

CHAPTER 16

Licenses

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ARTICLE I

Adult Businesses

Sec. 16-1. Purpose.

The purpose and intent of this Article is to regulate adult businesses, to promote the health, safety, morals 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, thereby reducing or eliminating the adverse secondary effects from such adult businesses. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult materials. Similarly, it is not the intent nor effect of this Article to restrict or deny access by adults to adult materials protected by the First Amendment or the Colorado Constitution, or to deny access by the distributors and exhibitors of adult entertainment to their intended market. Neither is it the intent nor effect of this Article to condone or legitimize the distribution of obscene material. (Ord. 1000)

Sec. 16-2. Definitions.

(a) *Adult arcade* means an establishment 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 each, are used to show 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*.

(b) *Adult bookstore, adult novelty store or adult video store* means a commercial establishment which: 1) devotes a significant or substantial portion of its stock-in-trade or interior floor space to; 2) receives a significant or substantial portion of its revenues from; or 3) devotes a significant or substantial portion of its advertising expenditures to the promotion of: 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*. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing *specified sexual activities* or *specified anatomical areas*, and still be categorized as an *adult bookstore, adult novelty store or adult video store*. Such other business purposes will not serve to exempt such establishment from being categorized as an *adult bookstore, adult novelty store or adult video store* so long as the provisions hereof are otherwise met.

(c) *Adult business* means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, sexual encounter establishment or nude model studio. The definition of *adult businesses* shall not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the State engages in medically approved and recognized sexual therapy.

(d) *Adult cabaret* means a club, restaurant, "pop shop" or similar commercial establishment which features: 1) persons who appear nude or in a state of nudity or semi-nude; 2) live performances which are characterized by the exposure of *specified anatomical areas* or by *specified*

sexual activities, or 3) 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*.

(e) *Adult motel* means a motel, hotel or similar commercial establishment which: 1) 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 adult 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, leaflets, radio or television; 2) offers a sleeping room for rent for a period of time less than ten (10) hours; or 3) allows a tenant or occupant to subrent a sleeping room for a time period of less than ten (10) hours.

(f) *Adult motion picture theater* means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions depicting or describing *specified sexual activities* or *specified anatomical areas* are regularly shown for any form of consideration.

(g) *Adult theater* means a theater, concert hall, auditorium or similar commercial establishment which, for any form or consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of *specified sexual activities* or *specified anatomical areas*.

(h) *Employee* means a person who works or performs in and/or for an adult business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

(i) *Establishment*, in regard to an adult business, means and includes any of the following:

- (1) The opening or commencement of any such business as a new business;
- (2) The conversion of an existing business into an adult business;
- (3) The addition of an adult business to any other existing adult business; or
- (4) The relocation of an adult business.

(j) *Licensing officer* means the City Clerk.

(k) *Manager* means an operator, other than a licensee, who is employed by an adult business to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business.

(l) *Nude model studio* means any place where a person, who appears in a state of nudity or displays *specified anatomical areas*, is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons.

(m) *Nudity* or *state of nudity* means: 1) the appearance of human bare buttocks, anus, male genitals, female genitals or the areola or nipple of the female breast; or 2) a state of dress which fails

to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

(n) *Operator* includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

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

(p) *Permittee and/or licensee* means a person in whose name a permit and/or license to operate an adult business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

(q) *Person* means an individual, proprietorship, partnership, corporation, limited liability company, association or other legal entity.

(r) *Premises or permitted or licensed premises* means any premises that requires a license and/or permit and that is classified as an adult business.

(s) *Principal owner* means any person owning, directly or beneficially: 1) ten percent (10%) or more of a corporation's equity securities; 2) ten percent (10%) or more of the membership interests in a limited liability company; or 3) in the case of any other legal entity, ten percent (10%) or more of the ownership interests in the entity.

(t) *Private room* means a room in an adult motel that is not a peep booth, has a bed and a bath in the room or adjacent room, and is used primarily for lodging.

(u) *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.

