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Title 5

BUSINESS TAXES, LICENSES AND REGULATIONS

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Chapter 5.02

Outdoor Vendors

Sections:

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5.02.010 Outdoor Vendors.

A. *Outdoor vendor* shall mean any person, whether as owner, agent, consignee or employee, who sells or attempts to sell services, goods, wares or merchandise, including food or beverage, from any outdoor location, and who in furtherance of such purpose:

1. Sells or attempts to sell directly to passersby within any public right-of-way from public or private property; or
2. Hires, leases, uses or occupies any vehicle, pushcart, kiosk, table, box, container, tent, awning or other readily movable structure or display device.

The term *outdoor vendor* means an *itinerant or temporary* vendor. Such a vendor may be located within a building or structure and still be considered an *outdoor vendor* for purposes of this chapter if the nature of the vendor's business in the city is temporary or transient.

B. The following shall be excluded from the definition of *outdoor vendor* and shall be exempt from the provisions of this chapter:

1. Persons selling from outdoor locations upon private premises who also sell on a regular basis from indoor locations on such premises;
2. Persons selling from a public sidewalk immediately adjacent to private premises, who also sell on a regular basis from indoor locations on such premises;
3. Persons selling directly and exclusively to manufacturers, wholesalers or retailers, who also sell on a regular basis from indoor locations on such premises;
4. Persons soliciting money, property or financial assistance of any kind or selling or distributing any item of literature, merchandise or services for which a fee is charged or solicited from persons in the city for a charitable, religious, patriotic, nonprofit or philanthropic purpose;

5. Any person selling from property owned by the city and pursuant to a concession agreement with the city;

6. Yard sales, garage sales and lemonade stands in a residential area lasting no longer than four (4) consecutive days; and

7. A farmer's market at which local small producers gather on public or private property on an appointed date to market small quantities of locally produced goods. (Ord. 905-2001 §1)

5.02.020 License required.

A. It shall be unlawful for any outdoor vendor to engage in such business upon any private or public property within the city without first obtaining a license in compliance with the provisions of this chapter.

B. Outdoor vendors selling upon private property or at any bazaar, street fair, exhibition, show or other event involving two (2) or more outdoor vendors shall be required to obtain individual licenses under this chapter unless the owner of the property or the person or organization sponsoring any such event obtains a special event permit and agrees in writing to be responsible for monitoring the compliance of outdoor vendors with the provisions of this chapter and all other applicable ordinances, laws and regulations. (Ord. 905-2001 §1)

5.02.030 Application for license; fee.

A. An application for a license under this chapter shall be submitted to the finance director no less than five (5) working days prior to the first day of proposed operation. A nonrefundable fee of twenty dollars (\$20.00) for each month the license is to be in effect shall accompany the application.

B. Payment of the applicable fee and approval of the license shall entitle the licensee to operate at the proposed location for the length of time the license is issued. (Ord. 905-2001 §1)

5.02.040 Contents of the application.

The application shall contain the following information:

1. Name, address, and telephone number of the applicant and, if other than the applicant, the name, address and telephone number of the person managing or supervising the applicant's business during the proposed period of operation;

2. Type of operation to be conducted, including the particular type of service, goods, wares or merchandise to be sold;

3. A description of any vehicle, cart, kiosk, table, chair, stand, box, container or other structure or display device to be used in the operation by the applicant;

4. The proposed period of operation;

5. The proposed hours and days of operation;

6. The location for which the application is made, which shall not include more than one site;

7. Written consent of the property owner; and

8. A plan of the location for which the application is made which shows the location of existing and proposed structures, access, equipment, parking, and signs.

9. A copy of the vendor's Colorado State Sales Tax License or other evidence of compliance with state sales tax requirements. (Ord. 905-2001 §1)

5.02.050 Review and approval.

A. Applications shall be considered individually and in chronological order as established by the date of receipt of a properly completed application. However, no application will be accepted for review more than sixty (60) days prior to the proposed period of operation. Within five (5) working days of the filing of an application, the finance director shall review such application and make a determination as to whether the application contains the required information and, if so, whether the issuance of a license is compatible with the public interest. In making such a determination, the finance director shall consider the following factors and may consider any other factors he or she considers necessary to protect the health, safety and welfare of the public:

1. In consultation with the police chief and other city personnel, the degree of congestion of any public right-of-way which may result from the proposed use, design and location, including the probable impact of the proposed use on the safe flow of vehicular and pedestrian traffic. Factors considered shall include but not be limited to the width of streets and sidewalks, the volume of traffic, and the availability of off-street parking.

2. In consultation with the community development director, the finance director shall obtain a determination as to whether the proposed use conforms to the requirements of the zoning ordinance. If the proposed use is not in compliance with the zoning ordinance, the application shall not be approved.

B. The applicant must have obtained written consent of the property owner to conduct the proposed operation. Evidence of such acknowledgment or consent must be presented with the application or the application shall not be approved. (Ord. 905-2001 §1)

5.02.060 Bond required.

Upon approval of an application for a license but prior to the issuance of a license, the applicant shall file with the finance director a bond issued by a surety authorized to do business in the state or other equivalent security approved by the finance director payable to the city in the sum of three hundred dollars (\$300.00), conditioned upon the applicant's compliance with the provisions of the code, including but not limited to any ordinances pertaining to the collection and remittance of retail sales tax. (Ord. 905-2001 §1)

5.02.070 Requirements for issuance.

A. Each license shall be valid for not more than one (1) location, a description of which shall appear on the face of the license.

B. Each license shall be exhibited at the location of the operation prior to the transaction of any business.

C. In addition to the licensee's name, address and telephone number, the license shall contain the following:

1. The type of operation;
2. The period of time for which the license was issued;
3. The hours and days of operation;
4. The designated location;
5. A brief description of any vehicle or other structure or display device to be utilized by the licensee;
6. Any special terms and conditions of issuance;
7. A statement the license is personal and is not transferable in any manner;
8. A statement that the license is valid only when used at the location designated on the license;
and
9. A statement that the license is subject to the provisions of this chapter. (Ord. 905-2001 §1)

5.02.080 Restrictions and operation.

A. No licensee may use, for the purpose of on-site storage, display or sale, any vehicle or other structure or display device not described on the face of the license.

B. Except as otherwise specifically provided by law, no such vehicle, structure or device shall be located:

1. Within any portion of a street, alley, roadway or highway designed or ordinarily used for vehicular traffic, except for the purpose of transporting the licensee's goods, wares or merchandise to, from or within the designated location;
2. Upon a public sidewalk within the extended boundaries of a crosswalk; or
3. In any location so as to impede or interfere with or visually obstruct the safe movement of vehicular and pedestrian traffic.

C. The licensee shall pick up and dispose of any paper, cardboard, wood or plastic container, wrappers or any litter that is deposited within twenty-five (25) feet of the designated location. The licensee shall carry a suitable container for the placement of such litter by customers or other persons.

D. Each licensee shall maintain in safe condition any vehicle, structure or device as described in subsection A above, so as not to create an unreasonable risk of harm to the person or property of others.

E. The licensee shall comply with all the provisions of all applicable ordinances of the city as well as the requirements of all state and federal laws. (Ord. 905-2001 §1)

5.02.090 Renewal.

Renewal of a license shall be treated as a new application under the provisions of this ordinance. Any violations by the licensee of the provisions of this chapter shall be an additional factor to be considered in the review and approval procedure. (Ord. 905-2001 §1)

5.02.100 Transfer of license or location.

If the licensee requests the transfer of a license to a new licensee or to a new location, such request shall be treated as a new application. (Ord. 905-2001 §1)

5.02.110 Suspension and revocation.

A. If the operation of the licensee at any designated location becomes unsafe due to construction activity or other temporary condition, the license to operate at such location shall be temporarily suspended by the finance director upon written notice to the licensee, and shall not be reinstated until such time, if at all, as the operation may be safely resumed in the judgment of the city engineer. Any such suspension shall not extend the term of the license.

