety			store
Wallpaper		and	paint
Yardage and drapery			

\*And any business of like nature or similar character. A certificate of compliance may be required.

- (d) *Documentation of gross receipts.* In order to utilize the gross receipts option, the licensee may be required to provide, in a form satisfactory to the city, supporting documentation of gross receipts from the previous year. Records provided in support of gross receipts earnings will be considered confidential information as provided for by [section 18-51](#)
- (e) *Maximum gross receipts fee.* The maximum annual gross receipts license fee shall be \$500.00 per year.
- (f) *Flat rate formula.* The tax formula based upon the flat rate is as follows: a minimum of \$40.00 per year, to include one owner or manager, agent or employee, plus the fee set out in the graduated scale for number of employees in [section 18-53](#)(d).

(Ord. No. 1158; Code 1984, § 6027)

**Sec. 18-58. Fee for manufacturers and wholesalers.**

- (a) *Generally.* Any business whose primary purpose is to manufacture or wholesale materials and products shall be subject to one of the following tax methods. The licensee shall have the option of selecting either the gross receipts or the flat rate tax method.
- (b) *Gross receipts method.* The tax formula based on gross receipts is as follows:  
\$0.35 per \$1,000.00 for the first \$500,000.00 of gross receipts; then  
\$0.025 per \$1,000.00 in excess of \$500,000.00 of gross receipts.
- (c) *Maximum gross receipts fee.* The maximum annual gross receipts license fee shall be \$860.00 per year.
- (d) *Flat rate method.* The tax formula based on the flat rate is as follows: a minimum of \$40.00 per year, to include one owner or manager, agent or employee, plus the fee set out in the graduated scale for number of employees in [section 18-53](#)(d).

(Ord. No. 1158; Code 1984, § 6028)

**Sec. 18-59. Fee for professionals and service businesses.**

- (a) *Generally.* Any business or individual listed in this section, and all others whose purpose is of the same type as listed in this section, shall be subject to one of the following tax methods. The licensee shall have the option of selecting either the gross receipts or the flat rate tax method.
- (b) *Gross receipts method.* The tax formula based on gross receipts is as follows:  
\$0.90 per \$1,000.00 for the first \$100,000.00 of gross receipts; then

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\$0.25 per \$1,000.00 for the next \$400,000.00 of gross receipts; then

\$0.025 per \$1,000.00 in excess of \$500,000.00 of gross receipts.

- (c) *Maximum gross receipts fee.* The maximum annual gross receipts licensee fee shall be \$560.00 per year.
- (d) *Applicability.* The following businesses and individuals shall be subject to this section:

Abstractor			of				titles
Accountant							
Advertising*							
Agricultural							advisor
Aircraft		rental				or	services
Alarm		sales				or	service
Ambulance*							
Appraiser							
Architect							
Assayer							
Attorney							
Auction*							
Car							washing
Carpet							cleaner
Catering							
Chemical							engineering
Chemist							
Child	care		(seven			or	more)
Chiropracist							
Chiropractor							
Civil							engineer
Claim							adjuster
Cleaning							
Collection							agency*
Detective	agency*	(see	article	VIII	of	this	chapter)
Draftsman							
Drugless							practitioner
Dry							cleaner
Dry			cleaner				service
Electrical							engineer
Electrician							(noncontractor)
Electrologist							
Employment							agency
Escrow							officer
Exterminator							
Figure							salon
Finance							company
Fine	arts		or			music	school
Florist							
Food		packer				or	processor
Fortunetelling							
Funeral							home
Furniture							refinisher
Gardener							
General			engineering				contractor

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Geologist								
Gyms								
Herbalist								
Hypnotist				or				hypnosis
Industrial				relations				consultant
Instructor								
Insurance								adjuster
Insurance								agency
Interior								decorator
Investment								counselor
Janitorial								service*
Lapidary								
Laundry	(professional,	see	rental	of	vehicles	and	equipment	gross receipts fee)
Laundry		truck			route		(fixed	fees)
Mailing								service
Marriage			and			family		counselor
Massage								
Mechanic								
Mechanical								engineer
Medical								lab
Messenger								service*
Mortician								
Naturopath								
Oculist								
Optometrist								
Oral								surgeon
Osteopath								physician
Painter								(noncontractor)
Pest								control
Photographer*								
Physician								
Physiologist								
Physiotherapist								
Real					estate			broker
Real					estate			salesman
Sailplane								service
Sandblaster								
Sanitation								engineer
Savings			and			loan		company
Schools								
Shoe								repair
Skating								rink*
Steam								cleaner
Surgeon								
Surveyor*			(door			to		door)
Surveyor					of			land
Swimming								instructor
Taxidermist								
Telephone	services		(as	defined	in	the	state	constitution)
Trade			or		business			school
Travel								bureau
Tree								removing
Tree								sprayers*

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Tree	surgery*
Tree	trimming*
Upholstery	shop
Veterinarian	
Watch	repair
Weight	salons
Wholesale	jobbing
Wrecking	yard
X-ray technician or lab	

\*May require a certificate of compliance.

- (e) *Flat rate method.* The tax formula based on the flat rate is as follows: minimum of \$40.00 per year, to include one owner or manager, agent or employee, plus \$25.00 for each additional principal or professional operating at the same address as the licensee who is not an employee, plus the fee set out in the graduated scale for number of employees in [section 18-53\(d\)](#).

(Ord. No. 1158; Code 1984, § 6029)

**Sec. 18-60. Fee rates for specialty contractors.**

- (a) *Gross receipts method.* The tax formula based upon gross receipts is as follows: All contractors who perform work in the city shall pay an annual license fee equal to the minimum as listed in this section, or a tax of 0.1 percent upon gross receipts. In order to utilize the gross receipts option, the contractor must provide, in a form satisfactory to the city, supporting building permit documentation of gross receipts from the previous year. Such fee shall be prorated to 50 percent if obtained after July 1. The fee shall be due and payable at the time of issuance of the license.
- (b) *Flat rate method.* The tax formula based on the flat rate method is as follows:

Type	State Class	Minimum Fee
General engineering contractor		\$80.00
General building contractor	B-1	80.00
Boilers, hot water heating, steam fitter	C-4	60.00
Cabinet and mill work	C-6	60.00
Cement and concrete	C-8	60.00
Electrical (general)	C-10	60.00
Electrical signs	C-45	60.00

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Elevator installation	C-11	60.00
Excavating, grading, trenching, paving and surfacing	C-12	60.00
Fire protection engineering	C-16	60.00
Flooring (wood)	C-17	60.00
Glazing	C-17	60.00
Housing or building moving	C-21	60.00
Insulation	C-2	60.00
Landscaping	C-27	60.00
Lathing	C-26	60.00
Masonry	C-29	60.00
Ornamental metals	C-23	60.00
Painting, decorating	C-33	60.00
Plastering	C-35	60.00
Plumbing	C-36	60.00
Refrigeration	C-38	60.00
Roofing	C-39	60.00
Sewer, sewage disposal, drains and cement pipe laying	C-42	60.00
Sheetmetal	C-43	60.00
Steel reinforcing	C-50	60.00

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Steel, structural	C-51	60.00
Structural pest control	C-22	60.00
Swimming pool	C-53	60.00
Tile, ceramic or mosaic	C-54	60.00
Warm air heating, ventilation or air conditioning	C-20	60.00
Welding	C-60	60.00
Classified specialists	C-61	60.00

- (c) *Per job fee.* A per job license shall be made available where prior years' earnings records are not available to support a gross receipts tax. The per job license fee shall be prorated to 50 percent of the annual license fee, and shall be due and payable at the time of the issuance. No portion of the per job license fee shall be applied to a yearly license fee.

(Ord. No. 1158; Code 1984, § 6030)

**Sec. 18-61. Fixed fees for certain businesses.**

The fees for the following businesses shall be as set out in this section. The symbol "\*" indicates that a certificate of compliance may be required.

*Advertising billboards:* \$150.00 per year per board face.

*Amusement, recreation or entertainment\*:* The fee for games, tables, machines or devices of like nature that are not coin-operated is \$5.00 each. This is in addition to the normal license fee paid in connection with and part of an existing licensed business.

*Amusement, recreation, entertainment, advertising or spectator events\*:* \$15.00 per day, plus \$5.00 per day per show, concession or participant conducting such business thereat.

*Bankruptcy\*:* \$50.00.

*Billiard parlor, coin-operated\*:* See gross receipts fee, [section 18-55](#).

*Billiard parlor, family\*:* \$75.00 per year, plus \$5.00 per table if not coin-operated.

*Billiards or pool, not coin-operated\*:* \$40.00 minimum, plus \$5.00 per table, plus a fee based on the graduated scale basis of computation for employees.

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*Bowling alley*\*: \$100.00 per year, plus a fee based on the graduated scale basis of computation for employees, plus \$12.00 per year for each alley in excess of the first three alleys.

*Boxing and wrestling*\*: \$50.00 minimum per day.

*Cabaret dancing*\*: \$200.00 per year.

*Card room*\*: \$10.00 per day. A permit from the city council shall first be obtained.

*Carnivals and circuses*\*: \$200.00 for the first day and \$100.00 for each succeeding day.

*Commercial traveler*: \$50.00 per year.

*Dance, public*\*: \$25.00, plus costs of policing.

*Farmer's fair*: \$15.00 per day for promoter, plus \$6.00 flat fee per show, concession or participant.

*Garage sales and sales of like nature*\*: \$10.00 minimum.

*Gardeners*: \$20.00 per year. This category includes one person and one vehicle only.

*Gasoline or fuel business*\*: \$60.00 per year, plus a fee based on the graduated scale basis of computation for employees (fixed place of business).

*Going out of business sale*\*: \$50.00.

*Handbills, advertising samples or products, distribution*\*: \$250.00, plus \$25.00 per person, plus \$25.00 per day.

*Handyman*: Limited to noncommercial advertising, casual labor, having no unique equipment, and not contracting, \$20.00 per year, prorated only by half year (50 percent) after July 1. Requires statement of facts.

*House moving*

*Junk dealers*\*: \$5.00 per day or \$20.00 for six months, \$40.00 per year per truck route plus a fee based on the graduated scale basis of computation for employees.

*Laundry rental service*: \$72.00 per truck route per year.

*Laundry service truck routes*: \$144.00 per truck route per year.

*License transfer or alteration fee*: Location, name, ownership, partnership, mailing address, type of business, or contractor's number, \$5.00.

*Live entertainment*\*: \$100.00 per year, prorated by quarter, or \$10.00 per day minimum.

*Merry-go-round*\*: \$10.00 per day.

*Parade*\*: \$500.00 each.

*Pawnbroker, as defined by state law*\*: \$150.00 per year.

*Peddlers and solicitors*\*: \$100.00 for six months minimum, or \$10.00 per day for a minimum of three days.



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*Recreational vehicle parks and trailer parks:* See "Mobile home parks."

*Rummage sales\*:* See definition in [section 18-44](#).

*Secondhand dealers, as defined by state law\*:* \$150.00 per year.

*Service vehicle (place of business not in the city):* \$80.00 per vehicle per year, covers one employee.

*Shoeshine stand:* \$10.00 per year if not part of an existing business.

*Shooting galleries (using firearms)\*:* \$100.00 per year, plus a fee based on the graduated scale basis of computation for employees.

*Social club\*:* \$100.00 per year.

*Taxi:* See franchise.

*Theatres and movie houses\*:* \$50.00 minimum, plus \$0.10 per seat per year for the first 500 seats, plus \$0.05 for each seat over 500 in number per year.

*Vending from vehicle (any product for human consumption):* \$100.00 per established route per year.

*Vending machines:* Fixed place of business, machines dispensing tangible personal property, \$5.00 each per year, in addition to other applicable fees.

*Wholesale delivery vehicles not operating from a fixed place of business within city limits:* See [section 18-53](#).

(Ord. No. 1158; Code 1984, § 6031; Ord. No. 1555, 2-11-97)

**Secs. 18-62—18-80. Reserved.**

ARTICLE III. ALARM SYSTEMS

**ARTICLE III. ALARM SYSTEMS** <sup>[2]</sup>

[Sec. 18-81. Purpose of article.](#)

[Sec. 18-82. Exemptions from article.](#)

[Sec. 18-83. Definitions.](#)

[Sec. 18-84. Alarm business and alarm agent duties and responsibilities.](#)

[Sec. 18-85. Alarm system permit required.](#)

[Sec. 18-86. Issuance of alarm system permit.](#)

[Sec. 18-87. Grounds for denial, suspension or revocation of permit.](#)

[Sec. 18-88. Prohibited alarm systems.](#)

[Sec. 18-89. Installation and maintenance standards.](#)

[Sec. 18-90. Testing and repair.](#)

[Sec. 18-91. Penalty for false alarms.](#)

[Sec. 18-92. Violation of article; penalty.](#)

[Secs. 18-93—18-120. Reserved.](#)

**Sec. 18-81. Purpose of article.**

The purpose of this article is to set forth regulations governing alarm systems, alarm businesses, and alarm agents operating within the city, to require permits and fees for alarm systems, and to provide penalties for violations of provisions of this article.

(Ord. No. 1814, § 2(Exh. A), 6-23-09)

**Sec. 18-82. Exemptions from article.**

- (a) The United States government, the state, counties and municipal corporations and departments thereof, and other government entities, are exempt from any fee required by this article.
- (b) The provisions of this article are not applicable to audible alarms affixed to automobiles.

(Ord. No. 1814, § 2(Exh. A), 6-23-09)

**Sec. 18-83. Definitions.**

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

*Alarm agent* means a person employed by an alarm business whose duties include selling, altering, installing, maintaining, moving, repairing, replacing, servicing, responding, or monitoring an alarm system, or a person who manages or supervises a person employed by an alarm business to perform any of these duties.

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ARTICLE III. ALARM SYSTEMS

*Alarm business* means any person who, for any consideration whatsoever, engages in business of installing, maintaining, altering, selling, monitoring, or servicing alarm systems or who responds to alarm systems except for an alarm agent.

*Alarm system* means any mechanical or electrical device which is designed or used for the detection of fires or any unauthorized entry into a building, residence, structure or facility or for alerting others of the commission of an unlawful act or fire within a building, structure or facility, or both, and which emits a sound or transmits a signal when actuated. This definition does not include auxiliary devices installed by the telephone company to protect telephone company systems which might be damaged or disrupted by the use of an alarm system.

*False alarm* means an alarm signal activated through subscriber negligence or for reasons not of an emergency nature or when activated due to malfunction of any segment of the alarm system.

*Person* means individual, firm, association, organization, partnership, business trust, corporation or company. "Person" does not include the City of Hemet.

*Subscriber* means any person who purchases, leases, contracts for or otherwise obtains an alarm system or contracts for the servicing or maintenance of an alarm system from an alarm business.

(Ord. No. 1814, § 2(Exh. A), 6-23-09)

**Sec. 18-84. Alarm business and alarm agent duties and responsibilities.**

- (a) No person shall own, manage, conduct or carry on an alarm business within the city without first having obtained a city business license and satisfied all alarm business licensing requirements of the State of California.
- (b) Any person acting as an alarm agent shall carry his or her alarm agent registration card issued by the State of California while engaged in alarm agent activities within the city and shall display such registration card to a subscriber or representative of the city upon request.
- (c) An alarm business or alarm agent shall, prior to the installation of an alarm system, provide the subscriber with a copy of this article, a city-provided alarm system permit application form and a copy of the current penalty schedule for false alarms.
- (d) An alarm business or alarm agent shall not install an alarm system which, when activated, causes an alarm or signal to be sent directly to the city.

(Ord. No. 1814, § 2(Exh. A), 6-23-09)

**Sec. 18-85. Alarm system permit required.**

A subscriber shall obtain an alarm system permit as required by this article within 30 days of obtaining an alarm system.

(Ord. No. 1814, § 2(Exh. A), 6-23-09)

**Sec. 18-86. Issuance of alarm system permit.**

- (a) An application for an alarm system permit shall be in such form as may be adopted by the city manager or his or her designee.
- (b) Alarm system permits are good for one year from the date of issuance, and must be renewed on an annual basis.

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- (c) The city council shall set the fee for an alarm system permit by resolution.
- (d) The city manager or his or her designee may approve an application for an alarm system permit upon submission of a complete application for an alarm system permit and payment of the required permit fee.
- (e) An application for a new or renewal alarm system permit may be denied if the application is incomplete, the required fee is not paid, the applicant or his employee or agent has knowingly made a false, misleading or fraudulent statement of a material fact in the application for a permit, the applicant has unpaid false alarm penalties, or the applicant has had an alarm system permit suspended or revoked by the city within the past year.

(Ord. No. 1814, § 2(Exh. A), 6-23-09)

**Sec. 18-87. Grounds for denial, suspension or revocation of permit.**

The following shall constitute grounds for suspension or revocation of an alarm system permit issued under this article:

- (a) The subscriber or his employee or agent has knowingly made a false, misleading or fraudulent statement of a material fact in the application for a permit, or
- (b) The subscriber's alarm system has actuated five false alarms within the previous 12 months; or
- (c) The subscriber fails to pay any penalties issued pursuant to [section 18-91](#) or [18-92](#)

(Ord. No. 1814, § 2(Exh. A), 6-23-09)

**Sec. 18-88. Prohibited alarm systems.**

The following alarm systems shall not be permitted:

- (a) Telephone alarm systems which will activate an automatic telephone dialing device programmed to dial a public primary telephone trunk line of the city and reproduce any prerecorded message to report any burglary, fire or other emergency.
- (b) Alarm systems which create a sound similar to that of an emergency vehicle siren or civil defense warning system.
- (c) All fire alarm systems and components not approved by the state fire marshal's office.

(Ord. No. 1814, § 2(Exh. A), 6-23-09)

**Sec. 18-89. Installation and maintenance standards.**

The city may prescribe minimum standards and regulations for the installation and maintenance of all alarm systems installed within the city. These standards and regulations shall become effective upon adoption thereof by resolution of the city council. An alarm system shall meet or exceed such standards and regulations before an alarm permit may be issued pursuant to this article. The regulations and standards may provide for inspection and approval of all alarm systems installed within the city.

(Ord. No. 1814, § 2(Exh. A), 6-23-09)

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**Sec. 18-90. Testing and repair.**

- (a) Subscribers shall keep alarm systems in good repair.
- (b) Subscribers shall notify the fire department prior to any service, test, repair, maintenance, adjustment, alteration or installation of fire alarms which might actuate a false alarm.
- (c) Subscribers shall notify the police department prior to any service, test, repair, maintenance, adjustment, alteration or installation of burglary and robbery alarms which might actuate a false alarm.
- (d) For the purpose of this article, any alarm actuated where such prior notice has been given shall not constitute a false alarm, except when testing a system in violation of subsection (e) of this section.
- (e) Testing of alarm systems shall be limited to one test signal sent to the alarm monitoring panel per month. Such test shall not exceed one minute in duration.
- (f) All audible alarm systems installed within the city shall be equipped with a device which will automatically deactivate the alarm system and reset it within 15 minutes after such alarm has been activated.

(Ord. No. 1814, § 2(Exh. A), 6-23-09)

**Sec. 18-91. Penalty for false alarms.**

The subscriber whose alarm system sends a false alarm shall pay a penalty for each false alarm according to a schedule set by council resolution.

(Ord. No. 1814, § 2(Exh. A), 6-23-09)

**Sec. 18-92. Violation of article; penalty.**

Any person violating any of the provisions of this chapter shall be subject to the issuance of a citation and imposition of civil penalties as provided for in sections [1-8](#) and 30-80 et seq. of this Code. Revocation of a permit or disconnection of any alarm shall not be a defense against prosecution.