(v) *Sexual encounter establishment* means a business or commercial establishment that, as one (1) of its primary business purposes, offers, for any form of consideration, a place where two (2) or more persons may congregate, associate or consort for the purpose of *specified sexual activities*, the exposure of *specified anatomical areas* or activities when one (1) or more of the persons is in a state of nudity or seminude. An adult motel will not be classified as a *sexual encounter establishment* by virtue of the fact that it offers private rooms for rent.

(w) *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 top of the areola; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(x) *Specified criminal acts* means sexual crimes against children, sexual abuse, rape or crimes connected with another adult business, including distribution of obscenity, prostitution or pandering.

(y) *Specified sexual activities* means:

(1) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;

(3) Masturbation, actual or simulated;

(4) Human genitals in a state of sexual stimulation, arousal or tumescence; or

(5) Excretory functions as part of or in connection with any of the activities set forth in Paragraphs (1) through (4) of this definition.

(z) *Transfer of ownership or control of an adult business* means and includes any of the following:

(1) The sale, lease or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or

(3) The establishment of a trust, management arrangement, gift or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control. (Ord. 1000)

Sec. 16-3. Location of adult businesses; amortization.

(a) It shall be unlawful to operate or cause to be operated an adult business in any location in the City except as provided in this Code and the Zoning and Land Use Code.

(b) It shall be unlawful to operate or cause to be operated an adult business within five hundred (500) feet of:

(1) A church;

(2) A school or childcare facility; or

(3) A public park (not including trails).

(c) It shall be unlawful to cause or permit the operation of an adult business within five hundred (500) feet of another adult business. The distance between any such businesses and those businesses specified in Subsection (b) above 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) Any adult business lawfully operating on the effective date of this Article that is in violation of Subsections (b) through (d) above will be permitted to continue for a period of six (6) months from the effective date hereof. However, the Director of Community Development may grant an extension of time during which an adult business in violation of Subsections (b) through (d) above will be permitted to continue upon a showing that the owner of the business has not had a reasonable time to recover the initial financial investment in the business. No such extension of time shall be for a period greater than that reasonably necessary for the owner of the business to recover his or her initial financial investment in the business. An adult business in violation of Subsections (b) through (d) above may continue during such extended period, unless the business is sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such business shall not be enlarged, extended or altered except that the business may be brought into compliance with this Article. If two (2) or more adult businesses are within five hundred (500) feet of one another and otherwise in a permissible location, the adult business which was first established and continually operating at the particular location will be deemed to be in compliance with Subsections (b) through (d) above, and the later established businesses will be deemed to be in violation of Subsections (b) through (d) above.

(f) An adult business lawfully operating is not rendered a nonconforming use by the subsequent location of a church, school, childcare facility or public park within five hundred (500) feet of the adult business; however, if the adult business ceases operation for a period of one hundred eighty (180) days or more, regardless of any intent to resume operation, it may not recommence operation at that location. (Ord. 1000)

Sec. 16-4. License required; fee.

(a) No person shall conduct an adult business without first having obtained an annual adult business license.

(b) An applicant for an annual adult business license shall pay a license fee of five hundred dollars (\$500.00).

(c) In the event an application for an adult business license is withdrawn or denied, the license fee shall not be refunded to the applicant. (Ord. 1000)

Sec. 16-5. License application.

(a) The applicant 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 principal owner and all managers and employees shall be named in the application form.

(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 shall submit satisfactory proof that he or she is eighteen (18) 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 statutes of the State 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 principal owners, and the name of the registered corporate agent and the address of the registered office for service of process;

d. A limited liability company, it shall state its complete name, the date of filing of the articles of organization and operating agreement and the names of all managers and members.

(2) Whether the applicant or any other individual listed under Paragraph (1) above had worked under or has had a previous adult business license under this Article or other adult business or adult entertainment ordinance from another state, city or county 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.

(3) Whether the applicant or any other individual listed under Paragraph (1) above holds any other licenses under this Article or other similar adult business ordinance from another city, county or state and, if so, the names and locations of such other permitted businesses.

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

(5) Proof of the applicant's right to possession of the premises wherein the adult business is proposed to be conducted.

(6) The applicant's, or any other individual's listed, pursuant to Paragraph (1) above, mailing address and residential address.

(7) A photocopy of the driver's license or other government-issued identification card for the individuals listed in Paragraph (1) above.