B. Licenses issued pursuant to the provisions of the division may be summarily suspended by the finance director, chief of police or a designee of the chief of police for a period of fifteen (15) days for any of the following causes, and the license may be revoked or suspended by the city council after notice and hearing for any of the following causes:

1. Fraud, misrepresentation or false statement contained in the application for a license;
2. Fraud, misrepresentation or false statement made in the course of conducting business for which the license is issued;
3. Any violation of a city ordinance or state statute;
4. Conduct of the business in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public. (Ord. 905-2001 §1)

5.02.120 Violation; penalty.

In addition to the cancellation of any license issued hereunder, any person who violates the provisions of this chapter may be punished by a fine or imprisonment or both, in accordance with Section 1.08.010. (Ord. 905-2001 §1)

5.02.130 Administration.

The finance director shall administer the provisions of this chapter and is authorized to promulgate reasonable rules and regulations for its administration and implementation. (Ord. 905-2001 §1)

Chapter 5.04

Auctioneers and Public Auctions

Sections:

- 5.04.010 License; required
- 5.04.020 Exceptions to chapter applicability
- 5.04.030 License; application; information required
- 5.04.040 License; terms; fees
- 5.04.050 License; expiration
- 5.04.060 License; restricted to one person

- 5.04.070 License; revocation conditions
- 5.04.080 Violation; Penalty

5.04.010 License; required.

No person shall sell any property at public auction within the city without a license therefore first had and obtained according to the provisions of this chapter. (Ord. 526 §1, 1979)

5.04.020 Exceptions to chapter applicability.

No provision of this chapter shall be considered as applicable to sales made at public auction under or by virtue of any legal proceeding or process through or from a court of law, to sales under any mortgage or deed of trust, to any tax sales, or to sales under any ordinance of the city by any municipal officer. (Ord. 526 §6, 1979)

5.04.030 License; application; information required.

Every person requesting an auctioneer's license under the provisions of Section 5.04.040 of this chapter shall make application in writing therefor to the city clerk and pay the license fee prescribed in Section 5.04.040. The application shall state the name and address of the applicant; whether he or she transacts the business of an auctioneer as a principal or an agent, and if as an agent, the name, residence and place of business of his or her principal; the kind of classes of goods, wares and merchandise that is proposed to be sold within the city; that he or she has obtained a Colorado Sales Tax License; and that he or she will conduct said auction in a B-1, C-1, D-1 or D-2 zone as described in Title 17 of this code. No license shall be issued to any person failing to comply with the terms of the application as herein described. (Ord. 526 §2, 1979)

5.04.040 License; terms; fees.

A. License fee.

1. For a license, limited in character, to maintain an auction room, place, house or stable as a regular business within the city, and to sell at auction there, there shall be paid to the city clerk for the use of the city the sum of twenty-five dollars (\$25.00) per year in advance.

2. The license authorized by this section shall also permit the holder thereof to sell at auction furniture and household effects at private residences at the instance of the owner.

B. For a general license to sell at auction, other than maintaining an auction room, place, house or stable, for one (1) year or any portion thereof, there shall be paid to the city clerk for the use of the city the sum of three hundred dollars (\$300.00). (Ord. 526 §3, 1979)

5.04.050 License; expiration date.

Each license issued pursuant to this chapter shall expire at 12:00 midnight on December 31st of the year for which the license is issued, notwithstanding any provision to the contrary contained in this chapter. (Ord. 526 §4, 1979)

5.04.060 License; restricted to one person.

No more than one (1) individual shall engage in business or operate under the same auctioneer's license, whether as principal or agent, or as assistant to any principal or any agent. (Ord 526 §5, 1979)

5.04.070 License; revocation conditions.

Any person possessing a license issued under the provisions of this chapter who is convicted of violating Section 18-4-404, C.R.S., shall have said license revoked upon a majority vote of the city council. Any fee paid to the city shall be forfeited to the city in case of revocation. (Ord. 526 §7, 1979)

5.04.080 Violation; penalty.

Any person violating any of the provisions of this chapter shall, upon conviction, be fined in a sum of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00), or shall be imprisoned for a term not exceeding ninety (90) days, or both. (Ord. 526 §8, 1979)

Chapter 5.08

Dry-Cleaning Establishments

Sections:

- 5.08.010 Compliance
- 5.08.020 Storage requirements
- 5.08.030 Building safety requirements
- 5.08.040 Specific safety requirements
- 5.08.050 Violation; penalty

5.08.010 Compliance.

It is unlawful for any person, association of persons or corporation to use gasoline or other explosive fluids within the city for what is known as dry-cleaning establishments unless the regulations and prescriptions in this chapter are carefully followed. (Ord. 199 §1, 1941)

5.08.020 Storage requirements.

It is unlawful for any dry-cleaning establishment to keep in stock or store gasoline or other explosive fluids in the city unless such dry-cleaning establishment stores such gasoline or other explosive fluids in the methods prescribed in the ordinances of the city now in force or which may hereafter be enacted. (Ord. 199 §2, 1941)

5.08.030 Building safety requirements.

It is unlawful for any dry-cleaning establishment to conduct the business of dry cleaning in the city unless the building in which such cleaning is done be constructed exclusively with brick or stone walls or other noncombustible material, the floor of such dry-cleaning establishment to be fireproof and without any space beneath such floor in which gasoline vapor may accumulate; and provided further that there shall be adequate ventilation of the building in which such dry-cleaning is conducted. All buildings in which are conducted dry-cleaning establishments shall bear a placard in a prominent position on which shall be printed in large letters "Danger, Explosives." (Ord. 199 §3, 1941)

5.08.040 Specific safety requirements.

All cleaning shall be done in entirely closed vessels, all machines used for dry cleaning shall be properly wired and grounded to arrest static electricity, and adequate fire extinguishers shall be properly placed and installed to provide the necessary safety to prevent fires and explosions. (Ord. 199 §4, 1941)

5.08.050 Violation; penalty.

Any person, association of persons, firm or corporation, and officers of such association or corporation, failing, neglecting or refusing to comply with or violating or permitting a violation of any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for each offense; and each day of failure to comply with any of the provisions of this chapter shall be deemed a separate offense. (Ord. 199 §5, 1941)

Chapter 5.10

Alcohol Beverages

Sections:

- 5.10.010 Definitions
- 5.10.020 City clerk duties
- 5.10.030 Licensing authority duties
- 5.10.040 Hearings
- 5.10.050 Hearings on new license/change of location applications
- 5.10.060 Show cause hearings
- 5.10.070 Aggravating/mitigating factors for show cause hearings

5.10.010 Definitions.

As used in this chapter, the following words and phrases shall have the following meanings, unless the context indicates otherwise:

A. *Applicant* means any person, partnership, corporation or other legal entity or affiliation who is applying for or has applied for a license or permit to sell malt, special malt, vinous or spirituous liquors or fermented malt beverages, but is not yet licensed as a licensee.

B. *Employee* means any employee of a licensee involved in the sale, dispensing or serving of malt, special malt, vinous or spirituous liquors or fermented malt beverages.

C. *Good cause*, for the purpose of refusing, denying, suspending or revoking a license, means:

1. The licensee or applicant has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this chapter or any rules and regulations promulgated pursuant to this chapter or Title 12, Article 47, C.R.S.;

2. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license in prior disciplinary hearings or arose in the context of potential disciplinary proceedings;

3. In the case of a new license, the applicant has not established the reasonable requirements of the neighborhood or the desires of its adult inhabitants as provided in Section 5.10.050; or

4. Evidence that the licensed premises have been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the establishment is located, which evidence may include, but not be limited to, a continuing pattern of fights, violent activity or disorderly conduct.

D. *License* means an official grant of permission to sell fermented malt beverages, malt, special malt, vinous or spirituous liquors as evidenced by a city-issued form, license, permit, insignia or tag.

E. *Licensed premises* means the premises specified in an approved application for a license under this chapter which are owned or in the possession of the licensee within which such licensee is authorized to sell fermented malt beverages, malt, special malt, vinous or spirituous liquors at retail. It includes all lands, structures, equipment and appurtenances connected to or used in the licensed premises and also any personal property which is either affixed to or is otherwise used in connection with business conducted on the premises.

F. *Local licensing authority or authority* means the city council of the city of Craig.

G. *Party-in-interest* means:

1. The applicant;
2. An adult resident of the neighborhood under consideration;
3. The owner or manager of a business located within the neighborhood under consideration;
4. The principal or representative of any school located within five hundred (500) feet of the premises under consideration;
5. Any representative of a bona fide organized neighborhood group which encompasses part or all of the neighborhood under consideration; or
6. Any member of the city staff, including but not limited to the city manager, the city attorney or the chief of police or representative thereof. (Ord. 928 §1, 2003)

5.10.020 City clerk duties.

The city clerk shall:

A. Issue all licenses granted by the liquor licensing authority upon receipt of such fees as are required by law.

B. Serve as the secretary of the liquor licensing authority.

C. Process all license renewal applications, including late renewal applications, on behalf of the liquor licensing authority upon receipt of a completed application and such license fees as are required by law.