(Ord. No. 1814, § 2(Exh. A), 6-23-09)

**Secs. 18-93—18-120. Reserved.**

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FOOTNOTE(S):

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**Editor's note**— Section 1 of Ord. No. 1814, adopted June 23, 2009, repealed Art. III in its entirety and section 2 of said ordinance added similar provisions to read as herein set out. Former Art. III was comprised of §§ 18-81—18-98, and derived from §§ 6101—6118 of the 1984 Code and Ord. No. 1325.

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ARTICLE III. ALARM SYSTEMS

**Cross reference—** Law enforcement, ch. 38. [\(Back\)](#)

ARTICLE IV. BINGO

**ARTICLE IV. BINGO** <sup>[3]</sup>

[Sec. 18-121. Bingo authorized.](#)

[Sec. 18-122. Definitions.](#)

[Sec. 18-123. License required.](#)

[Sec. 18-124. Application for license.](#)

[Sec. 18-125. Term of license; license fee.](#)

[Sec. 18-126. Investigation of applicant for license; issuance of license.](#)

[Sec. 18-127. Transfer of license.](#)

[Sec. 18-128. Conduct of games.](#)

[Sec. 18-129. Inspections.](#)

[Sec. 18-130. Denial, suspension or revocation of license.](#)

[Sec. 18-131. Appeals.](#)

[Sec. 18-132. Receiving profit or wage from games prohibited; violation of article; penalty.](#)

[Secs. 18-133—18-150. Reserved.](#)

**Sec. 18-121. Bingo authorized.**

Notwithstanding any other provisions of this article, the ordinance codified in this article is adopted pursuant to section 19 of article IV of the state constitution in order to make the game of bingo unlawful except under the terms and conditions in the following sections of this article.

Games are to be only conducted by organizations exempted from the payment of the bank and corporation tax by Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g) and 23701(l) of the Revenue and Taxation Code and by mobile home park associations and senior citizens organizations; and provided that the receipts of those games are used only for charitable purposes.

(Ord. No. 718; Code 1984, § 6200; Ord. No. 1572, 10-7-97)

**Sec. 18-122. Definitions.**

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

*Bingo* means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. The game of bingo shall include cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance."

*Minor* means any person under the age of 18 years.

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*Nonprofit charitable organization* means an organizations exempted from the payment of the bank and corporation tax by Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g) and 23701(l) of the Revenue and Taxation Code.

*Exempt mobile home park associations and senior citizens organizations* means that the receipts of those games conducted by those associations and organizations are used only for charitable purposes.

(Ord. No. 718; Code 1984, § 6201; Ord. No. 1572, 10-7-97)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

**Sec. 18-123. License required.**

It is unlawful for any person to conduct any bingo games in the incorporated area of the city unless such person is a member of a nonprofit charitable organization, mobile home park association or senior citizens organization and such nonprofit charitable organization, mobile home park association or senior citizens organization, as defined as exempt under Penal Code 326.5(a), has been issued a license as provided by this article

(Ord. No. 718; Code 1984, § 6202; Ord. No. 1572, 10-7-97)

**Sec. 18-124. Application for license.**

Application for a bingo license shall be made to the business license division on the prescribed authorized forms, and shall be filed not less than ten days prior to the proposed date of the bingo game. The bingo licensing shall be administrated under the direction of the chief of police. The application form shall require from the applicant at least the following:

- (1) A list of all members who will operate the bingo game, including the full name of each member, the date of birth, the place of birth, a physical description and the driver's license number.
- (2) The date and place of the proposed bingo game.
- (3) Proof that the organization is a nonprofit charitable organization, mobile home park association or senior citizens organization as defined by this article.

(Ord. No. 718; Code 1984, § 6203; Ord. No. 1572, 10-7-97)

**Sec. 18-125. Term of license; license fee.**

- (a) The term of a bingo license is one year. Licenses may be renewed for a period of one year at any time prior to expiration thereof, upon application therefor. Applications for a license or for a renewal license, shall be filed with the office of business licensing on the prescribed authorized forms, and shall be signed under penalty of perjury.
- (b) All licenses shall expire on December 31 of the calendar year for which they are issued.
- (c) The fee for a bingo license and the fee for renewal shall be as established by the city council from time to time. The appropriate fee shall accompany the submission of each application. The fee is nonrefundable and shall be used to defray the cost of the issuance of the license.

(Ord. No. 718; Code 1984, § 6204; Ord. No. 1572, 10-7-97)



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**Sec. 18-126. Investigation of applicant for license; issuance of license.**

- (a) Upon receipt of an application for a license under this article, the chief of police or his designee may send copies of such application to any office or department which the chief of police deems essential in order to carry out a proper investigation of the applicant.
- (b) The chief of police, his designee and every officer or department to which an application is referred shall investigate the truth of the matters set forth in the application and the character of the applicant, and may examine the premises to be used for the bingo game.
- (c) Upon approval of any application for a bingo license, the business license division shall issue the license, under the direction of the chief of police.

(Ord. No. 718; Code 1984, § 6205; Ord. No. 1572, 10-7-97)

**Sec. 18-127. Transfer of license.**

Each license issued under this article shall be issued to a specific location and shall in no event be transferable from one person to another or from one location to another.

(Ord. No. 718; Code 1984, § 6206; Ord. No. 1572, 10-7-97)

**Sec. 18-128. Conduct of games.**

- (a) A nonprofit charitable organization, mobile home park association or senior citizens organization shall conduct a bingo game only on property both owned or leased by it, and which property is used by such organization for an office or for the performance of the purposes for which the organization is organized.
- (b) No minors shall be allowed to participate in any bingo game.
- (c) All bingo games shall be open to the public, not just to the members of the nonprofit charitable organization, mobile home park association or senior citizens organization.
- (d) A bingo game shall be operated and staffed only by members of the authorized organization which organized it. Such members shall be approved by the chief of police or his designee and shall not receive a profit, wage or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such game or participate in the promotion, supervision or any other phase of such game. The employment of security personnel who are not members of the authorized organization is permitted at such a bingo game by the organization conducting the game.
- (e) No individual, corporation, partnership or other legal entity, except the organization authorized to conduct a bingo game shall hold a financial interest in the conduct of such bingo games.
- (f) All profits derived from bingo games conducted by the organizations authorized shall be kept in a special fund or account and shall not be commingled with any other fund or account. Within 30 days after the bingo game is held, the applicant shall prepare a full and complete financial statement of all monies collected and disbursed, and the amount remaining for charitable purposes. Financial records shall be prepared monthly and maintained in individual ledgers by year, for five years minimum.
- (g) No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted.
- (h) The total value of prizes awarded during the conduct of any bingo games shall not exceed \$250.00 in cash or kind, or both, for each separate game which is held.

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- (i) No bingo game shall be conducted between the hours of midnight and 8:00 a.m.

(Ord. No. 718; Code 1984, § 6207; Ord. No. 1572, 10-7-97)

**Sec. 18-129. Inspections.**

The chief of police, his designee or any peace officer of the city shall have free access to any bingo game licensed under this article. The licensee shall have the bingo license, lists of approved staff and properly maintained financial records available for inspection or audit at all times during a bingo game or upon request.

(Ord. No. 718; Code 1984, § 6208; Ord. No. 1572, 10-7-97)

**Sec. 18-130. Denial, suspension or revocation of license.**

- (a) The chief of police or his designee may deny an application for a bingo license, or suspend or revoke a license, if it is found that the applicant or licensee or any agent or representative thereof has:
- (1) Knowingly made any false, misleading or fraudulent statement of a material fact in the application or in any record or report required to be filed under this article; or
  - (2) Violated any of the provisions of this article.
- (b) If, after investigation, the chief of police or his designee determines that a bingo license should be suspended or revoked or an application for such license denied, he shall prepare a notice of suspension, revocation or denial of application setting forth the reasons for such suspension, revocation or denial of application. Such notice shall be sent by certified mail to the applicant's last address provided in the application, or be personally delivered. Any person who has had an application for a bingo license denied by the chief of police or his designee or who has had a bingo license suspended or revoked by the chief of police or his designee may appeal the chief's decision in the manner provided in this article.

(Ord. No. 718; Code 1984, § 6209; Ord. No. 1572, 10-7-97)

**Sec. 18-131. Appeals.**

Whenever an appeal is provided for in this article, such appeal shall be filed and conducted as prescribed in this section:

- (1) Within 15 calendar days after the date of any denial, suspension, revocation or other decision of the chief of police or his designee, an aggrieved party may appeal such action by filing with the city clerk a written appeal fully setting forth the reasons why such denial, suspension, revocation or other decision is not proper.
- (2) Upon receipt of such written appeal, the city clerk shall, within 20 days, place the appeal on a regular agenda for the city council. At least one week prior to the date of the hearing on the appeal, the clerk shall notify the appellant and chief of police or his designee of the date and place of the hearing. The mayor or mayor pro tem is authorized to issue subpoenas, to administer oaths and to conduct the hearing on the appeal. At such hearing the chief of police and the appellant may present evidence relevant to the denial, suspension, revocation or other decision of the chief. The city council shall receive evidence and shall rule on the admissibility of evidence and on questions of law. The formal rules of evidence applicable in a court of law shall not apply to such hearing.

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- (3) At the conclusion of the hearing, the city council may uphold the denial, suspension, revocation or other decision of the chief of police or his designee, or the city council may allow that which has been denied, reinstate that which has been suspended or revoked, or modify or reverse any other decision which is the subject of the appeal. The mayor or mayor pro tem shall, within ten days, file with the city clerk written findings of fact and conclusions of law and its decision. The decision of the city council is final.

(Ord. No. 718; Code 1984, § 6210; Ord. No. 1572, 10-7-97)

**Sec. 18-132. Receiving profit or wage from games prohibited; violation of article; penalty.**

- (a) It is unlawful for any person to receive a profit, wage or salary from any bingo game authorized by this article.
- (b) Any person violating any of the provisions or failing to comply with any of the requirements of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be punished in accordance with [section 1-8](#)

(Ord. No. 718; Code 1984, § 6211; Ord. No. 1572, 10-7-97)

**Secs. 18-133—18-150. Reserved.**

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FOOTNOTE(S):

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**Cross reference—** Amusements and entertainment, ch. 6. [\(Back\)](#)

ARTICLE V. GOING OUT OF BUSINESS SALES

**ARTICLE V. GOING OUT OF BUSINESS SALES**

[Sec. 18-151. Permit required.](#)

[Sec. 18-152. Application for permit.](#)

[Sec. 18-153. Issuance of permit; duration of permit.](#)

[Sec. 18-154. Hearing on permit application.](#)

[Sec. 18-155. Recordkeeping by police.](#)

[Sec. 18-156. Additions to stock of goods; unlawful sales.](#)

[Sec. 18-157. Examination of records.](#)

[Sec. 18-158. Revocation or suspension of permit.](#)

[Sec. 18-159. Exemption for official sales.](#)

[Sec. 18-160. Violation of article; penalty.](#)

[Secs. 18-161—18-180. Reserved.](#)

**Sec. 18-151. Permit required.**

It is unlawful for any person to advertise, represent or hold out that any sale of goods, wares or merchandise is a bankruptcy, mortgage, insolvent's, assignee's, executor's, administrator's, receiver's, trustee's or any removal or closing out sale, or a sale of goods, wares or merchandise damaged by fire, smoke or water, or a sale of goods from the stock of a bankrupt, receiver, trustee, receivership or trusteeship, or to advertise, represent or hold out that any sale of goods, wares or merchandise is anticipatory to or to avoid the termination, closing, liquidating, revision, windup, discontinuance, conclusion or abandonment of the business in connection with such sale, or to advertise or make any representation in any manner as reasonably to convey to the public the belief that upon the disposal of the stock of goods on hand the business will cease and be discontinued, including but not limited to sales advertised, held out or represented as an adjusters sale, adjustment sale, administrator's sale, alteration sale, assignee's sale, bankrupt sale, benefit of administrator's sale, benefit of trustee's sale, building coming down sale, closing sale, closing out sale, damaged goods sale, end sale, executor's sale, final days sale, fire sale, forced out sale, forced out of business sale, insolvent sale, last days sale, lease expires sale, liquidation sale, loss of lease sale, mortgage sale, receiver's sale, removal sale, reorganization sale, salvage sale, smoke sale, smoke and water sale, trustee's sale, quitting business sale, or wholesale cleaning out sale, and also including but not limited to sales the advertisement of which contains the word "creditor" or "creditors," unless he shall have first made application for and received a permit to conduct such sale from the chief of police of the city.

(Ord. No. 556; Code 1984, § 6400)

**Sec. 18-152. Application for permit.**

- (a) Any person desiring a permit as required by [section 18-151](#) shall make an application therefor to the chief of police of the city, and shall at the time of filing such application pay a filing fee, in the amount established by the city council from time to time, to the city clerk, tax and license collector.
- (b) Such application shall conform to the following requirements:

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- (1) It must be in writing and under oath.
- (2) It must contain the names of all parties connected with or interested in such sale.
- (3) It must state all the facts in regard to the bankruptcy, mortgage, insolvency, assignment, administration, receivership, trusteeship or removal by reason of which such sale is to be conducted, or in regard to the closing out of the stock of goods, wares or merchandise or any particular line or part thereof, with a statement as to the reason for such closing out, or in regard to the injury caused to such goods, wares or merchandise by fire, smoke or water, and showing all the facts in regard to the proposed sale.
- (4) It must contain a complete, accurate and detailed inventory fully identifying and describing the goods, wares or merchandise to be sold at such sale, including the following information:
  - a. A statement of the name and address of the persons from whom the goods, wares or merchandise so to be sold were obtained.
  - b. The date of delivery of such goods, wares or merchandise to the applicant, the place from which deliveries were made, and the name of the party making the delivery.
- (5) It must state the place and manner in which such sale is to be conducted, the kind of sale it will be represented to be, and the manner in which it will be advertised.

(Ord. No. 556; Code 1984, § 6401)

**Sec. 18-153. Issuance of permit; duration of permit.**

- (a) If the chief of police is satisfied that the proposed sale is of the character which the applicant for a permit under this article desires to conduct and advertise, and that neither the applicant nor any of its officers, directors or owners have violated this article or any other license ordinance of the city, the chief of police shall issue a permit to the person applying for the permit, authorizing him to advertise and conduct a sale of the particular kind mentioned in the application, according to the requirements of this article, for a period not to exceed 60 days; provided, however, that the applicant may thereafter obtain a supplemental permit as provided in this article.
- (b) A permit supplemental to that originally issued shall be issued to the applicant by the chief of police for an additional period of not to exceed 60 days upon the same terms and conditions as such original permit and upon the payment of the fee prescribed therefor, provided it shall be made to appear upon a written application under oath that all the goods, wares and merchandise described in the original inventory have not been sold. Such application shall be accompanied by a complete inventory of such goods, wares and merchandise that have not been sold.
- (c) No permit shall be issued pursuant to the provisions of this article if any of the goods, wares or merchandise in the inventory have been removed from the place of sale mentioned in the application after having been previously inventoried as required in this article, and any removal of such goods, wares or merchandise shall cause such goods, wares or merchandise to lose their identity as bankrupt, mortgaged, insolvent's, assignee's, executor's, administrator's, receiver's or trustee's stock of goods, wares and merchandise, or a stock of goods, wares and merchandise damaged by fire, smoke or water, and no permit shall thereafter be issued under this article for the conducting of a sale of any such goods, wares or merchandise so removed.
- (d) No permit shall be issued to any person for a closing out sale unless such person has been in business at the same location for a period of time in excess of 90 days, nor shall such permit be issued to any person who has held such a sale at the same location within one year preceding the date of application.

(Ord. No. 556; Code 1984, § 6402)

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**Sec. 18-154. Hearing on permit application.**

The chief of police may require a hearing, upon five days' written notice to the applicant for a permit under this article stating the time, place and purpose of such hearing, for the purpose of determining whether any unusual purchases and additions to the stock of such goods, wares or merchandise have been made within 60 days prior to the filing of the application for a permit to conduct such sale mentioned in [section 18-151](#). If, after hearing, it is determined by the chief of police that any such purchases or additions have been so made during such period, the chief of police shall refuse to issue a permit therefor.

(Ord. No. 556; Code 1984, § 6403)

**Sec. 18-155. Recordkeeping by police.**

The chief of police, when application is made as provided for in [section 18-152](#), shall endorse upon such application the date of its filing and shall preserve the application as a record, and shall make an abstract of the facts set forth in such application in a book kept for that purpose, properly indexed, containing the name of the person asking for such permit, the nature of the proposed sale, the place where such sale is to be conducted, its duration, the inventory value of the goods, wares and merchandise to be sold, and a general statement as to where the goods, wares and merchandise came from, and shall make in such book a notation as to the issuance or refusal of the permit applied for, together with the date of the permit, and shall endorse on such application the date the permit therein applied for is granted or refused, and such application and abstract shall be prima facie evidence of all statements therein contained.

(Ord. No. 556; Code 1984, § 6404)

**Sec. 18-156. Additions to stock of goods; unlawful sales.**

It is unlawful for any person carrying on or conducting a bankrupt, mortgage, insolvent, assignee's, executor's, administrator's, receiver's or trustee's, or any removal or closing out sale, or sale of goods, wares or merchandise damaged by fire, smoke or water, or sale of goods from the stock of a bankrupt, receiver, trustee, receivership or trusteeship, under a permit as provided in [section 18-151](#), to add, during the continuance of such sale, any goods, wares or merchandise, for the purpose of selling the goods, wares or merchandise, to the stock of goods, wares or merchandise described and inventoried in his original application for such permit. No goods, wares or merchandise shall be sold at or during such sale excepting the goods, wares or merchandise described and inventoried in such original application. Each and every addition of goods, wares or merchandise for the purpose of sale, to such stock of goods, wares or merchandise described and inventoried in such application, and each sale of such goods, wares or merchandise as were not inventoried and described in such application, shall constitute a separate offense.

(Ord. No. 556; Code 1984, § 6405)

**Sec. 18-157. Examination of records.**

The chief of police shall at all times have the power to make an examination or investigation of the business to which a permit has been issued under this article, and the books, records and accounts, and other papers pertaining thereto, of any company or individual theretofore permitted or authorized to conduct such sales.

(Ord. No. 556; Code 1984, § 6406)

ARTICLE V. GOING OUT OF BUSINESS SALES

**Sec. 18-158. Revocation or suspension of permit.**

Every permit issued under this article shall be subject to revocation at any time in the manner provided in this section. Whenever it appears to the legislative body of the city that there are reasonable grounds for such action, an order to show cause why such permit should not be revoked shall be given the holder thereof. Such order shall contain a brief statement of the reasons therefor, and shall fix a time and place when such permittee may appear and be heard, with witnesses, in his own behalf. Such order may be delivered to such permittee personally or may be left in a conspicuous place at or with the person in charge of the place of business, if any, where the privileges of the permit are or shall be exercised. At the time and place fixed in such order, or at any time to which the matter may be continued, the legislative body shall hear and pass upon all matters within the scope of such order, and if after such hearing such legislative body is satisfied that proper notice has been given and that such permittee has violated any ordinance of the city or statute of the state, or of the United States, or that such permittee is not a fit person to be trusted with the privileges granted by such permit, whether the conduct upon which such finding is based constitutes a public offense punishable in the courts or not, the legislative body may, by order made on motion, suspend or revoke such permit, and during the period of suspension, or after such revocation, as the case may be, such permit shall be void and without force or effect. In making any such order, the legislative body may authorize the refund of all or any portions of the fee paid therefor. After any such permit has been revoked, neither the holder thereof nor any person acting for him directly or indirectly shall be entitled to another permit to carry on the same or any similar sale in the city unless the application for such permit shall be specifically approved by the legislative body.