(8) A floor plan of the proposed 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 proposed 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 proposed 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 where the license will be conspicuously posted and the location of any proposed stage. A floor plan is not required of the licensed premises of an adult motion picture theater.

(9) A current certificate 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 within five hundred (500) feet of the closest exterior wall of the structure in which the applicant's business is proposed to be located, and depicting the property line of any church, school, childcare facility, public park, residential zone district or residential lot within five hundred (500) feet of the closest exterior wall of the structure in which the applicant's business is proposed to be located.

(10) Whether the applicant or any of the other individuals listed pursuant to Paragraph (1) above have been convicted of a specified criminal act within the times set forth in Section 16-8 of this Article and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

(11) Photographs (passport size or approximately two [2] inches by two [2] inches) and fingerprints of all principal owners and each manager, general partner and, in the case of a corporate applicant, the president of the corporation.

(c) If the applicant is an individual, he or she must sign the application for a license. If the applicant is a corporation, the application must be signed by the president or vice president and attested to by the secretary or assistant secretary. If the applicant is a general or limited partnership, the application must be signed by a general partner. If the applicant is a limited liability company, it must be signed by the manager.

(d) If an omission or error is discovered by the City Clerk, the application will be returned to the applicant for completion or correction without further action by the City Clerk. Any application rejected due to an omission or error shall be refiled only when the omission or error has been remedied. For the purposes of this Article, the date the City Clerk accepts an application which is complete shall be the date the application is filed with the City Clerk.

(e) 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 thirty (30) 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.

(f) The applicant for a license under this Article 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 the suspension or revocation of an adult business license. (Ord. 1000)

Sec. 16-6. Application fee.

Each applicant for a new license or as specified in Section 16-12(b) of this Article, whether an individual, partnership or corporation, shall pay an application fee of one hundred fifty dollars (\$150.00) at the time of the filing of an application. Such application fee shall be nonrefundable. (Ord. 1000)

Sec. 16-7. Investigation.

On receipt of a properly completed application and the payment of the application and license fees, the City Clerk and Chief of Police shall investigate the background of each individual applicant, employee, the partners of a partnership, or the officers, directors and holders of the stock of a corporation. Each applicant shall pay a nonrefundable investigation fee at the time the application is filed in the amount then charged by the Colorado Department of Public Safety for each person who will be investigated. The investigation conducted by the City Clerk and Chief of Police shall be sufficient to verify the accuracy of all the information required by Section 16-5 above. The City Clerk shall also transmit a request to the Director of Community Development for a report that the proposed location of such adult business complies with the locational requirements of this Article. The Director of Community Development shall issue such report within five (5) business days of transmission of the request. If the Director of Community Development fails to issue the report as required, the City Clerk shall presume that the proposed location of the adult business complies with this Article. (Ord. 1000)

Sec. 16-8. Approval or denial of license.

(a) The application of any applicant shall be approved or denied by the City Clerk within fourteen (14) business 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 eighteen (18) years;
- (2) The applicant has made a false statement upon the application or has given false information in connection with an application;
- (3) The applicant or any holder of any class of stock, 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 has been 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 the 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) The applicant has not obtained the required sales tax license; or
- (8) The applicant has been convicted of a specified criminal act within the five-year period prior to the date the application is filed with the City Clerk.

(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 first class mail to the address shown in the application. An applicant shall have the right to a hearing before the City Manager as set forth in Section 16-11(c) of this Article. A written request for such hearing shall be

made to the City Manager within ten (10) business days of the date of the denial of the license by the City Clerk. This hearing shall be held within fourteen (14) business days from the date a timely request for hearing is received by the City Manager and shall follow all the relevant procedures set forth for a suspension or revocation of a license contained in Section 16-11(c) of this Article.

(1) At the hearing referred to above, the City Manager 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 Manager determines that the applicant is ineligible for a license pursuant to Subsection (a) above, he or she shall issue an order sustaining the City Clerk's denial of the application, within five (5) business days after the hearing is concluded, based on findings of fact. A copy of the order shall be mailed to the applicant at the address supplied on the application.

(3) The order of the City Manager made pursuant to Paragraph (2) above shall be a final decision and may be appealed to the District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. Failure of an applicant to timely follow the limits specified above constitutes a waiver by him or her of any right he or she may otherwise have to contest the denial of his or her license application.