D. Process all applications for temporary, special event and other permits on behalf of the liquor licensing authority.

E. Process all change in corporate structure, trade name change and corporate name change report forms on behalf of the liquor licensing authority upon receipt of a completed form and such license fees as are required by law. (Ord. 928 §1, 2003)

5.10.030 Licensing authority duties.

The local licensing authority shall:

A. Have the duty and authority to grant or refuse licenses for the possession, sale and offering for sale of malt, special malt, vinous or spirituous liquors and fermented malt beverages as provided by law, to conduct investigations as are required by law and to levy penalties against licensees in the manner provided by law;

B. Have all the powers of the local licensing authority as set forth in Title 12, Articles 46, 47 and 48, C.R.S.;

C. Have the authority to promulgate rules and regulations concerning the procedures for hearings before it and the presentation of evidence at hearings;

D. Have the power to require any applicant for a license to furnish any relevant information required by the authority. (Ord. 928 §1, 2003)

5.10.040 Hearings.

A. All hearings before the authority shall be public and shall be conducted according to the rules and regulations promulgated by the authority.

B. Except for an application for renewal or for the transfer of ownership, the authority shall post and publish notice not less than ten (10) days prior to hearings to be held on new license applications or change of location applications for the sale of malt, special malt, vinous or spirituous liquors and fermented malt beverages. (Ord. 928 §1, 2003)

5.10.050 Hearings on new license/change of location applications.

A. Applicants and all other parties-in-interest may appear in person or be represented by counsel. At any hearing held by the Authority for purposes of establishing the needs, desires and requirements of the neighborhood, only a party-in-interest and agents responsible for petition circulation shall be allowed to present evidence or testify.

B. The Authority may limit the presentation of evidence tending to be repetitious or immaterial.

C. As applicable, the applicant may introduce evidence with regard to the following:

1. Information regarding the applicant's character, reputation and other matters relating to the personal qualifications of the applicant or any other person whose personal qualifications are relevant pursuant to law.

2. The applicant's relevant financial and management associations and the relevant interests of other persons in the business.

3. The type of building in which the business is to be conducted and the facilities which will be used by the applicant, including a floor plan of the proposed premises.

4. The neighborhood affected by the application. There is a rebuttable presumption that the relevant neighborhood most likely to be affected by the applicant's proposed establishment is that area surrounding such establishment by six hundred (600) feet.

5. The reasonable requirements of the neighborhood and the desires of its inhabitants for the type of license for which application is made.

a. Petitions favoring or opposing the license applied for may be presented at the hearing. Petitions may be circulated within the neighborhood affected by the application. Every person signing the petition shall sign only his or her own name, address and age or otherwise indicate that such person is at least of legal age to purchase or consume the malt, special malt, vinous or spirituous liquors or fermented malt beverages which are the subject of the license applied for.

b. Each petition shall contain a verified statement signed by the circulator of the petition indicating that the circulator personally witnessed each signature appearing on the petition.

6. The proposed establishment meets the zoning and planning requirements of the city.

7. Any other pertinent matters affecting the qualifications of the applicant and the location of the proposed premises.

D. Any party-in-interest may introduce evidence with regard to any pertinent matter affecting the application.

E. The authority may make such independent investigation as it deems necessary or advisable in connection with any application for a license. (Ord. 928 §1, 2003)

5.10.060 Show cause hearings.

A. When matters are brought to the attention of the Authority which, if substantiated, constitute a violation of this chapter or of Title 12, Articles 46, 47 or 48, C.R.S., or the rules and regulations relating thereto, the Authority shall promptly notify the licensee, in writing, by mail or personal delivery, of the date and time established for a show cause hearing, at which time the licensee will be required to show cause why a penalty should not be levied if a violation is found.

B. Such notice shall contain a brief description of the grounds for conducting the hearing. The hearing shall be held as soon as reasonably possible after notice has been mailed or delivered to the licensee.

C. At the hearing, the city shall present matters into evidence, and the licensee shall have an opportunity to present evidence on the licensee's behalf and to comment upon the evidence. The Authority shall furnish the licensee its decision in writing within seven (7) days following the hearing. In the event of suspension or revocation of the license, no portion of the annual license fee paid shall be refunded.

D. Upon a finding of violation of any allegation after the show cause hearing, the authority shall determine appropriate penalty or sanctions within the range of possible penalties set forth in the state law as amended. (Ord. 928 §1, 2003)

5.10.070 Aggravating/mitigating factors for show cause hearings.

In all cases where a violation of the applicable state or local laws is found at a show cause hearing, the authority shall consider evidence and statements in mitigation and in aggravation of the violation prior to determining the appropriate penalty. Such evidence and statements may relate to and include, but not be limited to, the following factors:

- A. Seriousness of the violation;
- B. Corrective action taken by the licensee after the violation;
- C. Prior violations at the licensed premises by the licensee's employees and the effectiveness of prior corrective action;
- D. Whether the violation is part of a repeated course of conduct or is an isolated occurrence;
- E. Likelihood of recurrence;
- F. Length of time the license has been held by the licensee;
- G. Previous sanctions imposed against the licensee; and
- H. Other factors making the situation with respect to the licensee or the licensed premises unique. (Ord. 928 §1, 2003)

Chapter 5.12

Liquor License Application Fee

Sections:

- 5.12.010 New application fee
- 5.12.020 Other local fees designated

5.12.010 New application fee.

From and after the effective date of the ordinance codified in this chapter, all applications for a liquor license within the corporate limits of the city shall be accompanied by an application fee of five hundred dollars (\$500.00) as the fee for the actual and necessary expenses determined by the city to be required for the processing of such application, pursuant to Sections 12-47-137 through 12-47-141, C.R.S. (Ord. 861 §1, 1997; Ord. 343 §1, 1964)

5.12.020 Other local fees designated.

The following license fees shall be paid to the city annually in advance:

- | | |
|---------------------------------|----------|
| A. Hotel and restaurant | \$ 75.00 |
| B. Tavern | 75.00 |
| C. Racetrack | 75.00 |
| D. Optional premises | 75.00 |
| E. New manager registration fee | 75.00 |

F. Arts	41.25
G. Club	41.25
H. Special events permit (liquor)	25.00
I. Special events permit (3.2%)	10.00
J. Drugstore	22.50
K. Liquor store	22.50
L. Beer and wine	48.75
M. 3.2% beer	3.75
N. Transfer of ownership	500.00
O. Concurrent review	500.00
P. Change of location	500.00
Q. Corp/LLCO change (per person)*	100.00
R. Annual renewal application fee	50.00
S. Late renewal application fee	500.00
T. Temporary permits	100.00
U. Bed & breakfast permits	25.00
V. Mini bar permit	325.00

* May be charged for background investigation by local or state, not both.

(Ord. 861 §1, 1997)

Chapter 5.14

Liquor License Suspension or Fine in Lieu of Suspension

Sections:

5.14.010 Fine in lieu of suspension

5.14.010 Fine in lieu of suspension.

A. Whenever a decision of the city council suspending a retail liquor license for fourteen (14) days or less becomes final, whether by failure of the retail licensee to appeal the decision or by exhaustion of all appeals and judicial review, the retail licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having his or her retail license suspended for all or part of the suspension period. Upon the receipt of the petition, the city council may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

1. That the public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;
2. That the books and records of the retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and
3. That the retail licensee has not had his or her license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two (2) years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

B. The fine accepted shall be the equivalent to twenty percent (20%) of the retail licensee's estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension; except that the fine shall be not less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00).

C. Payment of any fine pursuant to the provisions of this subsection C shall be in the form of cash or in the form of a certified check or cashier's check made payable to the city. Such moneys shall be paid into the general fund of the city.

D. Upon payment of the fine pursuant to subsection C of this section, the city council shall enter its further order permanently staying the imposition of the suspension.

E. In connection with any petition for payment of a fine in lieu of suspension, the city council may grant such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

F. If the city council does not make the findings required in subsection A of this section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the city council. (Ord. 708 §4, 1988).