(Ord. No. 556; Code 1984, § 6407)

**Sec. 18-159. Exemption for official sales.**

The provisions of this article shall not apply to sheriffs, constables, executors, administrators, receivers, trustees under court or private trusts or other public or court officers, or to any other person acting upon the license, direction or authority of any court, selling goods, wares or merchandise in the course of their official duties.

(Ord. No. 556; Code 1984, § 6408)

**Sec. 18-160. Violation of article; penalty.**

- (a) Any person making a false statement in the application for a permit under this article, or any person who holds, conducts or carries on or advertises, represents or holds out any sale of goods, wares or merchandise to be a bankrupt, mortgage, insolvent, assignee's, executor's, administrator's, receiver's or trustee's, or removal or closing out sale, or a sale of goods, wares or merchandise damaged by fire, smoke or water, or a sale of goods from the stock of a bankrupt, receiver, trustee, receivership or trusteeship, without first having complied with the provisions of this article, or who otherwise violates any of the provisions of this article, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be punished as provided in [section 1-8](#)
- (b) Nothing contained in this article shall be deemed to apply to any publisher of a newspaper, magazine or other publication who publishes such advertisement in good faith, without knowledge that the provisions of this article have not been complied with.

(Ord. No. 556; Code 1984, § 6409)

**Secs. 18-161—18-180. Reserved.**

ARTICLE VI. MOTION PICTURE AND TELEVISION PRODUCTIONS

**ARTICLE VI. MOTION PICTURE AND TELEVISION PRODUCTIONS**

[Sec. 18-181. Definitions.](#)

[Sec. 18-182. Permit required; exemptions.](#)

[Sec. 18-183. Authority to change date of permit; establishment of additional regulations.](#)

[Sec. 18-184. Application for permit; fees.](#)

[Sec. 18-185. Insurance; bond; hold harmless agreement.](#)

[Sec. 18-186. Violation of article; penalty.](#)

[Secs. 18-187—18-210. Reserved.](#)

**Sec. 18-181. Definitions.**

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

*Charitable films* means commercials, motion pictures, television, videotapes or still photography produced by a nonprofit organization which qualifies under section 501(c)(3) of the Internal Revenue Code as a charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes or photos.

*Motion picture and television* means all activity attendant to staging or shooting commercial motion pictures, television shows or programs, and commercials.

*News media* means filming or videotaping for the purpose of spontaneous, unplanned television news broadcast by reporters, photographers or cameramen.

(Ord. No. 1393; Code 1984, § 6800)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

**Sec. 18-182. Permit required; exemptions.**

- (a) *Permit required.* No person shall use any public or private property, facility or residence for the purpose of taking commercial motion pictures or television pictures without first applying for and receiving a permit from the officer designated by the city.
- (b) *Exemptions.* The provisions of this article shall not apply to or affect the following:
  - (1) *News media.* Reporters, photographers or cameramen in the employ of a newspaper, news service or similar entity engaged in on-the-spot broadcasting of news events concerning those persons, scenes or occurrences which are in the news and of general public interest.
  - (2) *Local commercials.* Commercials which are produced for local businesses. These are very small productions, usually filmed entirely within a business property and usually involving one cameraman and assistant.
  - (3) *Films for private use.* The filming or videotaping of motion pictures solely for private family use.
  - (4) *Charitable films.* Projects which qualify under section 501(c)(3) of the Internal Revenue Code.



ARTICLE VI. MOTION PICTURE AND TELEVISION PRODUCTIONS

(Ord. No. 1393; Code 1984, § 6801)

**Sec. 18-183. Authority to change date of permit; establishment of additional regulations.**

- (a) Upon the request of the applicant for a permit under this article, the city's designated officer shall have the power, upon a showing of good cause, to change the date for which the permit has been issued, provided established limitations are complied with in respect to time and location.
- (b) The designated city officer is hereby authorized and directed to promulgate rules and regulations, subject to approval by resolution of the council, governing the form, time and location of any film activity set forth within the city. He shall also provide for the issuance of permits. The rules and regulations shall be based upon the following criteria:
  - (1) The health and safety of all persons.
  - (2) Avoidance of undue disruption of all persons within the affected area.
  - (3) The safety of property within the city.
  - (4) Traffic congestion at particular locations within the city.

(Ord. No. 1393; Code 1984, § 6802)

**Sec. 18-184. Application for permit; fees.**

- (a) *Designated city officer.* The city's designated officer under this article shall be the public works director or other assigned city representative.
- (b) *Application for permit.* The following information shall be included in the application:
  - (1) The name of the owner and the address and telephone number of the place at which the activity is to be conducted;
  - (2) The specific location at such address of place;
  - (3) The inclusive hours and dates such activity will transpire;
  - (4) A general statement of the character or nature of the proposed film activity;
  - (5) The name, address and telephone number of the person in charge of such filming activity;
  - (6) The name, address and telephone number of the person responsible for film liaison and coordination with local government and private citizens;
  - (7) The exact number of personnel to be involved;
  - (8) The use of any animals or pyrotechnics; and
  - (9) The exact amount and type of vehicles and equipment to be involved.
- (c) *Fees.*
  - (1) *Application fee.* A permit application fee in an amount established by city council resolution shall be paid by the applicant at the time the application is filed.
  - (2) *Fee for use of city services and property.* A schedule of fees for city services and use of city property shall be established by city council resolution. The applicant shall prepay such fees prior to issuance of the film permit.

ARTICLE VI. MOTION PICTURE AND TELEVISION PRODUCTIONS

- (d) *Reimbursement for costs of use of city personnel.* The production company shall reimburse the city for any personnel provided to the company (i.e., police, fire or traffic personnel) for the purpose of assisting the production.

(Ord. No. 1393; Code 1984, § 6803)

**Sec. 18-185. Insurance; bond; hold harmless agreement.**

- (a) *Liability insurance.* Before a permit is issued under this article, a certificate of insurance will be required in the currently required amount which names the city as a co-insured for protection against claims of third persons for personal injuries, wrongful deaths and property damage. The city officers and employees shall be named as additional insureds. The certificate shall not be subject to cancellation or modification until after 30 days' written notice to the city. A copy of the certificate will remain on file in the city clerk's office.
- (b) *Workers' compensation insurance.* An applicant shall conform to all applicable federal and state requirements for workers' compensation insurance for all persons operating under a permit.
- (c) *Hold harmless agreement.* An applicant shall execute a hold harmless agreement as provided by the city prior to the issuance of a permit under this article.
- (d) *Faithful performance bond.* To ensure cleanup and restoration of the site, an applicant may be required to post a refundable faithful performance bond, in an amount to be determined by the city, at the time the application is submitted. Upon completion of filming and inspection of the site by the city, the bond may be returned to the applicant.

(Ord. No. 1393; Code 1984, § 6804)

**Sec. 18-186. Violation of article; penalty.**

If an applicant violates any provision of this article or a permit issued pursuant thereto, the city may cancel the permit. Violation of the terms and conditions of the film permit is considered a misdemeanor punishable in accordance with [section 1-8](#).

(Ord. No. 1393; Code 1984, § 6805)

**Secs. 18-187—18-210. Reserved.**

ARTICLE VII. MESSAGE

**ARTICLE VII. MESSAGE** <sup>[4]</sup>

[Sec. 18-211. Purpose.](#)

[Sec. 18-212. Definitions.](#)

[Sec. 18-213. Massage establishment license required.](#)

[Sec. 18-214. Exemptions.](#)

[Sec. 18-215. Massage establishment license application and annual renewal.](#)

[Sec. 18-216. Application for massage establishment license.](#)

[Sec. 18-217. Action on massage establishment license application.](#)

[Sec. 18-218. Massage establishment facilities and operations requirements.](#)

[Sec. 18-219. Inspection by officials.](#)

[Sec. 18-220. Issuance of notice of violation.](#)

[Sec. 18-221. Business name.](#)

[Sec. 18-222. Massage establishment license transferability.](#)

[Sec. 18-223. Display of permits and licenses.](#)

[Sec. 18-224. Massage technician permit required.](#)

[Sec. 18-225. Massage technician application fee and annual renewal.](#)

[Sec. 18-226. Application for massage technician permit.](#)

[Sec. 18-227. Action on massage technician permit application.](#)

[Sec. 18-228. Revocation or suspension of massage establishment license.](#)

[Sec. 18-229. Revocation or suspension of massage technician permit.](#)

[Sec. 18-230. Appeals.](#)

[Sec. 18-231. Reapplication after denial.](#)

[Sec. 18-232. Return of license or permit.](#)

[Sec. 18-233. Massage establishments with only certified massage technicians.](#)

[Secs. 18-234—18-250. Reserved.](#)

**Sec. 18-211. Purpose.**

The purpose of this chapter is to provide for the orderly regulation of massage establishments and their massage technicians and other employees by establishing certain standards for the conduct of this type of business and the skill and experience of massage technicians in order to protect the public health and welfare of citizens of and visitors to the city and to preserve the credibility and legitimacy of the profession. The provisions of this chapter regulating massage establishments are not intended to be exclusive and compliance with these regulations does not excuse noncompliance with any other applicable regulations pertaining to the operation of businesses adopted by the city.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

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ARTICLE VII. MASSAGE

**Sec. 18-212. Definitions.**

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

*City manager* means the city manager of the City of Hemet or his or her designee.

*Client* means any person who receives a massage under such circumstances that it is reasonably expected that such person will pay money or give any other consideration for such massage.

*Department* means of the office of business licensing.

*Employee* includes every owner, operator, worker, independent contractor or person, whether paid or not, who renders or offers to perform personal services of any nature in the operation of or on behalf of a massage establishment.

*Enforcement officer* means any person authorized to enforce certain provisions of this code.

*Hearing officer* means the person designated by the city to hear appeals of proposed license or permit denials, suspensions or revocations.

*License* means the license to operate a massage establishment as required by this chapter.

*Licensee* means a person who is issued a massage establishment license under this chapter.

*Massage* means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the human body by any physical or mechanical means, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment or other similar preparations. Where applicable, this definition of "massage" may include alternative modalities and techniques including, but not limited to, Reiki, Reflexology, Applied Kinesiology, Hypnotherapy, Polarity Therapy, Positional Release (Strain Counter Strain), Alexander Technique, Bowen Therapy, Feldenkrais Method, Heller Work, Energy Balancing, Trager Therapy, Aromatherapy and Essential Oil Therapy.

*Massage establishment* means any establishment having a fixed place of business where any person engages in, conducts, carries on or permits to be engaged in, conducted or carried on for consideration, massages, baths or health treatments involving massages or baths.

*Massage technician* means any person who administers to another person a massage in exchange for money or any other valuable consideration.

*Operator* means the person responsible for the day-to-day operations of the massage establishment and whose name appears on the license as required by this chapter. The operator may also be an owner.

*Owner* means any person having an ownership interest in a massage establishment.

*Permit* means the permit to administer massage as required by this chapter.

*Permittee* means each person who is issued a massage technician permit under the terms of this chapter.

*Person* means any individual, firm, association, partnership, corporation, joint venture or other form of entity or combination of individuals of whatever form or character.

*Person who has engaged in disqualifying conduct* means a person who:

- (1) Within five years of the date of filing of the application in question or, in the case of revocation or suspension proceedings, within five years of the date of notice of a revocation or suspension hearing, has pleaded guilty or no contest to, or been convicted in a court of competent jurisdiction of:

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- a. Any misdemeanor or felony offense which relates directly to the operation of a massage establishment, whether as a massage establishment owner or operator, or as a massage technician; or
  - b. Any felony the commission of which occurred on the premises of a massage establishment.
- (2) Within five years of the date of the filing of the application in question or, in the case of revocation or suspension proceedings, within five years of the date of notice of a revocation or suspension hearing, has had any massage establishment or technician license or permit, or similar license or permit, issued by any state, county or city revoked.
- (3) Within five years of the date of the filing of the application, or in the case of revocation or suspension proceedings, within five years of the date of notice of a revocation or suspension hearing, has pleaded guilty or no contest to, or been convicted in a court of competent jurisdiction of:
- a. Any violation of Sections 266(h), 266(i), 314, 315, 316, 318, or 647(a) or 647(b) of the California Penal Code;
  - b. Conspiracy or attempt to commit any such offense; or
  - c. Any offense in a jurisdiction outside the State of California which is the equivalent of any of the aforementioned offenses and contains all of the same elements.
- (4) Is required to register under Section 290 of the California Penal Code.
- (5) Has been subjected to permanent injunction against the conducting or maintaining of a nuisance under Sections 11225 through 11235 of the California Penal Code or any similar provisions of law in a jurisdiction outside the State of California.

*Recognized school of massage* means any school or institution of learning that teaches the theory, ethics, practice, profession and work of massage, and requires a residence course of study of not fewer than 100 hours to be given before the student is furnished with a diploma or certificate of graduation following the successful completion of such course of study. Such school or institution must also either (i) meet the minimum requirements for a post-secondary education school or institution under the California Education Code, or (ii), if such school or institution is not located in California, it must have standards commensurate with those required by the State of California and have obtained certification under any similar state's or country's certification program, if such exists, or (iii) be a member of the American Massage Therapy Association Council of Schools, or a similarly accredited massage therapy association. Any school or institution of learning offering or allowing correspondence course credit not requiring actual attendance at class, or courses of a massage technician instruction not approved by or commensurate with the standards of the California Department of Education, is not a "recognized school of massage."

*Responsible employee* means any person designated by the operator to act as a representative or agent of the operator in conducting day-to-day operations. Such person must be familiar with the requirements of this chapter and be capable of communicating the provisions of this chapter to employees and clients of the establishment. A responsible employee may also be an owner or operator.

*Recognized massage organization* means an organization that the city manager determines meets each of the following requirements:

- (1) The organization requires that its members meet minimum educational requirements. The educational requirements must include at least 250 classroom hours or its equivalent in anatomy, physiology, hygiene, sanitation, massage practice and ethics of massage practice.
- (2) The organization requires participation in continuing education programs as a condition of continuing membership.

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- (3) The organization has established rules of ethics and has enforcement procedures for the suspension and revocation of membership of persons violating the rules of ethics.
- (4) The organization is open to members of the general public meeting the requirements for membership on either a statewide or national basis and, in fact, maintains a membership which reflects substantial statewide or national participation by persons engaged in the business of therapeutic massage.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-213. Massage establishment license required.**

No person may engage in, conduct or carry on, in or upon any premises within the city the operation of a massage establishment without a massage establishment license issued under this chapter. A separate license must be obtained and a separate license fee paid for each separate massage establishment operated by a person. No license issued under this chapter confers any vested right to any person or business for more than the one-year period of the license. If a license expires, or is suspended or revoked, or a licensee voluntarily relinquishes the license, all operations must cease at the establishment until a new license is obtained or the license is transferred in accordance with [section 18-222](#) [license transferability].

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-214. Exemptions.**

This article does not apply to the following businesses or classes of individuals:

- (1) Massage establishment licenses are not required of the following:
  - a. Licensed hospitals and nursing homes.
  - b. Recognized schools of massage.
  - c. Medical facilities in which massage is performed as a prescribed treatment only on patients of the medical facility.
  - d. Barbershops, beauty shops and nail salons provided that any massage services performed or provided are incidental or accessory and within the scope of any barber's or beautician's or manicurist's California license.
  - e. Massage establishments where every individual who administers massage services is certified by the Massage Therapy Organization pursuant to Chapter 10.5 of Division 2 (commencing with Section 4600) of the Business and Professions Code. Notwithstanding the foregoing, massage establishments where every individual who administers massage services is certified by the Massage Therapy Organization shall be subject to the business licensing and health and safety requirements contained in [section 18-233](#) of this article unless otherwise exempted.
- (2) Massage technician permits are not required of the following:
  - a. Persons holding a valid certificate or license to practice the healing arts under the laws of the State of California including, but not limited to, holders of medical degrees such as physicians, surgeons, chiropractors, osteopaths, naturopaths, podiatrists, acupuncturists, physical therapists, registered nurses and vocational nurses while performing activities encompassed by their applicable professional license or certificate.

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- b. Cosmetologists, barbers, or manicurists who are duly licensed to practice their professions in the State of California, while performing activities encompassed by such professional licenses.
- c. Any licensed or certified person exempted under subsections (1) or (2) who employs or utilizes a nonlicensed or certified person to administer a massage, however, is required to employ or utilize a massage technician who holds a valid city permit issued pursuant to this chapter for such purposes unless such person is a professional assistant meeting the applicable qualifications of the California Business and Professions Code.
- d. Students enrolled in and training at a recognized school of massage where the student performs massage only under the direct personal supervision of an instructor certified by the California Department of Consumer Affairs Bureau for private postsecondary and vocational education.
- e. A massage instructor certified by the California Department of Consumer Affairs Bureau for private postsecondary and vocational education with respect to any massage performed as part of the instructional curriculum for a recognized school of massage.
- f. A massage therapist or massage practitioner who is certified by the Massage Therapy Organization pursuant to Chapter 10.5 of Division 2 (commencing with Section 4600) of the Business and Professions Code.

(Ord. No. 1761, § 2(Exh. A), 6-13-06; Ord. No. 1817, § 1(Exh. A), 9-8-09)

**Sec. 18-215. Massage establishment license application and annual renewal.**

- (a) Initial application. Any person who desires to own or operate a massage establishment may apply for a massage establishment license by submitting the requisite application form and information to the department along with a nonrefundable fee in the amount established by city council resolution.
- (b) A license to operate a massage establishment must be renewed annually. A licensee who wishes to renew the license must update the information required in the original license application and pay the nonrefundable renewal fee established by city council resolution. The city will renew the massage establishment license if the application satisfies all of the currently enacted criteria, unless, under [section 18-217](#) [action on massage establishment license application], grounds for denial of the license exist.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-216. Application for massage establishment license.**

- (a) An application for a massage establishment license must be submitted to the department utilizing the form provided by the city.
- (b) The application must include the following information:
  - (1) The location, mailing address and all telephone numbers of the massage establishment.
  - (2) A site plan depicting the building or unit proposed for the massage establishment and a dimensional interior floor plan depicting how the massage establishment will comply with all applicable requirements of this chapter.
  - (3) A description of the type of ownership of the massage establishment (e.g., individual, partnership, corporation or other).

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- a. If the applicant is a corporation, the application must state the name of the corporation exactly as shown in its articles of incorporation, the date of incorporation and the names and residence addresses of each of the officers and directors of such corporation and of each stockholder owning more than ten percent of the stock of the corporation, and the address of the corporation itself, if different from the address of the massage establishment.
  - b. If the applicant is a partnership, the names and addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the massage establishment must be provided.
  - c. An applicant corporation or partnership must designate one of its officers or partners to act as the responsible officer and such designated person must sign all application forms required of an individual applicant. Such responsible officer must at all times meet the requirements set forth in this chapter, or the license will be suspended until a new responsible officer who meets all such requirements is designated.
- (4) The following personal information:
- a. Name and residence address of each applicant.
  - b. The two previous residential addresses immediately prior to the present address of the applicant.
  - c. Proof that the applicant is at least 18 years of age.
  - d. The applicant's height, weight, color of eyes and hair, and sex.
  - e. Photo identification which may be either a driver's license, state issued identification card, or passport.
  - f. Upon submission of the initial license application: Three portrait photographs of the applicant at least two inches by two inches and a complete set of the applicant's fingerprints. If the applicant is a corporation, three portrait photographs at least two inches by two inches of all officers and managing agents of such corporation and a complete set of the same officers' and agents' fingerprints. If the applicant is a partnership, three portrait photographs at least two inches by two inches in size of each partner, including a limited partner in such partnership, and a complete set of each partner's or limited partner's fingerprints. All sets of fingerprints must be taken by the city's law enforcement agency.
  - g. Business, occupation, or employment of the applicant for the three years immediately preceding the date of application.
  - h. The massage or similar business license history of the applicant. Such information must include a statement as to whether or not such person, in operating a massage establishment under a permit or license, has had such permit or license revoked or suspended and the reasons for such revocation or suspension. Such information must also include the business, activity or occupation the license applicant engaged in subsequent to such action of revocation or suspension.
  - i. All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted, and full statement of the disposition of all such actions.
- (5) The name and address of each massage technician who is or will be employed in the establishment.
- (6) The hours of operation and a detailed description of all services to be provided at the massage establishment in accordance with [section 18-218](#) [facilities and operations requirements]. If the



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list of services required to be posted under this chapter will be in any language other than in English, such list must accompany the application for a license, and a translated copy of the list must also be submitted in English.