(c) If any City official or department fails to render a timely decision pursuant to the terms of this Section, then said official or department shall be deemed to have approved or consented to the issuance of the requested license. (Ord. 1000; Ord. 1058, §2)

Sec. 16-9. Term of license.

All licenses granted pursuant to this Article 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 on January 1 of that year and shall terminate on December 31 of that same year, and no proration of the license fee shall be permitted. (Ord. 1000)

Sec. 16-10. License renewal.

Renewal of an existing license granted pursuant to this Article 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 waive, for good cause shown, this filing time requirement. (Ord. 1000)

Sec. 16-11. Suspension or revocation of license.

(a) The City Manager may suspend a license granted pursuant to this Article for a period not to exceed six (6) months, or may revoke any license granted pursuant to this Article upon a finding of any of the following facts:

(1) Repeated disturbances of the public peace have occurred within the licensed establishment or upon any parking areas, sidewalks, accessways or grounds within the neighborhood of the licensed establishment involving patrons, employees or the licensee;

(2) The licensee or any employees thereof have offered for sale or knowingly allowed to be consumed or possessed upon the licensed premises, or upon any parking areas, sidewalks, walkways, accessways or grounds immediately adjacent to the licensed premises, narcotics, dangerous drugs or fermented malt, malt, vinous or spirituous beverages;

(3) The licensee or manager is not upon the licensed premises at all times that adult entertainment is being provided;

(4) Adult entertainment was offered at the licensed establishment during hours prohibited by Section 16-14 of this Article;

(5) The licensee, manager or employee has allowed patrons to engage in or has done nothing to prevent patrons from engaging in public displays of indecency in violation of state law 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, accessways or grounds immediately adjacent to the licensed establishment, when the licensee, manager or employee knew or should have known such displays or acts were taking place;

(6) The licensee or manager made a false statement or gave false information in connection with an application for a license or a renewal of a license;

(7) The licensee, manager or employee violated or permitted a violation of any provisions of this Article, including the standards of conduct set forth in Section 16-15 of this Article;

(8) The manager or an employee of the licensed establishment is under the age of eighteen (18) 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 any aspect or facilities of the adult business during a period of time when the adult business license was suspended;

(11) The licensee is delinquent in the payment to the City or State for any taxes or fees past due;

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

(13) The licensee, manager or employee has been convicted of a specified criminal act.

(b) Nothing in this Article shall prohibit the City from taking any other enforcement action provided for by this Code or the laws of the State or the United States.

(c) A licensee shall be entitled to a hearing before the City Manager if the City seeks to suspend or revoke his or her license based on a violation of this Article.

(1) When there is probable cause to believe that a licensee has violated or permitted a violation of this Article to occur in or near the licensed establishment, the Police Department may file a written complaint with the City Manager setting forth the circumstances of the violation.

(2) The City Manager shall provide a copy of the complaint to the licensee, together with a notice to appear before the City Manager 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) In such cases where specified criminal acts are in issue, the provisions of Section 24-5-101, C.R.S., shall control.

(4) At the hearing referred to above, the City Manager shall hear such statements and consider such evidence as the Police Department or other enforcement officers, the owner, occupant, lessee or other party in interest, or any other witness shall offer which is relevant to the violation alleged in the complaint. The City Manager shall make findings of fact from the statements and evidence offered as to whether the violation occurred in or near the licensed establishment. If the City Manager determines that a violation did occur, he or she shall issue an order suspending or revoking the license, within twenty (20) days after the hearing is concluded, based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license.

(5) The order of the City Manager made pursuant to Paragraph (4) above shall be a final decision and may be appealed to the District Court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. Failure of a licensee to timely appeal said order constitutes a waiver by him or her of any right he or she may otherwise have to contest the suspension or revocation of his or her license.

(6) The City Manager shall have the power to administer oaths, issue subpoenas and, when necessary, grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books and records necessary to the determination of any hearing which the City Manager conducts. It is unlawful for any person to fail to comply with any subpoena issued by the City Manager. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State. Upon failure of any witness to comply with such subpoena, the City Attorney shall:

a. Petition any Judge of the Municipal Court, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena; requesting that the Court, after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of Court; or

b. Petition the appropriate District Court, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the Court, after hearing evidence in support of or contrary to the petition, enter its order as in other civil

actions, compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of Court.