Chapter 5.16

Shows and Exhibitions

Sections:

- 5.16.010 Proprietor or business manager; license required; fee
- 5.16.030 License; issuance
- 5.16.040 Violation; penalty

5.16.010 Proprietor or business manager; license required; fee.

The proprietor or business manager of every traveling theatrical or other show, circus or fortuneteller, merry-go-round or any other show, circus or fortuneteller, merry-go-round or any riding device giving any exhibition within the city shall first procure a license therefor. The fee for such license shall be five dollars (\$5.00) per day, fifty dollars (\$50.00) per quarter of three (3) months, or one hundred dollars (\$100.00) per year. (Ord. 137 Art. 2 §2, 1925)

5.16.020 Keeper of stand; license required.

The keeper of any stand shall, before operating the same within the city, secure a license from the city, the fee for which shall be five dollars (\$5.00) per day, fifty dollars (\$50.00) per quarter of three (3) months, or one hundred dollars (\$100.00) per year. (Ord. 137 Art. 2 §3, 1925)

5.16.030 License; issuance.

The license required to be obtained in this chapter shall be issued by the city clerk upon the payment of the license fee required in this chapter. (Ord. 137 Art. 2 §5, 1925)

5.16.040 Violation; penalty.

The failure to procure the license required in Sections 5.16.010 and 5.16.020 before the conducting or operation of the business shall be deemed a misdemeanor; and any person, firm, company, association or corporation found guilty of a violation of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than five dollars (\$5.00) nor more than three hundred dollars (\$300.00) and costs of suit. (Ord. 137 Art. 2 §6, 1925)

Chapter 5.20

Merchant Patrol

Sections:

- 5.20.010 Definitions
- 5.20.020 License required
- 5.20.030 License application
- 5.20.040 Application fee; renewal
- 5.20.050 License fees
- 5.20.060 Investigation
- 5.20.070 Insurance
- 5.20.080 License; issuance restrictions
- 5.20.090 Uniforms and identification
- 5.20.100 Firearms
- 5.20.110 Change in personnel and vehicles
- 5.20.120 Unlawful acts
- 5.20.130 Revocation of license

5.20.010 Definitions.

When used in this chapter, the following words and phrases, unless the context indicates a different meaning, shall be interpreted as follows:

A. *Merchant patrol* means the business or occupation of providing uniformed or armed protection of persons or property of others for a valuable consideration (except a business or industrial guard).

B. *Business or industrial guard* means an individual who, while uniformed or armed, accepts employment from a single employer for the purpose of protecting persons or property of his or her employer only; or to preserve the peace in the conduct of that employer's business, except any individual so employed by any common carrier engaged in interstate commerce, but shall exclude maintenance men and installers, janitors, repairmen or persons engaged in similar occupations and officers of the Craig police department, Moffat County sheriff's department or Colorado state patrol engaged in off-duty employment.

C. *Agents and employees* means all persons employed by a merchant guard or merchant patrol in the conduct of his or her business, except clerical employees whose duties are confined entirely to clerical duties in the business office of the merchant patrol or merchant guard or other employees not directly engaged in providing protection and preserving the peace.

D. *Chief of police* refers to and means the chief of police of the city of Craig or the duly authorized representative of the chief of police. (Ord. 598 §1, 1982)

5.20.020 License required.

A. It is unlawful for any person to engage in or conduct a merchant guard or merchant patrol business or to act as a business or industrial guard without first having obtained a license as provided in this chapter.

B. It is unlawful for any merchant guard or merchant patrol to employ any agent or employee unless the person to be employed has obtained a license as hereinafter provided.

C. It is unlawful for any person to accept employment as an agent or employee of a merchant guard or merchant patrol without obtaining a license as hereinafter provided. (Ord. 598 §2, 1982)

5.20.030 License application.

Applicants for a license as a merchant guard or merchant patrol, business or industrial guard or agent or employee of a merchant guard or merchant patrol shall file an application with the chief of police on forms to be provided by him or her for that purpose and shall contain the following:

A. If an applicant for a license as a merchant guard or merchant patrol: A description of the nature and type of business to be conducted, the services to be offered and the area expected to be covered in the conduct of business; a statement as to the number of persons to be employed as agents or employees; a statement as to the number and type of vehicles to be used in the conduct of the business and a description thereof; a description of equipment, but not including equipment used in the maintenance of the office, other than vehicles to be used in the conduct of the business; and any other pertinent facts required by the chief of police;

B. If an applicant for a license as an agent or an employee of a merchant guard or merchant patrol or as a business or industrial guard: The name of the person by whom the applicant is to be employed; the address where the applicant is to be employed; the nature of the services to be rendered; the purpose of the employment; and any other pertinent facts required by the chief of police. In addition, the chief of police shall require evidence that the applicant will be employed by a merchant guard or merchant patrol;

C. A statement as to whether or not the applicant has ever had a judgment or conviction for fraud, deceit or misrepresentation entered against him or her and, if so, the details thereof;

D. A statement as to whether or not the applicant has ever been convicted of any felony, misdemeanor or ordinance violations, the nature of the offense, the penalty or punishment imposed and the date and place where such offense occurred;

E. A statement as to the business or employment records of the applicant for the five (5) years immediately preceding the date of application;

F. Two (2) letters certifying to the good character and business responsibility of the applicant; and

G. A certificate of a licensed physician certifying that the applicant has been examined by him or her within sixty (60) days preceding the application date and was found to be free from any defects which would affect his or her ability to satisfactorily perform the duties required in connection with his or her proposed business activities under this chapter. (Ord. 598 §3, 1982)

5.20.040 Application fee; renewal.

A. All applications for a license shall be accompanied by an application fee of ten dollars (\$10.00). Such fee is not refundable if the license should be denied.

B. No application fees shall be required on an application for renewal of an existing license. An application for renewal shall comply with the provisions of Section 5.20.030 C, D and G. (Ord. 598 §4, 1982)

5.20.050 License fees.

A. The annual license fee for persons engaged in the merchant guard or merchant patrol business, business or industrial guards, and agents and employees of merchant guards or merchant patrols shall be set as follows:

<u>License Type</u>	<u>License Fee (per year)</u>
Business or industrial guards and agents and employees of merchant guards or merchant patrol	\$ 10.00
Merchant guards and merchant patrols employing:	
Fewer than six	25.00
Six to nine	50.00
Ten to nineteen	75.00
Twenty or more	100.00

B. In addition to the annual license provided hereinbefore, the chief of police may issue a temporary license for a period not to exceed thirty (30) days to any business or industrial guards, agents or employees or merchant guards or merchant patrols upon the submission of a satisfactory application, as provided in Section 5.20.030 and subsections thereof. (Ord. 598 §5, 1982)

5.20.060 Investigation.

A. Upon receipt, each application shall be referred to the chief of police, who shall immediately institute such investigation of the applicant's business and moral character as he or she deems necessary for the protection of the public and shall endorse the application within fifteen (15) business days after the date of receipt.

B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application his or her disapproval and his or her reasons for the same, and return said application to the city clerk or his or her authorized representative, who shall notify the applicant that his or her applicant is disapproved and that no license shall be issued.

C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse the application with his or her approval and return it to the city clerk, who shall issue said license.

D. All applicants for licenses, at the time of submission of the application, shall be fingerprinted and photographed by the police department. (Ord. 598 §6, 1982)

5.20.070 Insurance.

A. No license shall be issued until the applicant, either business or individual, has secured such insurance as will protect itself and the city from claims of bodily injury, death or property damage which may derive from carrying on a merchant patrol business. The following insurance coverage shall be required in the name of the licensee with the city as a named insured:

Public liability and property damage

Bodily injury

Each person, \$100,000.00

Each accident, \$300,000.00

Property damage

Each accident, \$50,000.00

Aggregate, \$100,000.00

Each such policy of insurance shall contain an endorsement to the effect that the insurance carrier shall notify the city clerk and chief of police at least thirty (30) days in advance of the effective date of any reduction or cancellation of the policy. The cancellation or reduction of insurance shall be a cause for automatic suspension of the license until the coverage shall be reinstated. All policies shall be kept in force for the period of the license.