- (7) Proof that the operator or each of the operator's designated responsible employees has a valid and current CPR and basic first aid certification from the American Heart Association, the American Red Cross, or a state or local government agency.
  - (8) The name and address of any massage establishment or business owned or operated by any applicant.
  - (9) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.
  - (10) Proof of consent to the operation of a massage establishment by the property owner or the owner's authorized agent. Continuing proof of such consent is also required at the time of license renewal.
  - (11) Authorization for the city and its agents to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license and to inspect the premises of the proposed massage establishment.
  - (12) Such other information as may reasonably be deemed necessary by the city manager.
  - (13) A dated statement signed by the applicant certifying under penalty of perjury that the information contained in the application is true and correct.
- (c) Determination of completeness. The city manager must determine whether the application contains all the information and items required by this chapter. If the city manager determines that the application is not complete, the city manager will notify the applicant in writing within ten business days of the date of receipt of the application that the application is not complete and state the reasons for such determination, including any additional information necessary to render the application complete. The applicant will have 30 calendar days to submit additional information to render the application complete. Failure to do so within the 30-day period will render the application void. Within ten business days following the receipt of an amended application or supplemental information, the city manager must again determine whether the application is complete in accordance with the procedures set forth in this subsection. Evaluation and notification will occur as provided above until such time as the application is found to be complete (the "application date"). All notices required by this chapter will be deemed given upon the date any such notice is either deposited in the United States mail or the date upon which personal service of such notice is provided.
- (d) Updating application information. The owner or operator of a massage establishment must notify the city manager of each change in any of the information required to be furnished by this section or contained in the application within 15 days after such change occurs.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-217. Action on massage establishment license application.**

- (a) The city manager must cause to be investigated the application, and within 60 days of the application date either issue the license or mail a written statement to the applicant setting forth the reasons for denial of the license.
- (b) The city manager may deny a license to an applicant for any of the following reasons:
  - (1) The applicant has made one or more material misstatements in the application for a license;

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- (2) Any applicant is a person who has engaged in disqualifying conduct;
- (3) The massage establishment, if permitted, would not comply with all applicable laws, including, but not limited to, all of the city's building, fire, zoning and health regulations;
- (4) The applicant is lacking in the background and qualifications to conduct a bona fide massage establishment;
- (5) Any massage technician to be employed by the applicant is a person who has engaged in disqualifying conduct;
- (6) The applicant has violated any provision of this chapter, or any similar ordinance, law, rule or regulation of any other city, county, or state which regulates the operation of massage establishments;
- (7) The applicant is less than 18 years of age.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-218. Massage establishment facilities and operations requirements.**

All massage establishments must comply with the following facilities and operations requirements:

(1) *Facilities requirements.*

- a. Massage establishments must comply with all applicable municipal code requirements.
- b. A minimum of one toilet and wash basin must be provided in every massage establishment.
- c. Cabinets or other covered space must be provided for the storage of clean linen. Appropriate receptacles must be provided for the storage of all soiled linen and paper towels.
- d. The walls in all rooms where water or steam baths are given must have a washable, mold-resistant surface.
- e. All lavatories or wash basins must be provided with hot and cold running water, soap, and single service towels in wall-mounted dispensers.
- f. Clean and sanitary towels, sheets and linens must be provided in sufficient quantity. Towels, sheets and linens must not be used by more than one person. Reuse of such linen is prohibited unless the same has first been laundered. Heavy white paper may be substituted for sheets; provided, that such paper is used only once for each person and then discarded into a sanitary receptacle.
- g. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities including appliances and apparatuses of the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments and toilet rooms must be thoroughly cleaned and disinfected each day the business is in operation. Bathtubs must be thoroughly cleaned and disinfected after each use.
- h. Doors. All front, reception, hallway or front exterior doors (except back or rear exterior doors used for employee entrance to and exit from the massage establishment) must be kept unlocked during business hours. This requirement may be waived by the city manager or an enforcement officer, particularly with respect to sole practitioners, where there are legitimate safety and security concerns. No massage may be given within any cubicle,

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room, booth or any area within a massage establishment which is fitted with a door capable of being locked, unless the only door is an exterior door.

- i. Massage table or chair. A massage table, chair, or foam pad must be provided in each massage room and the massage must be performed on such massage table, chair, or foam pad. Tables must have a minimum height of 18 inches, and all sides must be positioned at least two feet from the nearest wall to allow access to the table on all sides. Foam pads at least two inches thick with a minimum width of two feet and a maximum width of four feet may be used on a massage table or on the floor and must be covered with durable, washable plastic or other waterproof material.
- j. Disinfecting agents and sterilizing equipment must be provided for any instruments used in performing any massage and such instruments must be disinfected and sterilized after each use.
- k. The city's building inspectors and enforcement officers must inspect each and every massage establishment prior to the business opening and prior to each license renewal to ensure that the establishment conforms to current city standards and regulations and meets all requirements of this chapter.

(2) *Operational requirements.*

- a. All massage establishments must have a responsible operator or employee on the premises at all times during which the establishment is open. The operator of each message establishment must file a statement with the city manager designating the person or persons with the power to act as a responsible employee. The operator or on duty responsible employee must post, on a daily basis, the name of each on duty responsible employee and each on duty massage technician in a conspicuous public place in the lobby of the massage establishment. No establishment may be open for business without having at least one massage technician holding a valid city permit for the specific establishment on the premises and on duty at all times when the establishment is open.
- b. Service list and prices. Each service offered, the price thereof and the minimum length of time such service is performed must be posted in a conspicuous public location in each massage establishment. All letters and numbers must be capitals not less than ½-inch in height. No services may be performed and no sums may be charged for such services other than those posted. Any changes in the service list must be submitted to the city within ten days after such changes are made. All arrangements for services to be performed must be made in a room in the massage establishment that is not used for administration of massages, baths or health treatments, unless no other room exists in the establishment.
- c. Improper solicitation or performance of services. Except to the extent required, in writing, by a state licensed medical practitioner, no massage technician or employee may offer to or massage the genitals, pubic regions, or anal area of any client or the breasts of any female client, nor may any operator or responsible employee of a massage establishment allow or permit such solicitation or massage. No massage technician may, after the commencement of any service for any client, advise, suggest or otherwise indicate to such client that any additional service is available or ask or inquire of such client whether such client desires any additional massage service to be performed at that time, except with respect to services that are publicly posted. (This regulation does not preclude the discussion with a client of additional or alternative massage services that are not posted upon completion of the massage.) No massage technician may perform any massage service for any client that was not ordered by such client prior to the commencement of performance of any massage rendered.

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- d. Hours. No massage establishment may be kept open for business between the hours of 10:00 p.m. and 7:00 a.m. The owner must advise the city, in writing, at the time of the application for a license of the hours of operation. The hours of operation must be displayed in a conspicuous public place in the lobby within the massage establishment and in the front window clearly visible from the outside.
- e. No alcoholic beverages may be sold, served, furnished, kept or possessed on the premises of any massage establishment.
- f. To protect clients from potential health and sanitary hazards, all employees and massage technicians must be clean and must perform all services on the premises in full, clean outer garments. All employees of the massage establishment must be fully clothed at all times. Clothing must be of non-transparent material and must provide complete covering from mid-thigh to three inches below the collarbone.
- g. All massage technicians must wear, or if wearing on one's outer garments may cause interference with a client massage, then at a minimum have on his or her person, a city issued photo identification card at all times when present in the massage establishment. Such identification card must be provided to city enforcement officers upon demand.
- h. Register of employees. Every operator must maintain a register of all employees on the premises. The register must contain the names of all employees, home address, age, birth date, gender, height, weight, color of hair, eyes, telephone number, social security number, date of employment and termination, if any, and duties of each employee. All such information must be maintained in the register for a period of two years following termination. Such register must be available for inspection at the massage establishment to representatives of the city during regular business hours.
- i. Records of clients and treatments. Every operator must keep a record of the dates and hours of each treatment or service, the name and address of the client, the name of the massage technician administering such service, a description of the treatment or service rendered and the amount charged for the treatment or services rendered. A short medical history form must be completed by the operator or responsible employee to determine if the client has any communicable diseases, areas of pain, high blood pressure or any physical condition which may be adversely affected by massage. These records must be prepared prior to administering any massage or treatment and must be retained for a period of two years after such treatment or service. These records must be open to inspection upon demand only by city enforcement officers who may periodically inspect the records to ensure compliance with this section. The information furnished or secured as a result of any such records may be used only to ensure and enforce compliance with this chapter or any other applicable laws and otherwise will remain confidential.
- j. Inspections. The owner and operator consent to the inspection of the massage establishment by the city's building and safety division, code enforcement division, fire department, law enforcement agency and the county health department for the purpose of determining that the provisions of this chapter or other applicable laws or regulations are met. It is a violation of this chapter for any owner, operator, responsible employee or employee to refuse to permit the lawful inspection of the premises by any of the above-mentioned officials anytime the establishment is open for business.
- k. Access. The following persons may be allowed beyond the front lobby, located directly inside the front door entrance during hours of operation: (i) massage technicians with valid permits issued under this chapter; (ii) clients, who may be accompanied by no more than two family members or legal guardians; and (iii) visitors of permittees; provided, however, that access to such visitors is limited to the designated business office of the massage establishment. Any other persons found beyond the first interior door leading to the inside

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of the business including, but not limited to hallways, massage rooms, reception/business offices or lounge area will be a violation of this chapter. Entry doors to any room may not be obstructed by any means. Nothing contained in this subsection prohibits any person who is an office employee of the establishment from being present in hallways, reception/business offices or other areas necessary or relating to such person's employment duties, nor prohibit any authorized repair, maintenance or service personnel from being present in areas necessary to the performance of such person's services, except that no such office employee or service personnel may be permitted in any massage room while a customer is present in such room.

- I. Notices. The city may require that the following notice be posted in the event that any operator or employee of the massage establishment or any other person located in the massage establishment has been found, after the opportunity for a hearing in any administrative proceeding, or by a court conviction, to have violated any of the provisions of this chapter.

NOTICE TO ALL CLIENTS:

**THIS MASSAGE ESTABLISHMENT AND THE MASSAGE ROOMS DO NOT PROVIDE  
COMPLETE PRIVACY AND ARE SUBJECT TO INSPECTION BY CITY OF HEMET  
ENFORCEMENT OFFICERS WITHOUT PRIOR NOTICE.**

The notices must be conspicuously posted in a location within the massage establishment that is easily visible to any person entering the premises and in each massage room. The notices must be posted for 12 months following the determination of any such violation, or date of conviction.

- m. The operator and on duty responsible employee is responsible for the conduct of all employees while they are on the premises. All persons found working in the massage establishment will be considered employees of the operator, including independent contractors and unpaid volunteers. Any act or omission of any employee on the premises constituting a violation of this chapter is deemed an act or omission of the licensee for the purpose of determining whether the license for the establishment should be revoked, suspended, denied or renewed.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-219. Inspection by officials.**

The city's building and safety division, code enforcement division, fire department, police department and health department may, from time to time, make an inspection of each massage establishment for the purpose of determining that the provisions of this chapter, state law or other applicable laws or regulations are met. Criminal investigations may be conducted as directed by the city's police department. During an inspection, the city's enforcement officers may verify the identity of all on-duty employees and other persons on the premises.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

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**Sec. 18-220. Issuance of notice of violation.**

Whenever any city enforcement officer makes an inspection of a massage establishment and finds that any provision of this chapter has been violated, the enforcement officer must give notice of such violation by means of an inspection report or other written notice. In any such notification, the enforcement officer must:

- (1) Set forth the specific violation.
- (2) Establish a specific and reasonable period of time for the correction of the violation.
- (3) State that failure to comply with any notice issued in accordance with the provisions of this chapter may result in the issuance a notice of revocation or suspension of the license or permit.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-221. Business name.**

No licensee may operate under any name or conduct business under any designation not specified in the license.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-222. Massage establishment license transferability.**

No massage establishment license may be sold, transferred, or assigned by any licensee, or by operation of law, to any other person unless and until the transferee obtains an amendment to the license from the city manager stating that the transferee is now the licensee. Such an amendment may be obtained only if the transferee files an application with the city manager in accordance with [section 18-216](#) (including payment of the applicable application fee), and the city manager determines in accordance with [section 18-217](#) that the transferee would be entitled to the issuance of an original license. Without such amendment to the license, any other purported sale, transfer, or assignment or attempted sale, transfer, or assignment will constitute a voluntary surrender of the license and the license will be null and void. A massage establishment license held by a corporation or partnership is subject to the same rules of transferability set forth in this section.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-223. Display of permits and licenses.**

The licensee must cause the massage establishment license and a copy of the permit of each massage technician employed in the establishment to be displayed in an open and conspicuous place on the premises.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-224. Massage technician permit required.**

No person may act as a massage technician or otherwise administer a massage for consideration in a massage establishment or other business or premises unless such person holds a valid permit issued by the city.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

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**Sec. 18-225. Massage technician application fee and annual renewal.**

- (a) *Original application.* Any application for a massage technician permit must be made to the department and be accompanied by a nonrefundable fee. The massage technician permit fee and the renewal permit fee must be in the amounts established by city council resolution.
- (b) *Annual renewal.* A massage technician permit must be renewed annually and a nonrefundable renewal fee must be paid. Individuals wishing to renew their massage technician permit must:
  - (1) Update the information required in the original massage technician license application.
  - (2) Provide proof of at least 12 hours of continuing education in massage from a recognized school of massage or recognized massage organization within the prior 12 months. The CPR training obtained under subsection [18-216\(b\)\(7\)](#) shall count toward this continuing education requirement.

The city manager must renew the massage technician permit unless, pursuant to [section 18-227](#) [Action on massage technician permit application], grounds for denial of the permit exist.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-226. Application for massage technician permit.**

- (a) Any application for a massage technician permit must be made with the department upon the form provided by the city.
- (b) The application must include the following information:
  - (1) Copy of identification such as a driver's license and Social Security card, and date of birth.
  - (2) The name and address of the establishment or business where the applicant is to be employed or engage in the practice of massage if self-employed and the name of the owner or operator of such establishment. Any massage technician granted a permit pursuant to this section must report any change in the location of employment within the city within 15 days of such change.
  - (3) An original or certified copy of a diploma or certificate of graduation for completion of at least 250 hours of instruction from at a recognized school of massage and a certified transcript of such program of study, along with the address and a telephone number for the school. Upon satisfactory proof that a recognized school of massage is no longer in business or that certified copies cannot be reasonably obtained, the requirement for certified copies may be waived.
  - (4) [Reserved].
  - (5) A certificate from a physician or surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Profession Code ("Physician") stating that the applicant has, within 30 days immediately prior to the filing of the application or renewal thereof, been examined and found to be free of active tuberculosis. The tuberculosis examination must consist of an approved intradermal tuberculin test, which, if positive, must be followed by an X-ray of the lungs. Once such certification has been obtained, the applicant need only renew the certification every three years. The department reserves the right to from time to time require applicants to obtain a certificate from a physician or surgeon stating that the applicant, within the time specified, has been examined and found to be free such contagious or communicable disease capable of being transmitted to the public or to fellow employees by the type of conduct and interaction with fellow employees and the public involved in the performance of the job of massage technician as the department may specifically identify and determine to be warranted based on prevailing local, county-wide or state-wide medical conditions. The principal office of the physician or surgeon issuing the certificate must be located within either the County of

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Riverside, San Bernardino, San Diego, Orange, or Los Angeles. The city reserves the right to require an applicant to obtain this certificate from a list of city approved physicians or surgeons.

- (6) Proof that the applicant is at least 18 years of age.
  - (7) The applicant's height, weight, color of eyes and hair, and sex.
  - (8) Three portrait photographs of the applicant at least two inches by two inches.
  - (9) Upon submission of the initial license application: A complete set of the applicant's fingerprints taken by the city's law enforcement agency.
  - (10) The massage or similar business history and experience for the five years prior to the date of application, including but not limited to whether or not such person in previously operating in this or another city or state under a license or permit has had such license or permit denied, revoked, or suspended and the reasons therefore, and the business activities or occupations subsequent to such action of denial, suspension or revocation.
  - (11) All criminal convictions, including pleas of no contest, other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted, and full statement of the disposition of all such actions.
  - (12) Such other evidence, information, or identification from the applicant as may be deemed necessary by the city manager in order to discover the truth of the matters required to be set forth in the application.
  - (13) Authorization for the city and its agents to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
  - (14) In the case of an applicant associated with or employed by a physician, surgeon, chiropractor, osteopath, naturopath, podiatrist, acupuncturist, physical therapist, or nurse, evidence of the valid professional license of such person.
  - (15) A statement in writing and dated by the applicant made under penalty of perjury that the information furnished is true and correct.
- (c) Determination of completeness. The city manager must determine whether the application contains all the information and items required by the provisions of this chapter. If the city manager determines that the application is not complete, the city manager must notify the applicant in writing within ten business days of the date of receipt of the application that the application is not complete and the reasons therefore, including any additional information necessary to render the application complete. The applicant will have 30 calendar days to submit additional information to render the application complete. Failure to do so within the 30-day period will render the application void. Within ten business days following the receipt of an amended application or supplemental information, the city manager will again determine whether the application is complete in accordance with the procedures set forth in this subsection. Evaluation and notification will occur as provided above until such time as the application is found to be complete (the "application date"). All notices required by this chapter are deemed given upon the date any such notice is either deposited in the United States mail or the date upon which personal service of such notice is provided.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-227. Action on massage technician permit application.**

- (a) The city manager must cause to be investigated the application and within 60 days of the application date for a massage technician permit, either issue the permit or mail a written statement to the applicant of the reasons for denial of the permit.



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- (b) The city manager may deny a permit to an applicant for any of the following reasons:
- (1) The applicant made a material misstatement in the application for a permit;
  - (2) The applicant is a person who has engaged in disqualifying conduct;
  - (3) The applicant has violated any provision of this chapter or of any similar ordinance, law, rule or regulation of another city, county or state which regulates the operation of massage technicians;
  - (4) The applicant has failed to meet the educational and training requirements described in sections [18-225](#) and [18-226](#)
  - (5) The applicant has failed to furnish an appropriate medical doctor's certificate as required by [section 18-226](#)
  - (6) The applicant has practiced massage or operated a massage establishment in the city without a valid city license or permit. If the permit is denied for this violation, the applicant may reapply 12 months after the date of the violation.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-228. Revocation or suspension of massage establishment license.**

- (a) After an investigation, notice and an opportunity for a hearing, any license issued for a massage establishment may be revoked or suspended by the city manager where any of the following is found:
- (1) The licensee or any employee of the licensee has violated any provision of this chapter including the facilities and operations requirements of [section 18-218](#)
  - (2) The licensee is a person who has engaged in disqualifying conduct;
  - (3) The licensee has engaged in fraud, misrepresentation or made a false statement in connection with the operation of the massage establishment;
  - (4) The licensee has continued to operate the massage establishment after the license has been suspended;
  - (5) A person has administered or offered to administer a massage at the licensee's massage establishment who does not have a valid massage technician permit;
  - (6) A person has engaged in disqualify conduct at the licensee's massage establishment.
- (b) The action indicated in the written notice will be final unless the licensee timely files a request for a hearing in accordance with [section 18-230](#) [appeals].

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-229. Revocation or suspension of massage technician permit.**

- (a) After an investigation, notice and an opportunity for a hearing, any massage technician permit may be revoked or suspended by the city manager where it is found that any of the following have occurred:
- (1) The permittee has violated any provision of this chapter;
  - (2) The permittee is a person who has engaged in disqualifying conduct;
  - (3) The permittee has continued to function as a massage technician after the permit has been suspended;

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- (4) The permittee has failed to comply with any of the requirements of [section 18-226](#)
- (5) The permittee has made a material misstatement in the application for a permit.
- (b) The action indicated in the written notice will be final unless the permittee timely files a request for a hearing in accordance with [section 18-230](#) [appeals].  
(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-230. Appeals.**

- (a) In the event the city manager denies the issuance or renewal of a license or permit, or suspends or revokes a license or permit, the aggrieved person may appeal such decision by filing with the city clerk a written notice of appeal within 15 days from the date notice of such denial, suspension or revocation is mailed to the applicant, licensee or permittee. To be deemed complete, the appeal must be in writing, must state the grounds for disagreement with the city manager's stated reasons for the denial, suspension or revocation of the license or permit, and must be accompanied by the filing fee established by city council resolution.
- (b) If such an appeal is timely filed, the city clerk must set a hearing before a city hearing officer on a date that is not less than 15 and not more than 60 days from the date that the request for hearing is filed in accordance with this section. The person requesting the hearing must be notified by regular mail of the date, time and place set for the hearing at least ten days prior to the date of the hearing and be given any reports that are provided to the hearing officer.
- (c) The hearing must be conducted as follows:
  - (1) The hearing officer is authorized to take testimony and in the course of so doing, is authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure Section 2093(a).
  - (2) At the hearing, the hearing officer must consider all relevant evidence, including but not limited to applicable staff reports. The hearing officer must give any interested person the reasonable opportunity to be heard.
  - (3) The hearing office may inspect the premises involved in the hearing prior to, during or after the hearing, provided that:
    - a. Notice of such inspection must be given to the parties before the inspection is made.
    - b. The parties are given an opportunity to be present during the inspection.
    - c. The hearing officer must state for the record during the hearing, or file a written statement after the hearing for inclusion in the hearing record, upon completion of the inspection, the material facts observed and each conclusion drawn from such facts.
  - (4) Each party has the right to rebut or explain the matters referenced by the hearing officer either during the hearing or by filing a written statement after the hearing for inclusion in the hearing record.
  - (5) Based upon the evidence presented to or discovered by the hearing officer, the officer must issue findings and determinations in writing within ten days of the conclusion of the hearing. Notice of the determination must be sent to the appellant by certified mail.
  - (6) In the event such denial, suspension or revocation is upheld by the hearing officer, the denial, suspension or revocation will be effective on the date the notice is mailed to the appellant, and that action will be final.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

ARTICLE VII. MASSAGE

**Sec. 18-231. Reapplication after denial.**

An applicant for either a license or a permit under this chapter whose application for such license or permit has been denied may not reapply for such license or permit for a period of one year from the date such final notice of denial is deposited in the mail. However, a reapplication prior to the termination of one year may be made if accompanied by evidence that the ground or grounds for denial of the application no longer exists.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-232. Return of license or permit.**

In the event that a license or permit is suspended or revoked, the licensee or permittee must return such license or permit to the city manager within five business days after notification of a final decision on such suspension or revocation.

(Ord. No. 1761, § 2(Exh. A), 6-13-06)

**Sec. 18-233. Massage establishments with only certified massage technicians.**

This section shall only apply to massage establishments where massage services are administered only by individuals who are certified by the Massage Therapy Organization pursuant to Chapter 10.5 of Division 2 (commencing with Section 4600) of the Business and Professions Code. Nothing in this section shall be read to apply to massage establishments where individuals who are not certified by the Massage Therapy Organization provide massage services, or to exempt such massage establishments from any other requirements of this article.

- (1) A massage establishment shall maintain on its premises evidence for review by the city that demonstrates that all persons providing massage services are certified.
- (2) A massage establishment shall file copies of the certificates held by the persons who are providing massage services at the massage establishment with the city.
- (3) A massage establishment shall apply for and obtain a city business license pursuant to article II of this chapter prior to commencing business. The city may suspend or revoke a massage establishment's business license if violations of this section or of Chapter 10.5 of Division 2 (commencing with Section 4600) of the Business and Professions Code occur on the premises of the massage establishment.
- (4) The city shall have the right to conduct reasonable inspections of a massage establishment during regular business hours to ensure compliance with this section, fire and health and safety requirements, and Chapter 10.5 of Division 2 (commencing with Section 4600) of the Business and Professions Code.
- (5) The owner or operator of a massage establishment shall notify the city of any intention to rename the massage establishment, change management, or convey the massage establishment to another person.
- (6) A massage establishment shall comply with all applicable land use and zoning requirements.
- (7) A massage establishment shall comply with the health and safety regulations contained in [section 18-218](#), except that under no circumstances shall a massage establishment where massage services are only administered by individuals who are certified by the Massage Therapy Organization be required to keep any of its doors unlocked when there is no staff available to assure security for clients and massage staff who are behind closed doors. Nothing

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in [section 18-218](#) shall be read to prohibit the operation of a massage establishment where massage services are administered only by individuals who are certified by the Massage Therapy Organization because the individuals administering massage services do not have a city massage technician permit.

(Ord. No. 1817, § 2(Exh. B), 9-8-09)

**Secs. 18-234—18-250. Reserved.**

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FOOTNOTE(S):

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**Editor's note**— Ord. No. 1761, § 2(Exh.A), adopted June 13, 2006, amended Art. VII in its entirety to read as herein set out. Former Art. VII, §§ 18-211—18-222, pertained to similar subject matter, and derived from Ord. No. 1568, adopted Aug. 26, 1997. ([Back](#))

**State Law reference**— Licensing of massage businesses, Government Code § 51030 et seq. ([Back](#))

ARTICLE VIII. PRIVATE PATROLS

**ARTICLE VIII. PRIVATE PATROLS** <sup>[5]</sup>

[Sec. 18-251. Purpose of article.](#)

[Sec. 18-252. Definitions.](#)

[Sec. 18-253. Private patrol service permit required.](#)

[Sec. 18-254. Private patrolman permit required.](#)

[Sec. 18-255. Issuing authority for permits.](#)

[Sec. 18-256. Approving authority for permits.](#)

[Sec. 18-257. Application for permit.](#)

[Sec. 18-258. Permit fee.](#)

[Sec. 18-259. Uniform color and insignia.](#)

[Sec. 18-260. Vehicle color and insignia.](#)

[Sec. 18-261. Denial, suspension or revocation of permit—Grounds for denial.](#)

[Sec. 18-262. Same—Grounds for suspension or revocation.](#)

[Sec. 18-263. Same—Authority.](#)

[Sec. 18-264. Same—Procedures for suspension, revocation and appeals.](#)

[Sec. 18-265. Violation of article; penalty.](#)

[Secs. 18-266—18-299. Reserved.](#)

**Sec. 18-251. Purpose of article.**

The purpose of this article is to set forth regulations governing private patrol operators, private security guard services, private security personnel and like businesses within the city, require permits and fees therefor, and provide for punishment of violations of this article.

(Ord. No. 881; Code 1984, § 6500)

**Sec. 18-252. Definitions.**

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

*License collector* means the city manager or his authorized designee or representative charged with the administration of the business license tax program.

*Permit* means any written authorization or permission to conduct, manage or carry on a business activity within the city. A permit does constitute a business license.

*Private patrol service* means any person who, for a consideration, furnishes or agrees to furnish to another the services of a watchman, guard, patrolman or other person to protect persons or property or to prevent the theft, unlawful taking, loss, concealment or destruction of or damage to property of any kind, whether by constant observation or intermittent inspection by means of pedestrian or vehicular patrol on

ARTICLE VIII. PRIVATE PATROLS

the streets or otherwise, or who performs any such services for another except as a part of employment exclusively by one employer; provided, however, that nothing contained in this article shall be deemed or construed to apply to private police protection incident to the transportation for hire within the city of moneys, checks and other written instruments of persons, associations, firms and corporations, or to escorts of funeral processions.

*Private patrolman* means any person who not only is employed by or is an agent of a private patrol service but who also performs any of the services described in the definition of the term "private patrol service," and includes every owner, partner, officer and manager of a private patrol service, whether or not he personally performs any such services.

(Code 1984, §§ 6501—6504)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

**Sec. 18-253. Private patrol service permit required.**

No person shall engage in, conduct or carry on the business of a private patrol service without first applying for and receiving a permit therefor in accordance with the provisions of this article.

(Code 1984, § 6505)

**Sec. 18-254. Private patrolman permit required.**

No person shall engage in, conduct business as or operate as a private patrolman in the city without first filing an application for a permit in accordance with the provisions of this article.

(Code 1984, § 6506)

**Sec. 18-255. Issuing authority for permits.**

The issuing authority under this article shall be the license collector.

(Code 1984, § 6507)

**Sec. 18-256. Approving authority for permits.**

The approving authority under this article shall be the chief of police.

(Code 1984, § 6508)

**Sec. 18-257. Application for permit.**

Applications for all permits required in this article shall be in such form as may be adopted by the chief of police. Satisfactory evidence must be produced and presented in support of such application. Such application must contain the names and permanent business and residence addresses of the persons by or for whom the application is filed, the nature of the business to be conducted, the proposed route, if any, of the applicant's operations, the names and address of three responsible persons who have known the applicant for more than three years, any convictions for violation of any law, and such other pertinent information concerning the applicant as may be deemed necessary and proper to consider in recommending or denying the application or permit the applicant applied for.

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(Code 1984, § 6509)

**Sec. 18-258. Permit fee.**

Prior to issuance of any permit pursuant to this article, the applicant shall pay the fee prescribed by local law.

(Code 1984, § 6510)

**Sec. 18-259. Uniform color and insignia.**

The color and design of uniforms, insignia, shields, and badges of each private patrolman shall be clearly distinguishable from the uniforms, insignia, shields, and badges of officers, officials and employees of federal, state, and local law enforcement agencies and other governmental entities. The uniform, insignia, shield and badge of a private patrolman shall clearly identify them as an employee or agent of a permitted private patrol service. Private patrol services shall ensure that each private patrolman under their employ or direction complies with this requirement.

(Ord. No. 905; Code 1984, § 6511; Ord. No. 1820, § 1, 11-10-09)

**Sec. 18-260. Vehicle color and insignia.**

The color, insignia, shields and other markings on vehicles owned or operated by a private security service and/or private patrolman shall clearly distinguish the vehicles from vehicles owned and operated by any federal, state, and local law enforcement agencies and other governmental entities. All insignia, shields and/or other markings placed on such vehicles shall be approved by the chief of police, and include the word "private" in not less than four-inch capital letters. Private patrol services shall ensure that all vehicles they own and operate and vehicles of private patrolmen under their employ or direction comply with this requirement.

(Code 1984, § 6512; Ord. No. 1820, § 2, 11-10-09)

**Sec. 18-261. Denial, suspension or revocation of permit—Grounds for denial.**

The following shall constitute grounds for denial of a permit under this article:

- (1) The character or reputation of the applicant is determined to be inimical to the safety or general welfare of the community;
- (2) The applicant or his employee or agent has knowingly made false, misleading or fraudulent statement of a material fact in the application for a permit, or in any report or record required to be filed with any city agency; or
- (3) The applicant has failed to provide satisfactory evidence that the required state license issued by the state department of consumer affairs is current and valid.

(Code 1984, § 6513)

**Sec. 18-262. Same—Grounds for suspension or revocation.**

The following shall constitute grounds for suspension and revocation of a permit under this article:

- (1) There has been a violation of any of the provisions of this Code;

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- (2) The character or reputation of the permit holder or employee is determined to be inimical to the safety or general welfare of the community;
- (3) The permit holder or his employee has knowingly made any false, misleading or fraudulent statement of a material fact in the application for a permit, or in any report or record required to be filed with any city agency; or
- (4) The state license issued to the applicant has been suspended or revoked by the state department of consumer affairs.

(Code 1984, § 6514)

**Sec. 18-263. Same—Authority.**

Any application or permit required by this article may be denied, suspended or revoked by the chief of police or other authorized city official for the grounds listed in [section 18-261](#) or [18-262](#).

(Code 1984, § 6515)

**Sec. 18-264. Same—Procedures for suspension, revocation and appeals.**

The procedures for suspension, appeal and revocation of permits under this article shall be in accordance with those procedures set forth in article II of this chapter.

(Code 1984, § 6516)

**Sec. 18-265. Violation of article; penalty.**

Any person violating any of the provisions of this article or who does not obtain a permit prior to doing business, or who knowingly or intentionally misrepresents to any city official any material fact in procuring a permit provided for in this article, shall be deemed guilty of an infraction and punished in accordance with [section 1-8](#).

(Code 1984, § 6517)

**Secs. 18-266—18-299. Reserved.**

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FOOTNOTE(S):

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--- (5) ---

**Cross reference—** Law enforcement, ch. 38. [\(Back\)](#)



ARTICLE IX. GARAGE OR YARD SALES

**ARTICLE IX. GARAGE OR YARD SALES** <sup>(6)</sup>

[Sec. 18-300. Applicability of article.](#)

[Sec. 18-301. Definitions.](#)

[Sec. 18-302. Frequency and duration of sale.](#)

[Sec. 18-303. Location of sales and temporary signs.](#)

[Sec. 18-304. Permit required.](#)

[Sec. 18-305. Storage and display of personal property.](#)

[Sec. 18-306. Enforcement.](#)

[Sec. 18-307. Penalty for violation.](#)

[Secs. 18-308—18-350. Reserved.](#)

**Sec. 18-300. Applicability of article.**

- (a) The provisions of this article shall apply to any person who intends to or who does display, offer for sale or sell to the general public personal property in any residential zone including, sales of personal property commonly known as "garage sales" and the like.
- (b) The provisions of this article shall not be deemed applicable to the occasional sale of an item or items of used personal property in any residential zone where no signs advertising such sale are placed at the location of the sale, and where all prospective buyers of the item or items of used personal property are invited by or have made an appointment with the seller prior to inspecting, purchasing or taking delivery of such personal property.
- (c) It is the intent of this article to protect residential properties, persons, and the general public from the nuisance activities related to the use of private property in the conduct of a garage or yard sale.

(Ord. No. 1523, § 1, 7-11-95; Ord. No. 1819, § 1(Exh. A), 10-13-09)

**Sec. 18-301. Definitions.**

As used in this article:

- (a) *Estate sales* means sales of personal property and goods from the estate of a deceased person.
- (b) *Garage sales* and *yard sales* means sales conducted by individuals in their homes for the purpose of disposing of personal property. Garage sales and yard sales may at times be conducted by a combination of residents at a single location; provided all material or goods sold are the personal property of one of the persons conducting the sale.
- (c) *Personal property* means property which is owned by an individual or members of his or her family or residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased or obtained for resale or on consignment.
- (d) *Rummage sales* means sales conducted in the commercial districts or in structures of nonresidential character, such as churches or schools by groups of individuals or nonprofit organizations to raise funds for charitable purposes through the sale of donated articles of clothing, art objects, household

ARTICLE IX. GARAGE OR YARD SALES

appliances and utensils, and the like, either new or used. Rummage sales are not subject to the provisions of this section.

- (e) *Hobby/home craft boutique* means sales of handcrafted items, handcrafted by the resident, for the purpose of selling these items on their property.

(Ord. No. 1523, § 1, 7-11-95; Ord. No. 1819, § 1(Exh. A), 10-13-09)

**Sec. 18-302. Frequency and duration of sale.**

It is unlawful for any person or resident to conduct more than four garage sales in one calendar year, at the same address. Garage sale events shall not exceed three consecutive days. A minimum of 30 calendar days shall lapse between sales by any applicant or at any location. Garage sales shall only be conducted between the hours of 7:00 a.m. and dusk of any day.

(Ord. No. 1523, § 1, 7-11-95; Ord. No. 1819, § 1(Exh. A), 10-13-09)

**Sec. 18-303. Location of sales and temporary signs.**

- (a) Garage sales, yard sales and hobby/home craft sales shall be held only on property devoted to residential use. Personal property offered for sale at such sales may be in a rear yard, or elsewhere on the premises.
- (b) Estate sales may be held only in structures which were used as the bona fide residences of the decedents whose property is to be disposed of in the estate sale. Applications for a permit shall be accompanied by an inventory of all property to be offered for sale, certified to be the property of the estate.
- (c) No sign or other form of advertisement of a proposed sale of personal property in a residential zone shall be placed upon any public property or right-of-way within the city, including, but not limited to, poles, trees, parkways, fences, or utility boxes; nor upon any property other than the authorized location of the sale or neighboring properties with permission of the property owner. No sign or other form of advertisement shall be displayed for more than two days prior to the commencement of the sale, and the permittee shall remove all such signs or advertisement by 8:00 p.m. on the date the sale is concluded. Two signs, each not exceeding six square feet in area, may be placed in the front or side yard of the authorized location of the sale. Two additional signs, not exceeding two square feet in area, may be placed on neighboring properties with permission of the property owner. All signs advertising the sale shall have the address, street number and type of the permitted sale printed plainly on each.

(Ord. No. 1523, § 1, 7-11-95; Ord. No. 1819, § 1(Exh. A), 10-13-09)

**Sec. 18-304. Permit required.**

It is unlawful to conduct a garage or estate sale unless a permit to hold such a sale is first obtained from the planning department. An application for a garage sale must be filed with the planning department, in accordance with the requirements of this article and on a form provided by the department. The city council may establish by resolution the payment of a reasonable fee for the permit.

Any application for issuance of a permit may be refused or revoked if the sale would exceed the frequency and duration allowed pursuant to [section 18-302](#) or if the application contains any false, misleading or fraudulent statements, or is otherwise inconsistent with the intent and provisions of this article.

ARTICLE IX. GARAGE OR YARD SALES

(Ord. No. 1523, § 1, 7-11-95; Ord. No. 1819, § 1(Exh. A), 10-13-09)

**Sec. 18-305. Storage and display of personal property.**

Storage and display of the personal property in residential zones, not otherwise authorized by this Code, including, but not limited to, personal items, furniture, household appliances, clothing, art objects and handcrafted items, is only permitted during the sale days and hours of operation and must be immediately removed thereafter. Display of items for sale must be contained within the boundaries of the residential property, and shall not encroach onto the public sidewalk, alley, street or other rights-of-way.

(Ord. No. 1523, § 1, 7-11-95; Ord. No. 1819, § 1(Exh. A), 10-13-09)

**Sec. 18-306. Enforcement.**

The City of Hemet Code Enforcement Officer is authorized to enforce the provisions of this article. All personal property offered for sale shall be arranged so that code enforcement, police or other city officials may have access for inspection at all times during the sale.