B. The licensee shall be responsible for any and all damage to property or injury to persons arising out of the exercise of the license, and the licensee shall indemnify and save harmless the city and all of its officers, agents and employees from all suits, actions or claims of injuries received or sustained by any person or persons or property on account of the exercise of the license or of any act or omission of the licensee thereunder, his or her agents or employees, or on account of the failure of the licensee to observe this division and further to faithfully perform and honestly conduct all surveillance undertaken by a merchant patrol business and each individual merchant patrol employed thereunder. (Ord. 598 §7, 1982)

5.20.080 License; issuance restrictions.

No license shall be issued to any of the following persons:

A. Any person under eighteen (18) years of age or one who is not a citizen of the United States of America;

B. Any person whose character and reputation and record of sobriety is not satisfactory to the chief of police;

C. Any person convicted of a felony, misdemeanor or violation of a municipal ordinance pertaining to moral turpitude within five (5) years immediately preceding the date of application;

D. Any person who has a record of drug addiction or a record of violent acts against persons or property;

E. Any person who is unable to prove that he or she will be employed as a business or industrial guard or an agent or employee of a merchant guard or merchant patrol upon the issuance of the license;

F. Any person whose physical and mental conditions are such so as not to warrant confidence that the service to be rendered will not jeopardize the health, safety or welfare of any persons; or

G. Any person or business who is unable to comply with the insurance provisions in Section 5.20.070. (Ord. 598 §8, 1982)

5.20.090 Uniforms and identification.

A. Business or industrial guards and agents or employees of merchant guards or merchant patrols shall wear a uniform or other mode of dress which, when worn, readily identifies the person as a business/industrial guard, agent/employee of a merchant guard or merchant patrol. The uniform will be of a different color than worn by officers of the Craig police department, the Moffat County sheriff's office and the Colorado state patrol. Said uniforms shall be presented to the chief of police for his or her approval prior to issuance to agents or employees of merchant guards or merchant patrols or business or industrial guards. Once approved, there shall be no change thereafter except by mutual agreement between the chief of police and the licensee.

B. Identification Cards. Each industrial or business guard, agent or employee of a merchant guard or merchant patrol shall have in his or her possession, during the time he or she is performing his or her duties, an identification card approximately two and one-half (2½) by four (4) inches, which shall include the following:

1. The type of license and the expiration date thereof;
2. The name, address, physical description and picture of the licensee;
3. The name of the employer if the licensee is a business or industrial guard or the agent and employee of a merchant guard or merchant patrol;
4. The signature of the licensee;
5. A statement as to whether or not the licensee is authorized to carry a firearm;
6. Such other information as the chief of police may require.

C. The chief of police shall have approval of any uniform type badge or insignia provided to agents or employees by the merchant guard or merchant patrol or to a business or industrial guard. Such badge or insignia shall not be a colorable imitation of or shall not be confused with those worn by officers of the Craig police department, Moffat County sheriff's department or Colorado state patrol.

D. The vehicles used in the conduct of the merchant guard or merchant patrol business within the city by any licensee shall be of a different color than those used by the Craig police department. In addition, said vehicles shall not be equipped with any lights or sirens in violation of the Model Traffic Code of the city or the Motor Vehicle Department of the state, nor shall any insignias be painted or affixed to the sides thereof which are similar to or could be confused with that painted on the sides of the vehicles of such department.

E. The words *police* or *officer* shall not be used in any advertising or upon the premises within the limits of the city occupied by the merchant guard or merchant patrol nor any of its vehicles or equipment. (Ord. 598 §9, 1982)

5.20.100 Firearms.

Licensees shall have the right to carry firearms only when specifically authorized by the chief of police, who will grant such authority only when, in his or her opinion, the duties to be performed and the services to be rendered by the licensee require that a firearm be carried for the protection of the licensee and only when the licensee demonstrates that he or she is proficient in the care, maintenance and use of firearms.

A. The licensee must show proof of his or her proficiency in the care, maintenance and use of firearms by providing the chief of police with a signed affidavit stating that the licensee does possess such proficiency. Only a qualified firearms expert approved by the chief of police will be allowed to sign for the licensee.

B. The authority to carry firearms will be valid only when the licensee is performing the required duties of his or her employment within the city. This authority shall not constitute a permit to carry a concealed weapon.

C. All licensees who are authorized to carry a firearm shall submit the make, model, caliber and type of weapon, and the serial number of the weapon carried to the chief of police. (Ord. 598 §10, 1982)

5.20.110 Change in personnel and vehicles.

A. Whenever a business or industrial guard or an agent or employee of a merchant guard or merchant patrol is discharged for any reason, his or her employer shall immediately notify the chief of police of such fact, together with the reasons for dismissal.

B. When a business or industrial guard or agent or employee of a merchant guard or merchant patrol is dismissed, he or she shall forthwith surrender his or her identification card and any badge issued to him or her.

C. Whenever a new vehicle is acquired by a licensee for use in the conduct of his or her business, the type and description of said vehicle shall be immediately reported to the chief of police. (Ord. 598 §11, 1982)

5.20.120 Unlawful acts.

It shall be unlawful for any licensee:

A. To arrest any person except when that person commits a criminal offense in the presence of the licensee, while the licensee is in the performance of his or her required duties;

B. To fail to turn over to any such person arrested immediately to the Craig police department;

C. To draw or fire a firearm in the performance of his or her duties except when necessary to protect himself, herself or others from great bodily harm;

D. To hinder or interfere with any investigation under the jurisdiction of the Craig police department or other federal, state or local agencies;

E. To fail to report immediately to the Craig police department all violations of city, state or federal laws which constitute felonies or a breach of the peace;

- F. To wear a uniform, badge or insignia other than authorized by the chief of police;
- G. To represent himself or herself to be an officer of the Craig police department;
- H. To carry any firearm not registered as provided in Section 5.20.100 C; or
- I. To fail to conduct himself or herself in a lawful and orderly manner at all times. (Ord. 598 §12, 1982)

5.20.130 Revocation of license.

The chief of police shall have the power to suspend or revoke any license granted under this chapter for the violation of any federal or state statute, city ordinance or any of the provisions of this chapter, or for any act committed by a licensee which is detrimental to the health, welfare and safety of the public. The licensee shall have a right to appeal the suspension or revocation to the city council by giving notice within fourteen (14) days of such suspension or revocation to the city clerk. The city shall conduct a hearing on such appeal within fourteen days of the date of receipt of the notice of such appeal. (Ord. 598 §13, 1982)

Chapter 5.50

Adult Businesses

Sections:

Article I. In General

- 5.50.010 Findings of fact
- 5.50.020 Legislative intent
- 5.50.030 Definitions

Article II. Licenses

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- 5.50.110 License required; fee
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- 5.50.140 Investigation
- 5.50.150 Approval of license
- 5.50.160 Term of the license
- 5.50.170 License renewal
- 5.50.180 Suspension or revocation of license
- 5.50.190 Display; transferability; change of ownership; change of corporate structure
- 5.50.200 Establishment manager; change of manager
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- 5.50.310 Standards of conduct
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- 5.50.340 Right of entry
- 5.50.350 Exemptions generally
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Article I. In General

5.50.010 Findings of fact.

The city council hereby finds:

A. There are a substantial number of adult businesses in cities and towns in Colorado that require regulation in order to protect and preserve the health, safety and welfare of the patrons of such businesses as well as the citizenry.

B. Regulation of adult businesses furthers substantial governmental interests and is necessary because in the absence of such regulation, significant criminal activity has historically and regularly occurred. This history of criminal activity has included prostitution, narcotics and liquor law violations, violent crimes against persons and property crimes.

C. Adult businesses are frequently used for unlawful and unhealthful sexual activities, including prostitution and sexual liaisons of a casual nature.

D. The concern over sexually transmitted diseases, including AIDS, is a legitimate health concern of the city which demands reasonable regulation of adult businesses in order to protect the health and well-being of the citizens.

E. Adult businesses have a deleterious effect on both neighboring businesses and surrounding residential areas causing an increase in crime and a decrease in property values.

F. It is recognized that adult businesses have serious objectionable characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area.

G. The city council desires to minimize and control these adverse effects and thereby protect the health, safety and welfare of the citizens; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; deter the spread of urban blight and protect the citizens from increased crime.

H. It is necessary to have a manager on the premises of adult businesses at all times as such establishments are offering adult entertainment so that there will be an individual responsible for the overall operation of the establishment, including the actions of patrons, entertainers and other employees.

I. The license fees required hereinafter are necessary as nominal fees designed to help defray the substantial expenses incurred by the city in regulating adult businesses.

J. Restricted hours of operation will further prevent the adverse secondary effects of adult businesses.

K. Locational criteria alone do not adequately protect the health, safety and general welfare of the citizens and thus certain requirements with respect to the licensing and operation of adult businesses are in the public interest. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.020 Legislative intent.

It is the intent and purpose of this chapter to regulate the time, place and manner in which adult entertainment is presented in adult businesses; to promote the health, safety and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult businesses within the city. It is not the purpose of this chapter to prohibit adult entertainment or to curtail constitutionally protected freedom of expression. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.030 Definitions.

For the purposes of this chapter, the words and phrases used herein, unless the content otherwise indicates, shall have the following meanings:

A. *Adult arcade* means any commercial establishment to which the public is permitted or invited where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors or similar machines, or other image-producing machines, for viewing by five (5) or fewer persons per machine at any one (1) time, are used to regularly show films, motion pictures, video cassettes, slides or other photographic reproductions depicting actual acts of masturbation, sexual intercourse, copulation, sodomy or displaying human genitals in a state of sexual stimulation, arousal or tumescence, or depicting excretory functions as a part of or in connection with any of the activities set forth in this subsection. *Adult arcade* does not include an establishment which has public computers with internet access.

B. *Adult bookstore, adult novelty store or adult video store* means a commercial establishment which devotes at least fifty percent (50%) of its stock-in-trade or interior floor space to, or receives at least fifty percent (50%) of its revenues from, the sale, rental or viewing (for any form of consideration) of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

C. *Adult business* means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater or sexual encounter center.

D. *Adult cabaret* means a nightclub, bar, restaurant, concert hall, auditorium or other commercial establishment which regularly features live adult entertainment.

E. *Adult entertainment* means any exhibition, display or dance which involves the exposure to view of any portion of the female breast below the top of the areola, male genitals, female genitals or the pubic hair, anus or cleft of the buttocks of any person or male genitals in a discernibly turgid state even if completely and opaquely covered.

F. *Adult motel* means a motel, hotel or similar commercial establishment which offers public accommodations, for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not

limited to, newspapers, magazines, pamphlets or leaflets, radio or television, and offers a sleeping room for rent for a period of time less than five (5) hours. A motel or hotel which offers pay-per-view television services, which include adult entertainment among other pay-per-view services, is specifically excluded from the definition of *adult motel*.

G. *Adult motion picture theater* means any commercial establishment to which the public is permitted or invited where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photograph reproduction are regularly shown depicting actual acts of masturbation, sexual intercourse, oral copulation, sodomy or displaying human genitals in a state of sexual stimulation, arousal or tumescence, or depicting excretory functions as part of or in connection with any of the activities set forth in this subsection. Any establishment meeting the definition of an adult arcade is not an adult motion picture theater.

H. *Child care facility* means a commercial establishment for daily care or instruction of children.

I. *Church* means any institution that people regularly attend to participate in or hold religious services, meetings and other activities. The term *church* shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

J. *Conviction* and *convicted* means the final judgment on a verdict or finding of guilty, a plea of guilt or a plea of nolo contendere.

K. *Nudity* or a *state of nudity* means the appearance of a human bare buttock, anus, male genitals, female genitals or female breast.

L. *Obscene* means a performance that:

1. The average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex; and

2. Depicts or describes:

a. Patently offensive representations of ultimate sex acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy and sexual bestiality; or

b. Patently offensive representations of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal or covered male genitals in a discernibly turgid state; and

3. Taken as a whole, lacks serious literary, artistic, political or scientific value.

M. *Patently offensive* means so offensive on its face as to affront current community standards of tolerance.

N. *Peep booth* means a viewing room of less than one hundred fifty (150) square feet of floor space.

O. *Performance* means a play, motion picture, dance or other exhibition performed before an audience.

P. *Public park* shall have the meaning set forth in this code and shall apply to any park or recreational facility under the jurisdiction of the park and recreation department pursuant to Chapter 12.16.

Q. *Residential property* means any area on the city zoning map classified as a residential land use or any property or lot devoted to full-time residential use as of the effective date of this chapter.

R. *School* means a facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools and high schools.

S. *Seminude* means a state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

T. *Sexual encounter center* means a business or commercial enterprise that regularly offers, for any form of consideration, activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or seminude. This definition does not apply to any treatment or examination of another person for a bona fide medical purpose when such treatment or examination is conducted in a manner substantially consistent with reasonable medical practices. This exception includes bona fide massage practitioners when such treatment is conducted consistent with reasonable therapeutic massage practices.

U. *Specified anatomical areas* means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the areola; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

V. *Specified sexual activities* means:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy; and
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.040--5.50.090 Reserved.

Article II. Licenses

5.50.100 Location of adult businesses.

A. It shall be unlawful to operate or cause to be operated an adult business in any location except as provided in Title 17 of this code.

B. It shall be unlawful to operate or cause to be operated an adult business within six hundred (600) feet of:

1. A church;
2. A school or child care facility;

3. A public park;
4. A residential property.

C. It shall be unlawful to cause or permit the operation of an adult business within one thousand (1,000) feet of another adult business or a massage parlor as defined by subsection E of this section. The distance between any two (2) such businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which the adult business is located.

D. It shall be unlawful to cause or permit the operation or maintenance of more than one (1) adult business in the same building, structure or portion thereof.

E. For the purpose of subsection B of this section, the distance between an adult business and the premises of a church, school, child care facility, public park or residential property, without regard to intervening structures, objects or city limits, is from the closest exterior wall of the structure in which the adult business is located to the property line of such uses.

F. Any adult business lawfully operating on the effective date of this chapter that is in violation of subsections B through E of this section shall be allowed to continue operating for an amortization period of six (6) months. All adult businesses must comply with this section and all other provisions of this chapter six (6) months after this chapter becomes effective.

G. An adult business lawfully operating is not rendered a nonconforming use by the subsequent location of a church, school, child care facility, public park or residential property within six hundred (600) feet of the adult business; however, if the adult business ceases operation for a period of thirty (30) days or more regardless of any intent to resume operation, it may not recommence operation in that location.

H. Except for the amortization period set forth in subsection F above, each day of operation in violation of any provision of this chapter shall constitute a separate offense. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.110 License required; fee.

A. No person shall conduct an adult business without first having obtained a Type A or a Type B adult business license.

B. A Type A adult business license shall be required for all adult businesses where no fermented malt beverages or any malt, vinous or spirituous liquors are dispensed, consumed or sold. Applicants for a Type A adult business license shall pay a license fee of five hundred dollars (\$500.00).

C. A Type B adult business license shall be required for all establishments conducting an adult business where fermented malt beverages or any malt, vinous or spirituous liquors are dispensed, consumed or sold. Any such establishment shall also comply with all applicable requirements of Title 12, Article 46 or Article 47, C.R.S., and this title. Applicants for a Type B adult business license shall pay a license fee of five hundred dollars (\$500.00).

D. In the event an application for an adult business license is withdrawn or denied, the license fee shall be refunded in full to the applicant. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.120 License application.

A. All applicants for an adult business license shall file an application for such license with the city clerk on forms to be provided by the clerk. Each individual applicant, partner of a partnership, officer, director, corporate applicant, and all managers of the proposed adult business, shall be named in each application form, and each of them shall be photographed and fingerprinted by the police department.

B. The completed application shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is:

a. An individual, the individual shall state his or her legal name and any aliases and submit satisfactory proof that he or she is twenty-one (21) years of age;

b. A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the state statutes or, in the case of a foreign corporation, evidence that it is currently authorized to do business in the state, the names and capacity of all officers, directors, and the name of the registered corporate agent and the address of the registered office for service of process.

2. Whether the applicant or any other individual listed pursuant to subsection A of this provision had a previous adult business license under this chapter or other adult business ordinances from another city or county that was denied, suspended or revoked, including the name and location of the adult business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or any other individuals listed pursuant to subsection A of this provision has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the adult business for which the license was denied, suspended or revoked as well as the date of denial, suspension or revocation.

3. Whether the applicant or any other individual listed pursuant to subsection A of this section holds any other license under this chapter or holds a license issued under an adult business ordinance or regulation from another city or county and, if so, the names and locations of such other permitted businesses.

4. Whether the applicant or any other individual listed pursuant to subsection A of this provision has been convicted of or pleaded nolo contendere to any crime involving pandering, prostitution, obscenity, or any crime, or that is connected with operating another sexually oriented business, in any jurisdiction, within five (5) years from the date of conviction to the date of the application; and, if so, the crime involved, the date of conviction and the place of conviction.

5. The location of the proposed adult business, including a legal description of the property, street address and telephone number, if any.

6. Proof of the applicant's ownership or other right to possession of the premises wherein the adult business will be conducted.

7. The applicant's mailing address and residential address.

8. The applicant's driver's license number, social security number and federally issued tax identification number.

9. A floor plan of the licensed premises which specifies the location and dimensions of any manager's station and demonstrates that there is an unobstructed view from at least one (1) of the manager's stations of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. The floor plan shall designate those rooms or other areas of the premises where patrons are not permitted and shall also designate the use of each room or other area of the premises. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. The diagram shall designate the place at which the license will be conspicuously posted and the location of any stage. A floor plan is not required of a licensed premises of an adult motel.