(Ord. No. 1523, § 1, 7-11-95; Ord. No. 1819, § 1(Exh. A), 10-13-09)

**Sec. 18-307. Penalty for violation.**

- (a) Any person violating any of the provisions of this article shall be guilty of an infraction.
- (b) Any person convicted of an infraction under the provisions of this article shall be punishable upon a first conviction by a fine of not more than \$100.00, and for a second conviction within a period of one year by a fine of not more than \$200.00, and for a third or any subsequent conviction within a period of one year by a fine of not more than \$500.00.

(Ord. No. 1523, § 1, 7-11-95; Ord. No. 1819, § 1(Exh. A), 10-13-09)

**Secs. 18-308—18-350. Reserved.**

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FOOTNOTE(S):

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--- (6) ---

**Editor's note**— Ord. No. 1523, § 1, adopted July 11, 1995, amended former Art. IX, §§ 18-300—18-310, relative to the sale of personal property in residential zones, to read as herein set out. The provisions of former Art. IX derived from Ord. No. 1489, adopted Feb. 22, 1994. ([Back](#))

ARTICLE X. ADULT BUSINESSES

**ARTICLE X. ADULT BUSINESSES**

[Sec. 18-351. Intent.](#)

[Sec. 18-352. Definitions.](#)

[Sec. 18-353. Permit required.](#)

[Sec. 18-354. Application submittals.](#)

[Sec. 18-355. Review of application.](#)

[Sec. 18-356. Development and operational standards.](#)

[Sec. 18-357. Prohibited conduct at adult businesses.](#)

[Sec. 18-358. Permit requirements—Effect of noncompliance.](#)

[Sec. 18-359. Permit duration.](#)

[Sec. 18-360. Permit renewal.](#)

[Sec. 18-361. Permit transferability.](#)

[Sec. 18-362 Enforcement and revocation.](#)

[Sec. 18-363. Appeals.](#)

[Sec. 18-364. Violations.](#)

[Sec. 18-365. Regulations nonexclusive.](#)

[Secs. 18-366—18-400. Reserved.](#)

**Sec. 18-351. Intent.**

The intent of this chapter is to regulate adult businesses which, unless closely regulated, may have serious secondary effects on the community. These secondary effects include, but are not limited to: depreciation of property values, increases in vacancy rates in residential and commercial areas, increases in incidences of criminal activity and police service calls, increases in noise, litter and vandalism and the interference with property owners' enjoyment of their property in the vicinity of such businesses.

It is neither the intent nor effect of this chapter to impose limitations or restrictions on the content of any communicative material. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials, or to deny access by the distributors or exhibitors of sexually oriented entertainment to their intended market.

Nothing in this article is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any city ordinance or any law of the State of California regarding public nuisances, unlawful exposure, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Sec. 18-352. Definitions.**

As used in this article:

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*Adult arcade* means any business establishment or concern containing coin-operated or slug-operated or manually or electronically controlled still, motion picture or video machines, projectors, or other image-producing devices that are maintained to display images to an individual when those images are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. Such devices are referred to as "adult arcade devices."

*Adult booth/individual viewing area* means a partitioned or partially enclosed portion of an adult business used for any of the following purposes:

- (a) Where a live or taped performance is presented or viewed, where the performances or images displayed or presented are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas;
- (b) Where adult arcade devices are located.

*Adult business* means any business establishment or concern which as a regular and substantial course of conduct performs or operates as an adult arcade, adult cabaret, adult model studio, adult store, adult theater, or any combination thereof. It also means any business establishment or concern which as a regular and substantial course of conduct sells or distributes sexually oriented merchandise or sexually oriented material; or any other business establishment or concern which as a regular and substantial course of conduct offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas. "Adult business" does not include those uses or activities, the regulation of which is preempted by state law.

*Adult cabaret* means a business establishment that features adult live entertainment.

*Adult live entertainment* means any physical human body activity, whether performed or engaged in, alone or with other persons, including but not limited to singing, walking, speaking, dancing, acting, posing, simulating, wrestling or pantomiming, in which: (1) the performer exposes to public view, with opaque covering (e.g., pasties and g-string), specified anatomical areas; or (2) the performance or physical human body activity depicts, describes, or relates to specified sexual activities even if the specified anatomical areas are covered.

*Adult model studio* means a business establishment which provides for any form of consideration, the services of a live human model, who, for the purposes of sexual stimulation of patrons, displays specified anatomical areas to be observed, sketched, photographed, filmed, painted, sculpted, or otherwise depicted by persons paying for such services. Adult model studio does not include any live art class or any studio or classroom which is operated by any public agency, or any private educational institution that is maintained pursuant to standards set by the State of California.

*Adult store* means any establishment, which as a regular and substantial course of conduct, displays or distributes sexually oriented merchandise or sexually oriented material.

*Adult theater* means a business establishment or concern which, as a regular and substantial course of conduct, presents adult live entertainment, or motion pictures, videos, digital video disks, slide photographs, or other pictures or electronically generated visual reproductions which is distinguished or characterized by the emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

*Applicant* means all owners of a proposed adult business applying for an adult business permit under this chapter.

*Code enforcement officer* means a person authorized to enforce certain provisions of this article.

*Director* means the city manager or the manager's designee.

*Establishment of an adult business* means any of the following:

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- (a) The opening or commencement of any adult business as a new business;
- (b) The conversion of an existing business, whether or not an adult business, to any adult business;
- (c) The addition of any of the adult businesses defined herein to any other existing adult business;  
or
- (d) The relocation of any such adult business.

*Hearing officer* means the person designated to hear appeals under [section 18-363](#) or [18-406](#).

*Lap dance* includes chair dancing, couch dancing, straddle dancing, table dancing, and means an employee or independent contractor of an adult business intentionally touching any patron while engaged in adult live entertainment.

*On-site manager* means any person designated by the owner as responsible for the day-to-day on-site operation of the adult business.

*Operate an adult business* means the supervising, managing, overseeing, directing, organizing, controlling or in any way being responsible for or in charge of the premises of an adult business or the conduct or activities occurring on such premises.

*Operator* means a person who supervises, manages, oversees, directs, organizes, controls or in any other way is responsible for or in charge of the premises of an adult business or the conduct or activities occurring on such premises.

*Owner* means all persons having a direct or indirect investment in an adult business; provided, however, where such investment is held by a corporation, for the purposes of this article, each officer and director of a corporation and each stockholder holding more than five percent of the stock of such corporation is deemed to be an owner.

*Performer* means a person who is an employee or independent contractor of an adult business or any other person who, with or without any compensation or other form of consideration, provides adult live entertainment for patrons of an adult business.

*Person* means any individual, firm, association, partnership, limited liability company, corporation or other form of legal entity.

*Police chief* means the chief of the Hemet police department or the police chief's designee.

*Sexually oriented material* means any element of sexually oriented merchandise, or any book, periodical, magazine, photograph, drawing, sculpture, motion picture film, video, or other written, oral or visual representation which, for purposes of sexual arousal, provides depictions which are characterized by an emphasis on matter depicting, describing or relating to specific sexual activities or specified anatomical areas.

*Sexually oriented merchandise* means sexually oriented implements and paraphernalia including but not limited to: dildos, auto sucks, sexually oriented vibrators, edible underwear, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity or which are characterized by an emphasis on matter depicting, describing or relating to specific sexual activities or specified anatomical areas.

*Specified anatomical areas* means:

- (a) Less than completely and opaquely covered human genitals; pubic region; buttocks, or female breast below a point immediately above the top of the areola; or
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* means:

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- (a) Fondling or touching of nude human genitals, pubic region, buttocks or female breast;
- (b) Human sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
- (c) Acts of human masturbation, sexual stimulation or arousal, actual or simulated;
- (d) Human genitals in a state of sexual stimulation or arousal;
- (e) Use of human or animal ejaculation;
- (f) Masochism, erotic or sexually oriented torture, beating, or the infliction of pain, or bondage, or restraints; or
- (g) Excretory functions as part of, or in connection with, any of the activities listed in (a) to (f) of this definition.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Sec. 18-353. Permit required.**

No person may establish or operate an adult business within the city without first obtaining, and continuing to maintain in full force and effect, an adult business permit and a business license from the city. Every adult business permit is subject to the development and operational standards of this article and the regulations of the zoning district in which the business is located.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Sec. 18-354. Application submittals.**

- (a) *Application.* Any person desiring to obtain an adult business permit must submit an application to the director on the form provided by the city. The application must list all owners of the proposed adult business who are collectively referred to sometimes as the applicant. The application must also list each designated operator and on-site manager if such persons are not owners. The application must contain the following information regarding the owners, operators and on-site managers, as applicable, and the following items:
  - (1) Name and address.
  - (2) The previous residential addresses of all individuals, if any, for a period of five years immediately prior to the date of filing the application and the dates of residence at each.
  - (3) Written proof that all individuals are at least 18 years of age.
  - (4) The history of the applicant as to the operation of any adult business or similar business or occupation within five years of the filing of the application. Such information must include a statement as to whether or not each such person, in operating an adult business under a permit or license, has had such permit or license revoked or suspended and the reasons therefore.
  - (5) All criminal convictions or offenses described in [section 18-356\(b\)\(11\)](#); and whether any individual is required to register under the provisions of Section 290 of the California Penal Code or Section 11590 of the California Health and Safety Code.
  - (6) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the individuals.
  - (7) The height, weight, and color of eyes and hair of each individual.
  - (8) Fingerprints and two prints of a recent passport-size photograph of each individual.

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- (9) Business, occupation or employment history of each individual for the five years immediately preceding the date of the application.
  - (10) A nonrefundable deposit or fee as set forth by city resolution.
  - (11) A narrative description of the proposed business explaining how such business complies or will comply with the applicable development and operational standards specified in [section 18-356](#)
  - (12) A site plan designating the building or unit proposed for the adult business and a dimensional interior floor plan depicting how the business complies or will comply with the applicable development and operational standards specified in [section 18-356](#). The site plan and interior floor plan need not be professionally prepared, but must be drawn to a designated scale or to an accuracy of plus or minus six inches.
  - (13) A lighting plan for all outdoor areas including parking areas.
  - (14) If the applicant is a partnership, limited liability company or corporation, documentary proof that such entity was duly formed, and is authorized to do business and is in good standing in the State of California.
  - (15) The fictitious name, if any, of the adult business, together with documentary proof of registration of the fictitious name.
  - (16) If the applicant does not own the lot or parcel on which the adult business will operate, the property owner or lessor of the premises, or their legally authorized representative, as applicable, must consent to the filing of the application by signing and dating the application.
  - (17) A statement in writing and dated by the applicant certifying under penalty of perjury that the information contained in the application is true and correct. If the applicant is one or more natural persons, one such person must sign the application under penalty of perjury. If the applicant is a partnership, limited liability company or corporation, a general partner, officer, director or member of the entity must sign the application under penalty of perjury.
  - (18) Such other information as the director may reasonably deem necessary.
- (b) *Determination of completeness.* The director will determine whether the application contains all the information and items required by the provisions of this article. If it is determined that the application is not complete, the applicant will be notified in writing within five business days of the date of receipt of the application that the application is not complete and the reasons for such determination, including any additional information necessary to render the application complete. The applicant will have 30 calendar days to submit additional information to render the application complete. Failure to do so within the 30-day period will render the application void. Within five business days following the receipt of an amended application or supplemental information, the director will again determine whether the application is complete in accordance with the procedures set forth in this subsection. Evaluation and notification will occur as provided above until such time as the application is found to be complete or the application is withdrawn. The applicant will be notified within five days of the date the application is found to be complete (hereafter "application date"). All notices required by this article will be deemed given upon the date any such notice is either deposited in the United States mail or the date upon which personal service of such notice is provided.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Sec. 18-355. Review of application.**

- (a) The director will promptly cause the investigation of the application and within 30 days of the application date, either issue the permit or send by certified mail a written statement to the applicant setting forth the reasons for denial of the permit. If the director has not issued a decision on the



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application within 30 days of the application date, the application will be deemed approved, subject to an appeal under [section 18-362](#)

- (b) The director may deny a permit for any of the following reasons:
- (1) An applicant has made one or more material misstatements in the application;
  - (2) That the adult business, if permitted, will not comply with all applicable laws, including, but not limited to, the building, development, fire, health, housing and zoning codes of the city;
  - (3) An applicant or any designated operator or on-site manager has pled guilty, nolo contendere or been convicted within five years of the application date of an offense specified in [section 18-356\(b\)\(11\)](#);
  - (4) An applicant or any operator has had a permit or license for an adult business denied, revoked or suspended for cause by any city, county or state within five years of the application date;
  - (5) An applicant is under 18 years of age;
  - (6) The applicant failed to pay the filing fee required by this article.

If the permit is denied, the director must state in writing the reasons for the denial and in the notice to the applicant must reference the applicant's right to an appeal under [section 18-362](#).

- (c) The decision of the director to issue or deny a permit will be final unless an appeal is timely filed under [section 18-362](#)

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Sec. 18-356. Development and operational standards.**

- (a) *Development standards.*

- (1) *Zoning compliance.* The building in which an adult business is located must comply with all applicable setbacks and parking requirements of the applicable zoning district.
- (2) *Exterior lighting.* All exterior areas, including parking lots, of the adult business must be illuminated at a minimum of 1.50 foot-candles, maintained and evenly distributed at ground level with appropriate devices to screen, deflect or diffuse the lighting in such manner as to prevent glare or reflected light from creating adverse impacts on adjoining and nearby public and private properties. Inoperable or broken lights must be replaced within 24 hours.
- (3) *Sound.* The premises within which the adult business is located must provide sufficient sound-absorbing insulation so that noise generated inside such premises will not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building.
- (4) *No minors.* The building entrance to an adult business must be clearly and legibly posted with a notice indicating that persons under 18 years of age are precluded from entering the premises. Such notice must be constructed and posted to the satisfaction of the director. No person under the age of 18 years may be permitted within the premises at any time.
- (5) *Open indoor areas.* All indoor areas within which patrons are permitted, except restrooms, must be open to view at all times. Adult booths and individual viewing areas are prohibited.
- (6) *Restrooms.* Separate restroom facilities must be provided for male patrons and employees, and female patrons and employees. Male patrons and employees are prohibited from using any restroom for females, and female patrons and employees are prohibited from using any restroom for males, except to carry out duties of repair, maintenance and cleaning of the

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restroom facilities. The restrooms must be free from any sexually oriented material. Restrooms may not contain television monitors or other motion picture or video projection, recording or reproduction equipment. This subsection does not apply to an adult business which deals exclusively with the sale or rental of sexually oriented material which is not used or viewed on the premises, such as an adult store or adult video store, and which does not provide restroom facilities to its patrons or the general public.

- (7) *Residential conversions prohibited.* No residential structure may be converted for use as an adult business.
  - (8) *Portable structures prohibited.* No adult business may be located in any temporary or portable structure.
- (b) *Operational standards.*
- (1) *Hours.* No adult business may operate or be open for business between the hours of midnight to 10:00 a.m.
  - (2) *Employment of minors prohibited.* No owner or operator of any adult business may employ or permit to be employed any person who is not at least 18 years of age.
  - (3) *Presence of minors on premises prohibited.* No owner or operator of an adult business may allow or permit any person under the age of 18 years to enter, be in or remain in any such business. Operators must determine the age of persons who enter the premises by posting an employee at the entrance to check the driver's license or other authorized identification of each person entering the premises.
  - (4) *Screening of interior of premises and display of sexually oriented materials or adult live entertainment.* No adult business may be operated in any manner that permits the observation of any material or activities depicting, describing or relating to specified sexual activities or specified anatomical areas, or adult live entertainment, from any public way or from any location outside the building or area of such establishment. This provision applies to any display, decoration, sign, show window or other opening. No exterior door or window on the premises may be propped or kept open at any time while the business is open, and any exterior windows must be covered with opaque covering at all times or otherwise screened to prevent a view of the interior in a manner approved by the director.
  - (5) *Alcoholic beverages prohibited.* No alcoholic beverages may be served, consumed or sold on the premises of an adult business.
  - (6) *Illumination.* All areas of the adult business must be illuminated at a minimum of the following foot-candles, minimally maintained and evenly distributed at ground level:

Area	Foot-Candles
Stores and other retail establishments	20
Theaters and cabarets	5 (except during performances, at which times lighting must be at least 1.25-foot-candles)
Arcades	10

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Modeling studios	20
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(7) *Security measures.*

- a. On-site manager. All adult businesses must have a responsible person who is over the age of 18 and is on the premises to act as manager at all times during which the business is open and be given by the owner or operator the responsibility and duty to address and immediately resolve all violations of law taking place on the premises. No performer may serve as an on-site manager. If the on-site manager is not an owner, then the owners must provide the director with the individual background information for such on-site manager set forth in items (1) to (9) of [section 18-354](#) and receive approval for each such on-site manager utilizing the application process under [section 18-355](#) prior to such individual commencing any managerial duties at the premises.
- b. Adult businesses must employ state-licensed uniformed security guards in order to maintain the public peace and safety, based upon the following standards:
  1. Adult businesses featuring adult live entertainment and performers must provide at least one security guard at all times while the business is open. If the occupancy limit of the premises is greater than 35 persons, an additional security guard must be on duty.
  2. Security guards for other adult businesses may be required if it is determined by the police chief that their presence is necessary in order to prevent any of the conduct prohibited in this article from occurring on the premises.
- c. Security guards have a duty to prevent violations of law and enforce compliance by patrons of the requirements of this article. Security guards must be uniformed in such a manner so as to be readily identifiable as a security guard by the public and must be duly licensed as a security guard as required under state law. No security guard required under this section may act as a door person, ticket seller, ticket taker, admittance person, performer or on-site manager while acting as a security guard.
- d. All off-street parking areas and building entries serving an adult business featuring adult live entertainment must be illuminated during all hours of operation with a lighting system designed to provide at least an average maintained horizontal illumination of 1.5 foot-candle of light on the parking surface and walkway. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the adult business for the personal safety of patrons and employees and to reduce the incidence of vandalism and theft. The lighting must be shown on the required site or plot plan. The required lighting must remain on for at least 30 minutes after the closing time of the adult business to promote safety for employees thereof.
- e. All off-street parking areas serving an adult business featuring adult live entertainment must have a security system that visually records and retains images of the entire parking area for at least at 72-hour period for the purposes of promoting safety and identifying illegal activity.