10. A current certificate and straight-line drawing prepared, within thirty (30) days prior to the application, by a land surveyor depicting the property lines and the structures containing any adult business or massage parlor within one thousand (1,000) feet of the closest exterior wall of the structure in which the applicant's business will be located and depicting the property line of any church, school, child care facility, public park and residential property within six hundred (600) feet from the closest exterior wall of the structure in which the applicant business will be located.

11. Evidence from the planning department that the proposed location of such business complies with the locational requirements of Title 17 of this code.

C. If the applicant is an individual, he or she must sign the application for a license.

D. In the event that the city clerk determines that the applicant has improperly completed the application, he or she shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application. For the purposes of this chapter, the date the city clerk accepts an application which is complete in every detail shall be the date the application is filed with the city clerk.

E. Applicants for a license under this chapter shall have a continuing duty to promptly supplement application information required by this section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change, by supplementing the application on file with the city clerk, shall be grounds for suspension of an adult license. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.130 Application fee.

Each applicant, whether an individual, partnership or corporation, shall pay an application fee of one hundred fifty dollars (\$150.00) at the time of filing an application. Such application fee shall be nonrefundable. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.140 Investigation.

A. On receipt of a properly completed application, together with all information required in connection therewith, and the payment of all application and license fees, the city clerk shall transmit the

photocopies of the application to the police department and the building department for investigation. Investigations shall be completed within thirty (30) days of receipt of the application by the city clerk unless circumstances reasonably require a greater period of time not to exceed a total of sixty (60) days.

B. The police department shall be responsible for fingerprints and photographs and for investigation of the background of each individual applicant, the partners of a partnership or the officers, directors and all managers of the proposed adult business. The investigation conducted by the police department shall verify the accuracy of all information required by Section 5.50.120. Each applicant shall pay a nonrefundable investigation fee at the time the application is filed in the amount then charged by the State Department of Public Safety for each person who will be investigated. At the conclusion of its investigation, the police department shall indicate on the photocopy of the application whether the required information has been verified, and shall date and sign the photocopy of the application.

C. The building department shall be responsible for ascertaining whether the application is in compliance with applicable building codes and ordinances. At the conclusion of its investigation, the building department shall indicate on the photocopy of the application whether it is in compliance, date it, sign it and, in the event of noncompliance, state the reasons therefor.

D. After its investigation, each department shall immediately return the photocopy of the application to the city clerk. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.150 Approval of license.

A. The application of any applicant shall be approved or denied by the city clerk within sixty (60) days of the date the application is filed with the city clerk. The city clerk shall deny a license if:

1. The applicant is under the age of twenty-one (21) years;
2. The applicant has made a false statement upon the application or gave false information in connection with an application;
3. The applicant or a director, officer, partner or principal of the applicant has had an adult business license revoked or suspended anywhere within the state within one (1) year prior to the application;
4. The applicant has operated an adult business which was determined to be a public nuisance under state law or this code within one (1) year prior to the application;
5. A corporate applicant is not in good standing or authorized to do business in the state;
6. The applicant is overdue in payment to the city of taxes, fees, fines or penalties assessed against him or her or imposed against him or her in relation to an adult business;
7. An applicant is in violation of or is not in compliance with any of the provisions of this chapter; or
8. An applicant or any other individual listed pursuant to Section 5.50.120(A) shall not have been convicted of any crime involving pandering, prostitution, obscenity, or a felony crime that is related to or connected with owning, operating or managing another adult business, or any crime involving moral turpitude, in any jurisdiction, within five (5) years from the date of the conviction to the date of the application.

B. In the event that the city clerk denies a license, he or she shall make written findings of fact stating the reasons for the denial, and a copy of such decision shall be sent by certified mail to the applicant at the address shown in the application within ten (10) days after denial. An applicant shall have the right to a hearing before the city council at the next scheduled city council meeting as set forth in Section 5.50.180(C). A written request for such a hearing shall be made to the city manager within thirty (30) days of the date of the denial of the license by the city clerk.

1. At the hearing referred to above, the city council shall hear such statements and consider such evidence as the police department or other enforcement officers, the applicant or other party in interest or any other witness shall offer which is relevant to the denial of the license application by the city clerk.

2. If the city council determines that the applicant is ineligible for a license per Section 5.50.150(A), the council shall issue an order denying the application within thirty (30) days after the hearing is concluded, based on the findings of fact. A copy of the order shall be mailed by certified mail to the applicant at the address on the application.

3. The order made pursuant to subsection 2 above shall be a final decision and may be appealed to the district court pursuant to Colorado Rules of Civil Procedure 106(A)(4). Failure of an applicant to timely appeal said order constitutes a waiver of any right he or she may otherwise have to contest the denial of his or her license application.

C. No license shall be issued by the city clerk after approval of an application until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures and equipment in place as are necessary to comply with the provisions of this chapter and all applicable building and fire code regulations, and then only after inspection of the premises has been made by the police and/or building departments to determine that the applicant has complied with the plans and specifications submitted upon the application. Such inspection of the premises shall be made within ten (10) days after the city clerk receives written notification from the applicant that the premises are in compliance with the submitted plans and specifications. If the licensed location has been inactive, without good cause, for at least one (1) year or if the building has not been constructed and placed in operation within two (2) years after approval of the license application, or construction of the building has not commenced within one (1) year after such approval, the city clerk in his or her discretion may revoke or elect not to issue or renew the license. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.160 Term of the license.

All licenses granted pursuant to this chapter shall be for a term of one (1) year. Said term shall commence on January 1 of each year and terminate upon December 31 of the same year. Applications for a license filed at any other time during the year shall be treated the same as if they were filed January 1 of that year and shall terminate on December 31 of that same year, and no proration shall be permitted. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.170 License renewal.

Renewal of an existing license granted pursuant to this chapter may be had by payment of the annual licensing fee and filing of a renewal application with the city clerk not less than forty-five (45) days prior to the date of expiration. The city clerk may, for good cause shown, waive the timely filing requirement. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.180 Suspension or revocation of license.

A. The city clerk or his or her designee may suspend a license for a period not to exceed six (6) months or revoke any license granted pursuant to this chapter upon a finding of any of the following factors:

1. That repeated disturbances of public peace have occurred within the licensed establishment or upon any parking areas, sidewalks, access ways or grounds within the neighborhood of the licensed establishment involving patrons, employees or the licensee;

2. That the licensee or any employees thereof have illegally offered for sale or illegally allowed to be consumed or possessed upon the licensed premises, or upon any parking areas, sidewalks, walkways, access ways or grounds immediately adjacent to the licensed premises, narcotics or dangerous drugs or fermented malt beverages or any malt, vinous or spirituous liquors;

3. That the licensee or establishment manager or his or her designee is not upon the licensed premises at all times that adult entertainment is being provided;

4. That adult entertainment was offered at the licensed establishment during hours prohibited by Section 5.50.210;

5. That the licensee, establishment manager or employee has allowed patrons to engage in public displays of indecency in violation of Section 9.28.020 of this code or has allowed patrons or employees to engage in acts of prostitution or negotiations for acts of prostitution within the licensed establishment or upon any parking areas, sidewalks, access ways or grounds immediately adjacent to the licensed establishment when the licensee, establishment manager or employee knew or should have known such displays or acts were taking place;

6. That the licensee or establishment manager made a false statement or gave false information in connection with an application for a license or a renewal of a license;

7. That the licensee, establishment manager or employee violated or permitted a violation of any provisions of this chapter including the standards of conduct set out in Section 5.50.310 herein;

8. That, in the case of an establishment offering live nude entertainment, the licensee, establishment manager or any employee of the licensed establishment is under the age of twenty-one (21) years;

9. The licensee, in the case of a corporation, is not in good standing or authorized to do business in the state;

10. The licensee or an employee knowingly operated the adult business during a period of time when the adult business license was suspended;

11. The licensee is delinquent in payment to the city or state for any taxes or fees past due;

12. That the licensee, establishment manager or employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur within the licensed premises;

13. A licensee or any other individual listed pursuant to Section 5.50.120(A) has been convicted of any crime involving pandering, prostitution, obscenity or a felony crime that is connected with

owning, operating or managing another adult business, in any jurisdiction, within five (5) years from the date of the conviction to the date of the application; or

14. On two (2) or more occasions within a twelve-month period, a person or persons committed a crime, as specified in subsection 13 above, for which a conviction has been obtained, and the person or persons were employees of the adult business at the time the offenses were committed.

B. Nothing in this chapter shall prohibit the city from taking any other enforcement action provided for by this code, the laws of the state or of the United States.

C. A licensee shall be entitled to a hearing before the city council if the city seeks to suspend or revoke his or her license based on a violation of this chapter.