(8) *[Reserved].*

- (9) *Adult live entertainment—Additional operating regulations.* The following additional requirements apply to adult businesses providing adult live entertainment:

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- a. No person may perform adult live entertainment for patrons of an adult business except upon a permanently fixed stage at least 18 inches above the level of the floor, and surrounded by a three-foot high barrier or by a fixed rail at least 30 inches in height. A distance of at least six feet, measured horizontally, must be maintained between patrons and performers at all times during a performance. No patron may be permitted on the stage while the stage is occupied by a performer. This provision does not apply to an individual viewing area where the performer is completely separated from the area in which the performer is viewed by an individual by a permanent floor to ceiling, solid barrier.
  - b. No performer may have physical contact with any patron, and no patron may have physical contact with any performer, while the performer is performing on the premises. This prohibition does not extend to incidental touching. Patrons must be advised of the no touching requirements by signs conspicuously displayed and placed on the barrier between patrons and performers and utilizing red or black printing of letters not less than one inch in size. If necessary, patrons must also be advised of the no touching requirements by employees or independent contractors of the establishment.
  - c. All employees and independent contractors of the adult business, including performers, must wear at a minimum an opaque covering which covers their specified anatomical areas while on or about the premises.
  - d. If patrons wish to pay or tip performers, payment or tips may be placed in containers placed at least six feet from the stage used by the performers. Patrons may not throw money to performers, place monies in the performers' costumes or otherwise place or throw monies on the stage. Patrons must be advised of this requirement by signs conspicuously displayed and placed on the barrier between patrons and performers and utilizing red or black printing of letters not less than one inch in size.
  - e. The adult business must provide dressing rooms for performers, that are separated by gender and exclusively dedicated to the performers' use and which the performers must use. Same gender performers may share a dressing room. Patrons are not permitted in dressing rooms.
  - f. The adult business must provide an entrance/exit to the establishment for performers that is separate from the entrance/exit used by patrons, and the performers must use this entrance/exit at all times.
  - g. The adult business must provide access for performers between the stage and the dressing rooms that is completely separated from the patrons. If such separate access is not physically feasible, the adult business must provide a minimum three-foot wide walk aisle for performers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the performers capable of (and which actually results in) preventing any physical contact between patrons and performers. The patrons must remain at least three feet away from the walk aisle. Nothing in this section is intended to exempt the adult business from compliance with the provisions of Title 24 of the California Code of Regulations pertaining to handicapped accessibility.
- (10) *Adult theater—Additional operating requirements.* The following additional requirements apply to adult theaters:
- a. If the theater contains a hall or auditorium area, the area must comply with each of the following provisions:
    1. Have individual, separate seats, not couches, benches, or the like, to accommodate the maximum number of persons who may occupy the hall or auditorium area;

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2. Have a continuous main aisle alongside the seating areas in order that each person seated in the hall or auditorium area is visible from the aisle at all times;
  3. Have a sign posted in a conspicuous place at or near each entrance to the hall or auditorium area which lists the maximum number of persons who may occupy the hall or auditorium area, which number may not exceed the number of seats within the hall or auditorium area.
- (11) *[Previous convictions.]* No owner, operator or on-site manager of any adult business may have pled guilty, nolo contendere or been convicted within the past five years of any of the following offenses or convicted of an offense outside the State of California that would have constituted any of the following offenses if committed within the State of California: Sections 243.4, 261, 266a through 266j, inclusive, 267, 314, 315, 316, 318, or subdivisions (a), (b) and (d) of Section 647 of the California Penal Code; any offense requiring registration under provisions of either Section 290 of the California Penal Code or Section 11590 of the California Health and Safety Code; or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, giving away, of a controlled substance specified in Section 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code, as those sections may hereafter be amended.
- (12) *[No solicitation.]* No owner, operator, employee or performer of an adult business may personally solicit, or permit the personal solicitation of, motorists or pedestrians in the vicinity of the adult business.
- (13) *[Permit to be displayed.]* Every adult business must display at all times during business hours the permit issued pursuant to the provisions of this article for such adult business in a conspicuous place so that the permit may be readily seen by all persons entering the adult business.
- (14) *[Live showings.]* No owner, operator, or on-site manager may permit any person on the premises of the adult business to engage in, nor may any performer perform at such premises, a live showing of any of the following:
- a. The human male or female genitals, pubic area, or buttocks with less than a fully opaque covering;
  - b. The female breasts with less than a fully opaque covering over any part of the nipple or areola; or
  - c. Covered male genitals in a discernibly turgid state.
- This provision may not be complied with by applying an opaque covering simulating the appearance of the specific anatomical part required to be covered.
- (15) *[Performer license required.]* No performer may be employed, hired, engaged, or otherwise retained by an adult business to participate in or give any live performance without first having a valid adult business performer license issued by the city.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Sec. 18-357. Prohibited conduct at adult businesses.**

- (a) No person may operate or manage or cause to be operated or managed an adult business knowingly, or with reason to know, permitting, suffering, or allowing any employee or independent contractor:
  - (1) To engage in a lap dance with a patron at the business.

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- (2) To contract or otherwise agree with a patron to engage in a lap dance with a person at the business.
- (3) To intentionally touch any patron at an adult business while performing adult live entertainment.
- (4) To voluntarily be within six feet of any patron while performing adult live entertainment.
- (5) To solicit or request any gratuity, pay, or any other form of consideration from a patron on the premises of the adult business while performing adult live entertainment.
- (b) No person at any adult business may intentionally touch an employee or independent contractor who is performing adult live entertainment at the adult business.
- (c) No person at any adult business may engage in a lap dance with an employee or independent contractor at the adult business.
- (d) No person may directly pay, offer to pay, or otherwise seek to provide a gratuity, pay, or any other form of consideration to a performer at an adult business. No person may use an intermediary, such as an employee or independent contractor to offer, provide, or otherwise pay a gratuity or other form of consideration to a performer at an adult business.
- (e) No performer may engage in a performance or solicit a performance between the hours of midnight to 10:00 a.m.
- (f) No employee or independent contractor at an adult business may appear on the premises of the adult business in the nude, seminude, or display or expose specified anatomical areas.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Sec. 18-358. Permit requirements—Effect of noncompliance.**

The requirements described in sections [18-356](#) and [18-357](#) are conditions of an adult business permit, and the failure to comply with any applicable requirement is grounds for revocation of the permit issued pursuant to this article.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Sec. 18-359. Permit duration.**

An adult business permit is valid for a period of one year from the date of issuance.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Sec. 18-360. Permit renewal.**

An adult business permit must be renewed on an annual basis, provided that the owner and the adult business continues to meet all applicable requirements set forth in this article. A request for permit renewal must be accompanied by an adult business permit application, completed in full detail with current information. The application and appropriate fee must be received by the city at least 45 calendar days prior to the expiration of the existing permit. The city will process a request for a permit renewal in the same manner as the original application.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

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**Sec. 18-361. Permit transferability.**

No adult business permit may be sold, transferred, or assigned by any owner, or by operation of law, to any other person unless and until the transferee obtains an amendment to the permit from the director stating that the transferee is now the owner. Such an amendment may be obtained only if the transferee files an application with the director in accordance with [section 18-354](#) (including payment of the applicable application fee), and the director determines in accordance with [section 18-355](#) that the transferee would be entitled to the issuance of the original permit. Without such amendment to the permit, any other purported sale, transfer, or assignment or attempted sale, transfer, or assignment will be deemed to constitute a voluntary surrender of the permit and thereafter the permit will be null and void. An adult business permit held by a corporation, partnership or limited liability company is subject to the same rules of transferability. An adult business permit will be valid only for the exact location specified in the permit.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Sec. 18-362 Enforcement and revocation.**

- (a) *Inspections.* All law enforcement and code enforcement officers have the right to enter the premises of an adult business from time to time during regular business hours to make reasonable inspections, to observe and enforce compliance with building, fire, electrical, plumbing or health regulations, and to ascertain whether there is compliance with the provisions of this article.
- (b) *Revocation grounds.* The director may revoke an adult business permit when:
  - (1) Any of the applicable requirements of this article ceases to be satisfied; or
  - (2) The application is discovered to contain incorrect, false or misleading information; or
  - (3) An owner has pled guilty, nolo contendere or been convicted of a felony or misdemeanor occurring upon, or relating to the premises or lot upon which the adult business is located, which offense is one of those listed in [section 18-356\(b\)\(11\)](#); or
  - (4) On two or more occasions within a 12-month period, any operator, employee, agent or contractor of the owner has pled guilty, nolo contendere or been convicted of a felony or misdemeanor occurring upon, or relating to the premises or lot upon which the adult business is located, which offense is one of those listed in [section 18-356\(b\)\(11\)](#); or
  - (5) The owner, operator or any employee, agent or contractor of the owner has knowingly allowed prostitution, or solicitation for prostitution, on the premises; or
  - (6) The owner, operator or any employee, agent or contractor of the owner has knowingly allowed the premises to be used as a place where a controlled substance has been illegally consumed, sold or exchanged; or
  - (7) The adult business has been operated in violation of any of the requirements of this article; and
    - a. If the violation is of a continuous nature, the business continues to be operated in violation of such provision for more than ten days following the date written notice of such violation is mailed or delivered to the owner or operator, or
    - b. If the violation is of a noncontinuous nature, one or more additional violations of the same provision, or two or more violations of any other of the provisions, of this article occur (regardless of whether notice of each individual violation is given to the owner or operator) within any 12-month period.

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- (c) *Revocation notice.* Upon determining that grounds for permit revocation exist, the director will furnish written notice of the proposed revocation to the owner. Such notice must summarize the principal reasons for the proposed revocation and state that the revocation will become effective on the 20th day after the notice was deposited in the U.S. mail, unless the owner files an appeal under [section 18-362](#). The notice must be delivered both by posting the notice at the location of the adult business and by sending the same, certified mail to the owner as that name and address appears on the permit.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Sec. 18-363. Appeals.**

- (a) Any interested person may appeal a decision of the director regarding an application for or revocation of an adult business permit by filing with the city clerk a complete notice of appeal within 15 days from the date notice of such decision is mailed. To be deemed complete, the appeal must be in writing, state the grounds for disagreement with the director's stated decision, include the address to which notice is to be mailed, be signed under penalty of perjury, and be accompanied by the filing fee established by city council resolution.
- (b) If an appeal is timely filed, the city clerk will cause to be set a date for the hearing of the appeal not more than 30 days from the date the appeal is received. The hearing will be a de novo hearing on the action appealed from. At the hearing, the appellant will have the right to offer testimonial, documentary, and tangible evidence bearing upon the issues. The hearing officer will not be bound by the formal rules of evidence. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness.
- (c) The hearing officer will issue written findings and a decision within ten days of the conclusion of the hearing, and send notice of the decision by certified mail to the appellant. The notice of the decision must include reference to the appellant's right to prompt judicial review under California Code of Civil Procedure section 1094.8.
- (d) The action by the hearing officer will be final unless timely judicial review is sought pursuant to California Code of Civil Procedure section 1094.8.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Sec. 18-364. Violations.**

- (a) Any owner, operator, permittee, employee or independent contractor of an adult business violating or permitting the violation of any of the provisions of this article regulating adult businesses will be subject to any and all civil remedies, including license or permit revocation. All remedies provided herein are cumulative and not exclusive.
- (b) In addition to the remedies set forth in subsection (a), any adult business that is operating in violation of these provisions regulating adult businesses is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation.
- (c) The regulations imposed under this article are part of a regulatory permitting process, and any violation of this article does not constitute a criminal offense. Notwithstanding any other provision of the Hemet Municipal Code, the city does not impose a criminal penalty for violations of this article related to expressive activities.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)



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**Sec. 18-365. Regulations nonexclusive.**

The provisions of this article regulating adult businesses are not intended to be exclusive and compliance with this article will not excuse noncompliance with any other applicable regulations pertaining to the operation of businesses adopted by the city.

(Ord. No. 1787, § 2(Exh. A), 9-25-07)

**Secs. 18-366—18-400. Reserved.**

ARTICLE XI. ADULT BUSINESS PERFORMER

**ARTICLE XI. ADULT BUSINESS PERFORMER**

[Sec. 18-401. Purpose.](#)

[Sec. 18-402. Definitions.](#)

[Sec. 18-403. Adult business performer license required.](#)

[Sec. 18-404. Investigation and action on license application.](#)

[Sec. 18-405. Revocation of license.](#)

[Sec. 18-406. Appeals.](#)

[Sec. 18-407. License identification cards.](#)

[Sec. 18-408. Adult business performer license nontransferable.](#)

[Sec. 18-409 Violations.](#)

**Sec. 18-401. Purpose.**

The purpose of this article is to provide for the licensing of adult business performers in order to promote the health, safety, and general welfare of the city. The intent of the performer licensing provisions are to:

- (1) Protect minors by requiring that all performers be over the age of 18 years;
- (2) Assure the correct identification of persons performing in adult businesses;
- (3) Enable the city to deploy law enforcement resources effectively; and
- (4) Detect and discourage the involvement of crime in adult businesses by precluding the licensing of performers with certain sex-related convictions within a prescribed time period.

It is neither the intent nor the effect of these regulations to invade the privacy of performers or to impose limitations or restrictions on the content of any communicative material. Similarly, it is neither the intent nor the effect of these regulations to restrict or deny access by adults to communicative materials or to deny access by the distributors or exhibitors of adult businesses to their intended lawful market.

Nothing in these regulations is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any city ordinance or any statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof.

(Ord. No. 1787, § 3(Exh. B), 9-25-07)

**Sec. 18-402. Definitions.**

The definitions contained in article X of [chapter 18](#) of this Code also apply to this article with the following addition:

*Licensee* means a person who is issued an adult business performer license under this article.

(Ord. No. 1787, § 3(Exh. B), 9-25-07)

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**Sec. 18-403. Adult business performer license required.**

- (a) No performer may be employed, hired, engaged, or otherwise retained by an adult business to participate in or give any performance of adult live entertainment without first having a valid adult business performer license issued by the city.
- (b) The director is responsible for the processing, investigation and issuance of adult business performer licenses in accordance with this article.
- (c) License applicants must file a license application or renewal application on a form provided by the city. At minimum, this application form will contain the following information:
  - (1) The applicant's legal name and any other names (including "stage names" and aliases) used by the applicant.
  - (2) Principal place of residence.
  - (3) Age, date and place of birth.
  - (4) Height, weight, hair and eye color and tattoo descriptions and locations.
  - (5) Each present or proposed business address and telephone number of the establishments at which the applicant intends to work.
  - (6) Driver's license or identification number and state of issuance.
  - (7) Social security number.
  - (8) Satisfactory written proof that the license applicant is at least 18 years of age.
  - (9) The license applicant's fingerprints on a form provided by the city and two passport-size photographs clearly showing the applicant's face. Any fees for the photographs and fingerprints will be paid by the applicant. Fingerprints and photographs must be taken within six months of the date of application.
  - (10) Whether the applicant has pled guilty, nolo contendere or been convicted of an offense classified by this or any other state as a sex-related offense within five years since the date of conviction or the date of release from confinement of conviction to the date of application, whichever is the later date.
  - (11) If the application is made for the purpose of renewing a license, the applicant must attach a copy of the license to be renewed.
- (d) The information provided above in subsection (c) which is personal, private, confidential or the disclosure of which could expose the applicant to the risk of harm including, but not limited to, the applicant's residence address, telephone number, date of birth and age, driver's license and social security number will not be disclosed provided such nondisclosure is in accordance with the California Public Records Act.
- (e) The completed application must be accompanied by a nonrefundable application fee and annual license fee. The amount of such fees will be as set forth in the schedule of fees established by city council resolution.
- (f) The director will determine whether the application is complete within two business days. If the director determines that the application is incomplete, the director must immediately inform the applicant of such fact and the reasons therefor, including any additional information necessary to render the application complete. Upon receipt of a completed adult business performer application, the director will within two business days issue a temporary license that will automatically expire ten business days from the date of issuance unless extended as provided in [section 18-404\(d\)](#). This temporary adult business performer license authorizes a performer to commence performance at an

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adult business that possesses a valid adult business permit authorized to provide adult live entertainment.

[(g) Reserved.]

(h) The fact that a license applicant possesses other types of state or city permits or licenses does not exempt the license applicant from the requirement of obtaining an adult business performer license.

(Ord. No. 1787, § 3(Exh. B), 9-25-07)

**Sec. 18-404. Investigation and action on license application.**

(a) Upon submission of a completed application and issuance of a temporary adult business performer license, the director will promptly cause the investigation of the information contained in the application to determine whether the applicant should be issued an adult business performer license.

(b) The director's decision to grant or deny the adult business performer license must be made within ten business days from the date the temporary license was issued. If the application is denied, the director must include a written statement of the reasons for the denial. Such notice must also advise the applicant of the right to appeal the denial under [section 18-406](#). If the application is granted, the director will attach the adult business performer license to the notice. The decision will be mailed or personally delivered to the applicant at the address provided in the application.

(c) The director may deny the application based on any of the following grounds:

(1) The applicant has made false, misleading, or fraudulent statement of material fact in the application for an adult business performer license.

(2) The applicant is under 18 years of age.

(3) The adult business performer license is to be used for performing in a business prohibited by laws of the state or city or at a business that does not have a valid adult business permit.

(4) The occurrence of any of the events set forth in [section 18-403\(c\)\(10\)](#).

(d) If the director fails to render a decision on the license within the time frame established by this section, the application will be deemed approved, subject to an appeal under [section 18-406](#)

(e) Each adult business performer license, other than the temporary license described in [section 18-402\(f\)](#), will expire one year from the date of issuance and may be renewed only by filing with the director a written request for renewal, accompanied by the annual license fee and a copy of the license to be renewed at least 30 days prior to the expiration of the license. If the application conforms to the previously approved application and there has been no change with respect to the licensee being convicted of any crime classified by this or any other state as a sex-related offense and no evidence that the licensee has failed to comply with any of the operating standards of article X of [chapter 18](#) applicable to a performer or the requirements of this article, the director will renew the license for one year. An application for renewal will be acted upon in the same manner as the application for the original license. If the director denies renewal of the application, that decision is also appealable under [section 18-406](#)

(Ord. No. 1787, § 3(Exh. B), 9-25-07)

**Sec. 18-405. Revocation of license.**

(a) A license may be revoked, based on any of the following causes arising from the acts or omissions of the licensee:

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- (1) The licensee has made any false, misleading, or fraudulent statement of material fact in the application for a performer license.
  - (2) The licensee has pled guilty, nolo contendere or been convicted of an offense as set forth in [section 18-403\(c\)\(10\)](#).
  - (3) The licensee has failed to comply with any of the operating standards of article X of [chapter 18](#) applicable to a performer or the requirements of this article.
- (b) On determining that grounds for license revocation or suspension exist, the director will furnish written notice of the proposed action to the licensee. Such notice will set forth the time and place of a hearing before the director or a hearing officer, the grounds, including the factual matters in support of such proposed action, and the pertinent code sections. The notice will be mailed, postage prepaid, to the last known address of the licensee, or personally delivered to the licensee, at least ten days prior to the hearing date.
  - (c) At the hearing, the licensee will have the right to offer testimonial, documentary, and tangible evidence bearing upon the issues. The director or hearing officer will not be bound by the formal rules of evidence. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness at the request of the licensee.
  - (d) After the hearing, the director or hearing officer will either sustain or overrule the decision of the director and render a written decision within two business days of the hearing. The decision will be sent by certified mail to the applicant or licensee. The decision of the director or hearing officer must include reference to the right to prompt judicial review under California Code of Civil Procedure section 1094.8.
  - (e) The action by the director or hearing officer will be final unless timely judicial review is sought pursuant to California Code of Civil Procedure section 1094.8.

(Ord. No. 1787, § 3(Exh. B), 9-25-07)

**Sec. 18-406. Appeals.**

- (a) Any interested person may appeal a decision of the director regarding an application for an adult business performer license by filing with the city clerk a complete notice of appeal within 15 days from the date notice of such decision is mailed. To be deemed complete, the appeal must be in writing, state the grounds for disagreement with the director's stated decision, include the address to which notice is to be mailed, be signed under penalty of perjury, and be accompanied by the filing fee established by city council resolution.
- (b) If an appeal is timely filed, a hearing officer will hear the appeal.
- (c) The hearing officer must set a hearing date not more than 21 days from the date of the filing of the appeal. The hearing may be continued for good cause.
- (d) The hearing officer will issue findings in writing within five days of the conclusion of the hearing. The written findings and decision will be sent by certified mail to the appellant. The notice of the decision must include reference to the appellant's right to prompt judicial review under California Code of Civil Procedure section 1094.8.
- (e) The action by hearing officer will be final unless timely judicial review is sought pursuant to California Code of Civil Procedure section 1094.8.

(Ord. No. 1787, § 3(Exh. B), 9-25-07)

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**Sec. 18-407. License identification cards.**

The director will provide each adult business performer whose application is approved with an identification card containing the name, address, photograph, and license number of such performer. Every performer must have such card available for inspection at all times during which the performer is on the premises of the adult business at which he or she performs.