1. When there is probable cause to believe that a licensee has violated or permitted a violation of this chapter to occur in or near the licensed establishment, a written complaint shall be filed with the city attorney setting forth the circumstances of the violation.

2. The city attorney shall provide a copy of the complaint to the licensee, together with notice to appear for the purpose of a hearing on a specified date to show cause why the licensee's license should not be suspended or revoked.

3. At the hearing referred to above, the applicant shall have the right to cross-examine witnesses and call witnesses to appear on behalf of the applicant. The applicant may be represented by a licensed attorney at such hearing. If the city council determines that a violation did occur, the council shall issue an order suspending or revoking the license, within thirty (30) days after the hearing is concluded, based on the findings of fact. A copy of the order shall be mailed by certified mail to the licensee at the address on the license.

4. The order made pursuant to subsection 3 above shall be a final decision and may be appealed to the district court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of the licensee to timely appeal said order constitutes a waiver of any right he or she may otherwise have to contest the suspension or revocation of his or her license.

D. In the event of suspension, revocation or cessation of business, no portion of the license fee shall be refunded.

E. When a license has been revoked, the revocation shall continue for one (1) year, and the licensee shall not be issued an adult business license for one (1) year from the date on which revocation became effective. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.190 Display; transferability; change of ownership; change of corporate structure.

A. Any adult business license issued pursuant to the terms of this chapter shall be prominently displayed at all times upon the premises for which the license was issued.

B. Licenses issued under this chapter shall not be transferable except as provided herein. Any change in the partners of the partnership or in officers, directors or registered agent of a corporate licensee holding an adult business license shall result in termination of the license of the partnership or corporation, unless such licensee within thirty (30) days of any such change files a written notice of such change accompanied by the application fee and an investigation fee as required by Section 5.50.140. Any such change shall be reported on forms provided by the city clerk and shall require the names of all new

partners, officers and directors and any information as required by Section 5.50.120. Approval or denial by the city manager of such transfer shall be upon the same terms as provided for in this chapter for the approval or denial of an adult business license.

C. When a license has been issued to a husband and wife or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to such survivors for the balance of the license.

D. Each license issued under this chapter is separate and distinct, and no person shall exercise any of the privileges granted under any license other than that which he or she holds. A separate license shall be issued for each specific business or business entity and each geographical location. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.200 Establishment manager; change of manager.

A. A registered establishment manager shall be on the premises of an adult business at all times that adult entertainment is being provided. It shall be unlawful for any person to work as a manager of an adult business without first registering with the city clerk. The registration form shall require the applicant to provide his or her legal name and any aliases, home address, telephone number and satisfactory proof that he or she is twenty-one (21) years of age.

B. In the event a licensee changes the establishment manager of an adult business, the licensee shall immediately report such change and register the new manager on forms provided by the city clerk with ten (10) days of such change. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.210 Time limits for entertainment.

No adult entertainment shall be offered or provided in the following types of adult businesses at the following days and times:

A. Type A: Prior to 8:00 a.m. or later than 12:00 midnight, or any time on a Sunday.

B. Type B: Prior to 8:00 a.m. or later than 2:00 a.m., or any time on a Sunday. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.220--5.50.300 Reserved.

Article III. Rules and Regulations

5.50.310 Standards of conduct.

A. The following standards of conduct must be adhered to by employees of any adult business which offers, conducts or maintains live adult entertainment:

1. No employee or entertainer mingling with the patrons or serving food or drinks shall be unclothed or in such attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttock, vulva or genitals or display male genitals in a discernibly turgid state even if completely and opaquely covered.

2. No employee or entertainer shall encourage or knowingly permit any person upon the premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.

3. No employee or entertainer shall wear or use any device or covering exposed to view which simulates the breasts, genitals, anus, pubic hair or any portion thereof.

4. No employee or entertainer shall be unclothed or in such attire, costume or clothing so as to expose any portion of the female breasts below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals of any person, except upon the stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest patron or behind a solid, uninterrupted physical barrier which completely separates the entertainer from any patrons. This barrier must be a minimum of one-fourth ($\frac{1}{4}$) inch thick and have no openings between the entertainer and any patrons. The stage shall be fixed and immovable.

5. No employee or entertainer shall perform while nude or seminude any obscene acts or obscene acts which simulate:

a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; or

b. The touching, caressing or fondling of the breasts, buttocks, anus or genitals.

6. No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this section.

7. There shall be posted and conspicuously displayed in the common areas of each place offering adult entertainment a list of food and drink prices.

8. Any tips for entertainers shall be placed by a patron into a tip box which is permanently affixed in the adult business, and no tip may be handed directly to an entertainer. A licensee that desires to provide for such tips from its patrons shall establish one (1) or more containers to receive tips. Any physical contact between a patron and an entertainer is strictly prohibited.

9. An adult business that provides tip boxes shall conspicuously display in the common area of the premises one (1) or more signs in letters at least one (1) inch high to read as follows:

**"ADULT ENTERTAINMENT
IS REGULATED BY THE
CITY OF CRAIG;**

All tips are to be placed in tip box and
not handed directly to the entertainer.

Any physical contact between
the patron and the entertainer
is strictly prohibited."

10. No adult entertainment occurring on the premises shall be visible at any time from outside of the premises.

B. Any licensee who offers, conducts or maintains live adult entertainment or an adult arcade which exhibits in a viewing room of less than one hundred fifty (150) square feet of floor space a film,

videocassette or other video reproduction shall comply with the following requirements in addition to those set forth in subsection A:

1. It is the duty of the licensee of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

2. It is the duty of the licensee and operator of the premises to ensure that any doors to public areas on the premises remain unlocked during business hours.

3. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding rest rooms. Rest rooms may not contain video reproduction equipment. If the premises have two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purposes excluding rest rooms from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. A manager's station may not exceed thirty-two (32) square feet of floor area.

4. No alteration to the configuration or location of a manager's station may be made without the prior approval of the city clerk.

5. It shall be the duty of the licensee, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in subsection 3 remains unobstructed by any doors, curtains, drapes, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the license application filed pursuant to this chapter.

6. No viewing room may be occupied by more than one (1) person at any one (1) time.

7. Viewing rooms must be separated from other viewing rooms by a solid, uninterrupted physical divider which is a minimum of one-fourth ($\frac{1}{4}$) inch thick and serves to prevent physical contact between patrons.

C. Nothing in this section shall be construed to permit any act on the premises of a Type B adult business license in violation of Title 12, Article 46 or Article 47, C.R.S., or the State Department of Revenue rules and regulations issued pursuant thereto. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.320 Age restrictions.

Admission to adult businesses presenting live nude entertainment is restricted to persons of the age of twenty-one (21) years or more during hours adult entertainment is being presented. Admission to adult businesses not presenting live nude entertainment is restricted to persons of the age of eighteen (18) years or more. This minimum age limitation also applies to any employees, agents, servants or independent contractors working on the premises. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.330 Lighting requirements.

A. All off-street parking areas and premise entries of adult businesses shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) foot-candle light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving

the adult business to help ensure the personal safety of patrons and employees and to reduce the incidence of vandalism and other criminal conduct.

B. The premises of all adult businesses, except adult motion picture theaters, shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to provide an illumination of not less than two (2) foot-candles of light as measured at the floor level.

C. Adult motion picture theaters shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to provide an illumination of not less than one (1) foot-candle of light as measured at the floor level. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.340 Right of entry.

The application for an adult business license shall constitute consent of the licensee and his or her agents or employees to permit the police department or any other agent of the city to conduct routine inspections of any licensed adult business during the hours the establishment is conducting business. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.350 Exemptions generally.

It is an affirmative defense to prosecution under this chapter if a person appearing in a state of nudity or seminudity did so in a modeling class operated:

A. By a proprietary school, licensed by the state; a college, junior college or university supported entirely or partly by taxation;

B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or

C. In a structure:

1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

2. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; or

3. Where no more than one (1) nude model is on the premises at any one (1) time. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.360 Severability.

Should any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter or application thereof to any person or circumstance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter, or its application to any other person or circumstance, and, to this end, the provisions of this chapter are declared to be severable. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)

5.50.370 Exceptions generally.

Any place of business where an amusement device is maintained which exhibits or displays a picture or view by film, video or a live exhibition meeting the definition of adult entertainment under Section 5.50.030(E) is governed by the provisions of Chapter 5.50 regulating licenses for adult businesses. (Ord. 869 §1(part), 1998; Ord. 838 §1(part), 1996)