(Ord. No. 1787, § 3(Exh. B), 9-25-07)

**Sec. 18-408. Adult business performer license nontransferable.**

No adult business performer license may be sold, transferred, or assigned by any licensee or by operation of law, to any other person. Any such sale, transfer, or assignment, or attempted sale, transfer, or assignment will be deemed to constitute a voluntary surrender of the adult business performer license, and the license thereafter will be void.

(Ord. No. 1787, § 3(Exh. B), 9-25-07)

**Sec. 18-409 Violations.**

- (a) Any licensee violating any of the provisions of this article or the provisions of article X of [chapter 18](#) regulating adult business performers will be subject to license revocation, and any and all other civil remedies. All remedies provided herein are cumulative and not exclusive. Any such violation will constitute a separate violation for each and every day during which such violation is committed or continued.
- (b) The regulations imposed under this article are part of a regulatory licensing process, and violations of this article do not constitute a criminal offense. Notwithstanding any other provision of the Hemet Municipal Code, the city does not impose a criminal penalty for violations of the provisions of this article related to expressive activities.

(Ord. No. 1787, § 3(Exh. B), 9-25-07)

ARTICLE XII. TOBACCO RETAILERS

**ARTICLE XII. TOBACCO RETAILERS**

[Sec. 18-410. Purpose and intent.](#)

[Sec. 18-411. Definitions.](#)

[Sec. 18-412. County responsibility for licensing and enforcement.](#)

[Sec. 18-413. Tobacco license prerequisite; application process.](#)

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[Sec. 18-415. Licenses nontransferable.](#)

[Sec. 18-416. Fees for license.](#)

[Sec. 18-417. Other requirements and prohibitions.](#)

[Sec. 18-418. License violation.](#)

[Sec. 18-419. Revocation of license.](#)

[Sec. 18-420. Enforcement.](#)

[Secs. 18-421—18-449. Reserved.](#)

**Sec. 18-410. Purpose and intent.**

The city has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and in protecting children from being lured into illegal activity through the misconduct of adults. It is the intent of this article to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those that prohibit or discourage the sale or distribution of tobacco products to minors, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalty provided therefor.

(Ord. No. 1795, § 1(Exh. A), 3-25-08)

**Sec. 18-411. Definitions.**

For the purposes of this article, the following words and terms shall have the following meanings:

*Arm's length transaction* shall mean a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this article is presumed not to be an arm's length transaction.

*City* shall mean the City of Hemet, California.

*County* shall mean the County of Riverside, California.

*Department* shall mean the County Department of Public Health.

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*Hearing officer* shall mean the county hearing officer authorized by chapter 2-20 of the County Code to conduct hearings.

*Person* shall mean any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

*Proprietor* shall mean a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have, or can or does share ultimate control over the day-to-day operations of a business.

*Self-service display* shall mean the open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer. A vending machine is a form of self-service display.

*Smoking* shall mean possessing a lighted tobacco product, tobacco paraphernalia, or any other weed or plant (including a lighted pipe, lighted cigar, or lighted cigarette of any kind), the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including a pipe, cigar, or cigarette of any kind).

*Tobacco paraphernalia* shall mean cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.

*Tobacco product* shall mean:

- (1) Any substance containing tobacco leaf, including, but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and
- (2) Any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body but does not include any product specifically approved by the Federal Food and Drug Administration for use in treating nicotine or tobacco product dependence.

*Tobacco retailer* shall mean any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

(Ord. No. 1795, § 1(Exh. A), 3-25-08)

**Sec. 18-412. County responsibility for licensing and enforcement.**

The county shall be responsible for the enforcement of the provisions of this article. Proprietors shall apply to the county for a tobacco retailer's license and the county is responsible for the issuance, renewal and revocation of tobacco retailer's licenses.

(Ord. No. 1795, § 1(Exh. A), 3-25-08)



ARTICLE XII. TOBACCO RETAILERS

**Sec. 18-413. Tobacco license prerequisite; application process.**

- (a) It shall be unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer's license pursuant to this article for each location at which that activity is to occur. Tobacco retailing without a valid tobacco retailer's license shall constitute a public nuisance.
- (b) A tobacco retailer or proprietor without a valid tobacco retailer's license, including a revoked license:
  - (1) Shall keep all tobacco products and tobacco paraphernalia from public view. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute an "offer for sale" for the purposes of tobacco retailing.
  - (2) Shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale or distribution of such products from the tobacco retailer's location or that would lead a reasonable consumer to believe that such products can be obtained at the tobacco retailer's location.
- (c) Nothing in this article shall be construed to grant any person obtaining and maintaining a tobacco retailer's license any status or right other than the right to act as a tobacco retailer at the location in the city identified on the face of the license. Nothing in this article shall be construed to render inapplicable, supersede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on smoking in enclosed places of employment made applicable to business establishments by California Labor Code § 6404.5, as such section may be amended from time to time.
- (d) Application for a tobacco retailer's license shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or an authorized agent thereof. It is the responsibility of each proprietor to be informed of the laws affecting the issuance of a tobacco retailer's license. A license that is issued in error or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to [section 18-419\(d\)](#).
- (e) In addition to any other penalty under this article, a person found to have engaged in tobacco retailing without a valid tobacco retailer's license shall be ineligible to apply for or be issued a tobacco retailing license according to the following:
  - (1) After a first violation for a person within any 60-month period, no new license may be issued to the person as a proprietor until 30 days have passed from the date of last violation.
  - (2) After a second violation for a person within any 60-month period, no new license may be issued to the person as a proprietor until 90 days have passed from the date of last violation.
  - (3) After three or more violations for a person within any 60-month period, no new license may be issued for the person as a proprietor until five years have passed from the date of last violation.
  - (4) Each day that a person engages in tobacco retailing without a valid tobacco retailer's license shall constitute a separate violation.
- (f) Tobacco products and tobacco paraphernalia offered for sale or exchange in violation of this article are subject to seizure and forfeiture. Forfeited tobacco products and tobacco paraphernalia shall be destroyed.
- (g) All applications shall be submitted on a form supplied by the department and shall contain the following information:
  - (1) The name, address, and telephone number of each proprietor.
  - (2) The business name, address, and telephone number of the single fixed location for which a tobacco retailer's license is sought.

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- (3) The name and mailing address authorized by each proprietor to receive all license-related communications and notices (the authorized address). If an authorized address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subsection (2) above.
- (4) Proof that the location for which a tobacco retailer's license is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization.
- (5) Whether or not any proprietor is a person who has been determined to have violated this article or has been a proprietor at a location that has been determined to have violated this article and, if so, the dates and locations of all such violations.
- (6) Such other information as the department deems necessary for the administration or enforcement of this article.

(Ord. No. 1795, § 1(Exh. A), 3-25-08)

**Sec. 18-414. License issuance; standards.**

- (a) No license may be issued to authorize tobacco retailing at other than a fixed location. Tobacco retailing by persons on foot and from vehicles is prohibited.
- (b) Upon the receipt of an application for a tobacco retailer's license and the license fee, the department shall issue a license unless substantial record evidence demonstrates that one of the following bases for denial exists:
  - (1) The application is incomplete or inaccurate.
  - (2) The application seeks authorization for tobacco retailing at a location for which a prohibition on issuing licenses is in effect pursuant to [section 18-419\(b\)](#). However, this subparagraph shall not constitute a basis for denial of a license if the applicant provides the department with documentation demonstrating by clear and convincing evidence that the applicant has acquired or is acquiring the location or business in an arm's length transaction.
  - (3) The application seeks authorization for tobacco retailing for a proprietor for which a prohibition on issuing licenses is in effect pursuant to [section 18-419\(b\)](#).
  - (4) The application seeks authorization for tobacco retailing that is prohibited pursuant to this article, that is unlawful pursuant to any other provision of this Code, or that is unlawful pursuant to any other local, state, or federal law.

(Ord. No. 1795, § 1(Exh. A), 3-25-08)

**Sec. 18-415. Licenses nontransferable.**

A tobacco retailer's license is nontransferable. If the information required in the license application pursuant to subsection [18-413\(g\)\(1\)](#) through (3) changes, a new tobacco retailer's license is required before the business may continue to act as a tobacco retailer. If a proprietor to whom a license has been issued changes business location, that proprietor must apply for a new license prior to acting as a tobacco retailer at the new location. If the business is sold, the new proprietor must apply for a license for that location before acting as a tobacco retailer.

Notwithstanding any other provision of this article, violations accumulated against a location or business shall continue to be counted against the location or business unless the location or business has been transferred to a new proprietor and the new proprietor provides the department with

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documentation demonstrating by clear and convincing evidence that the new proprietor has acquired or is acquiring the location or business in an arm's length transaction.

(Ord. No. 1795, § 1(Exh. A), 3-25-08)

**Sec. 18-416. Fees for license.**

A tobacco retailer's license is invalid unless the appropriate fee has been paid in full and the term of the license has not expired. The term of a tobacco retailer's license is one year. Each tobacco retailer shall apply for the renewal of his or her tobacco retailer's license no later than 30 days prior to expiration of the term.

(Ord. No. 1795, § 1(Exh. A), 3-25-08)

**Sec. 18-417. Other requirements and prohibitions.**

- (a) Each license shall be prominently displayed in a publicly and readily visible location at the licensed location.
- (b) No person shall engage in tobacco retailing without first examining the identification of the purchaser, if the purchaser reasonably appears under the age of 27 years old, and confirming that the proposed sale is to a purchaser who is at least the minimum age in state law for being sold the tobacco product or tobacco paraphernalia.
- (c) No person shall engage in tobacco retailing if the person is younger than the minimum age in state law for being sold or for possessing any tobacco product.
- (d) No person shall display tobacco products or tobacco paraphernalia by means of a self-service display or engage in tobacco retailing by means of a self-service display. A tobacco retailer who chooses to display tobacco products or tobacco paraphernalia in a locked cabinet, case or similar structure must post a clear and conspicuous sign on or within five feet of the display stating that the cabinet, case or structure is locked at all times.

(Ord. No. 1795, § 1(Exh. A), 3-25-08)

**Sec. 18-418. License violation.**

- (a) It shall be a violation of a tobacco retailer's license for a licensee, including his or her agent or employee, to violate any of the following laws:
  - (1) Any local, state, or federal tobacco-related law.
  - (2) Local, state, or federal sign laws.
  - (3) Local, state, or federal laws restricting the age of purchase for any product.
- (b) License compliance monitoring:
  - (1) Compliance with this article shall be monitored by the department. Any peace officer may enforce the penal provisions of this article.
  - (2) The department shall check the compliance of each tobacco retailer at least three times per 12-month period. The department may check the compliance of tobacco retailers previously found to be in compliance a fewer number of times so that the department may check the compliance of tobacco retailers previously found in violation a greater number of times.

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- (3) Compliance checks shall determine, at a minimum, if the tobacco retailer is conducting business in a manner that complies with tobacco laws regulating youth access to tobacco. When appropriate, the compliance checks shall determine compliance with other tobacco-related laws.
- (4) The department shall not enforce any tobacco-related minimum age law against a person who otherwise might be in violation of such law because of the person's age (hereinafter "youth decoy") if the potential violation occurs when:
  - a. The youth decoy is participating in a compliance check supervised by a peace officer or a code enforcement official; or
  - b. The youth decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the county department of health and human services or funded in part, either directly or indirectly through subcontracting, by the California Department of Health Services.
- (c) A plea of "no contest" or its equivalent by a tobacco retailer for a violation of any law designated in subsection (a) above shall operate as an admission that this article has been violated for the purposes of license revocation.

(Ord. No. 1795, § 1(Exh. A), 3-25-08)

**Sec. 18-419. Revocation of license.**

- (a) Revocation of license for violation.
  - (1) In addition to any other penalty authorized by law, a tobacco retailer's license shall be revoked if the hearing officer finds, after notice to the licensee and opportunity to be heard, that the licensee, including his or her agents or employees, has violated any of the requirements, conditions, or prohibitions of this article (hereinafter "license violation").
  - (2) No attorney may take part in the defense of a license revocation proceeding unless the attorney's participation meets an exception for attorneys appearing in small claims court under California Code of Civil Procedure § 116.530. This prohibition shall not apply if the county elects to be represented by an attorney in the proceeding and notice of the election is included in the notice given pursuant to subsection (a) above.
  - (3) For a first or second alleged license violation within any 60-month period, the county counsel may engage in settlement negotiations and may enter into a settlement agreement with a tobacco retailer alleged to have violated this article without approval from the county board of supervisors. Settlements shall not be confidential and shall contain the following minimum terms:
    - a. After an alleged first license violation at a location within any 60-month period:
      - 1. An agreement to stop acting as a tobacco retailer for at least one day;
      - 2. A settlement payment to the county of at least \$1,000.00; and
      - 3. An admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.
    - b. After an alleged second license violation at a location within any 60-month period:
      - 1. An agreement to stop acting as a tobacco retailer for at least ten days;
      - 2. A settlement payment to the county of at least \$5,000.00; and
      - 3. An admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

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- (b) New license after revocation for violation.
- (1) After a first license violation at a location within any 60-month period, no new license may be issued for the location until ten days have passed from the date of the last revocation or violation, whichever is later.
  - (2) After a second license violation at a location within any 60-month period, no new license may be issued for the location until 30 days have passed from the date of the last revocation or violation, whichever is later.
  - (3) After a third license violation at a location within any 60-month period, no new license may be issued for the location until 90 days have passed from the date of the last revocation or violation, whichever is later.
  - (4) After four or more license violations at a location within any 60-month period, no new license may be issued for the location until five years have passed from the date of the last revocation or violation, whichever is later.
- (c) A tobacco retailer's license that is not timely renewed pursuant to [section 18-416](#) shall expire at the end of its term. To reinstate a license that has expired due to the failure to timely pay the renewal fee, the proprietor must:
- (1) Submit the renewal fee plus a reinstatement fee of ten percent of the renewal fee.
  - (2) Submit a signed affidavit affirming that the proprietor has not sold any tobacco product or tobacco paraphernalia during any period that the license was expired.
- (d) A tobacco retailer's license shall be revoked if the department finds, after notice and opportunity to be heard, that one or more of the bases for denial of a license under subsection [18-414\(b\)](#) existed at the time application was made or at any time before the license was issued. The revocation shall be without prejudice to the filing of a new application for a license.

(Ord. No. 1795, § 1(Exh. A), 3-25-08)

**Sec. 18-420. Enforcement.**

The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity.

- (a) Whenever evidence of a violation of this article is obtained in part through the participation of a person under the age of 18 years, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this article and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.
- (b) Violations of this article are subject to a civil action brought by the county district attorney or county counsel, punishable by:
  1. A fine not less than \$250.00 and not exceeding \$1000.00 for a first violation in any 60-month period; or
  2. A fine not less than \$1500.00 and not exceeding \$2,500.00 for a second violation in any 60-month period; or
  3. A fine not less than \$3,000.00 and not exceeding \$10,000.00 for a third or subsequent violation in any 60-month period.
- (c) Violations of this article may, in the discretion of the district attorney or county counsel, be prosecuted as infractions or misdemeanors.

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- (d) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this article shall constitute a violation.
- (e) Violations of this article are hereby declared to be public nuisances. In addition to other remedies provided by this article or by other law, any violation of this article may be remedied by a civil action brought by the county counsel, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

(Ord. No. 1795, § 1(Exh. A), 3-25-08)

**Secs. 18-421—18-449. Reserved.**

ARTICLE XIII. SKILLED NURSING FACILITIES

**ARTICLE XIII. SKILLED NURSING FACILITIES** [\[i\]](#)

[Sec. 18-450. Purpose.](#)

[Sec. 18-451. Definitions.](#)

[Sec. 18-452. Reimbursement for costs of providing emergency services.](#)

[Sec. 18-453. Payment and collection.](#)

[Sec. 18-454. Nonexclusive remedy.](#)

[Secs. 18-455—18-459. Reserved.](#)

**Sec. 18-450. Purpose.**

The purpose of this article is to allow the city to recoup 100 percent of the expenses it incurs in responding to requests for emergency service made by the employees of skilled nursing facilities in nonemergency situations, in abrogation of the employees' duty to act reasonably under the circumstances in facilitating a request for emergency services, as set forth in Health and Safety Code § 1317. Nothing in this article shall be interpreted to allow the city to recoup its expenses in responding to legitimate requests for emergency services.

(Ord. No. 1801, § 1(Exh. A), 8-12-08)

**Sec. 18-451. Definitions.**

*Emergency medical condition* shall have the same meaning as is provided in the Health and Safety Code § 1317.1(b).

*Emergency services* means the appropriate and reasonable response provided by the city to a request for emergency assistance, regardless of whether an emergency exists in fact, including, but not limited to, police, firefighting, rescue, and emergency medical services.

*Employee* means employee, volunteer, officer or agent.

*Nonemergency situation* means a situation where a person exercising reasonable care would determine that an emergency medical condition does not exist.

*Skilled nursing facility* shall have the same meaning as in the Health and Safety Code § 1250.

(Ord. No. 1801, § 1(Exh. A), 8-12-08)

**Sec. 18-452. Reimbursement for costs of providing emergency services.**

- (a) The city may charge a skilled nursing facility for 100 percent of the expenses incurred by the city in responding to a request for emergency services made by an employee of the skilled nursing facility in a nonemergency situation. The head of the city department that first responds to the request for emergency services, or his or her designee, shall determine whether the request for emergency services was made in a nonemergency situation.
- (b) The charge authorized in subsection (a) constitutes a debt of a skilled nursing facility so charged, and the charge is collectible by the city in the same manner as in the case of an obligation under a contract, express or implied.

ARTICLE XIII. SKILLED NURSING FACILITIES

(Ord. No. 1801, § 1(Exh. A), 8-12-08)

**Sec. 18-453. Payment and collection.**

The city shall bill skilled nursing facilities for the city's emergency service costs for which the skilled nursing facility is liable pursuant to [section 18-452](#), within 30 days of the provision of the emergency services. Any skilled nursing facility receiving a bill for emergency services pursuant to this section, shall reimburse the city for its emergency service costs within 30 days of the bill being deposited in the United States Mail. If a skilled nursing facility fails to reimburse the city for the emergency services provided to it within 30 days of a bill being deposited in the United States Mail, the city may issue an administrative citation pursuant to [chapter 30](#), article II, division 4 of this Code.

(Ord. No. 1801, § 1(Exh. A), 8-12-08)

**Sec. 18-454. Nonexclusive remedy.**

The provisions of this article are in addition to all other legal and equitable remedies, administrative, criminal or civil, that may be pursued by the city to provide for recovery of its emergency service expenses incurred in response to a request for emergency services made by an employee of the skilled nursing [facility] in a nonemergency situation.

(Ord. No. 1801, § 1(Exh. A), 8-12-08)

**Secs. 18-455—18-459. Reserved.**

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FOOTNOTE(S):

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**Editor's note**— Section 1(Exh. A) of Ord. No. 1801, adopted Aug. 12, 2008, set out provisions designated as Art. XII, §§ 18-450—18-454. Inasmuch as article so numbered already exists, to avoid duplication and at the editor's discretion, these provisions have been redesignated as Art. XIII, §§ 18-450—18-454. ([Back](#))



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ARTICLE XIV. RESERVED

**ARTICLE XIV. RESERVED** <sup>(8)</sup>  
[Secs. 18-460—18-465. Reserved.](#)

**Secs. 18-460—18-465. Reserved.**

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FOOTNOTE(S):

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**Editor's note**— Ord. No. 1843, § 1, adopted Nov. 8, 2011, repealed Art. XIV, which pertained to lawful hiring compliance and derived from Ord. No. 1836, § 1, (Exh. A), 5-10-11. ([Back](#))