(d) In the event of suspension, revocation or cessation of business, no portion of the license fee, application fee or investigative fee shall be refunded.

(e) When the City Manager revokes a license, 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 the revocation became effective. (Ord. 1000; Ord. 1058, §2)

Sec. 16-12. Display; transfer liability; change of ownership.

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

(b) Licenses issued under this Article shall not be transferable except as provided herein. Any transfer of ownership or control by a licensee holding an adult business license shall result in termination of the license unless such licensee, within thirty (30) days prior to any such transfer, files a written notice of such transfer accompanied by the application fee and an investigation fee as required by Sections 16-6 and 16-7 of this Article. Any such transfer shall be reported on forms provided by the City Clerk and shall require the names of all new principal owners and any information as required by Section 16-5 of this Article. Approval or denial by the City Clerk of such transfer shall be upon the same terms as provided for in this Article 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 term of the license.

(d) Each license issued under this Article 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 adult business and each geographical location. (Ord. 1000)

Sec. 16-13. Manager; change of manager.

(a) A registered 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 manager or any employees of an adult business, the licensee shall report such change and register the new manager or any employees on forms provided by the City Clerk within ten (10) business days of such change. Any new employee or manager shall pay the investigation fee specified in Section 16-7 of this Article and shall be subject to approval or denial in accordance with the provisions of Section 16-8 of this Article. (Ord. 1000)

Sec. 16-14. Hours of operation.

It shall be unlawful for any adult business licensed under this Article to be open for business or for the licensee or any employee of a licensee to allow patrons upon the licensed premises from 12:00 midnight until 8:00 a.m. (Ord. 1000)

Sec. 16-15. 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) Clothing: No employee or entertainer mingling with the patrons or serving food or beverages shall be unclothed or in such attire, costume or clothing so as to expose to view any specified anatomical area.

(2) Touching, caressing, fondling: 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) Simulation of specified areas: No employee or entertainer shall wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

(4) Performance standards:

a. No employee or entertainer shall be unclothed or in such attire, costume or clothing so as to expose any portion of the specified anatomical area except upon a 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.

b. No employee or entertainer shall perform while nude or seminude any obscene acts or obscene acts which simulate specified sexual activities.

(5) Use of inanimate objects: No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this Section.

(6) Menu: There shall be posted and conspicuously displayed in every area offering adult entertainment a list of food and beverage prices.

(7) Alcohol and liquor: No adult business licensed under this Article shall be located within any premises which is licensed for the retail sale of three and two-tenths percent (3.2%) beer, malt, vinous or spirituous liquor, as such terms are defined in Title 12, Articles 46 and 47, C.R.S.

(8) Consumption of alcohol: It shall be unlawful to permit the consumption of three and two-tenths percent (3.2%) beer or other alcoholic beverages within the same premises as an adult business located under this Article.

(9) Tips: 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.

(10) Tip boxes: 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 FORT MORGAN.*

*Any 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 prohibited by law.*

*Violators face maximum penalties of
\$1,000 and/or one year in jail.*

(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. 1000)

Sec. 16-18. 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. 1000)

Sec. 16-19. Exemptions.

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

(1) By a proprietary school licensed by the State; or a college, junior college or university supported entirely or partly by taxation;

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

(3) In a structure:

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

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

c. Where no more than one (1) nude model is on the premises at any one (1) time. (Ord. 1000)

Sec. 16-20. Effective date.

This Article shall take effect and be in force from and after September 1, 2004. (Ord. 1000)

ARTICLE II

Auction Sales

Secs. 16-41 to 16-48.

Repealed by Ordinance 724.

ARTICLE III

Auto Trailers, Trailer Camps, etc.

Secs. 16-49 to 16-54.

Repealed by Ordinance 468 §4.

ARTICLE IV

Pawnbrokers

Secs. 16-55 to 16-57.

Repealed by Ordinance 724.

ARTICLE V

Peddlers and Hucksters

Sec. 16-58. License required.

No person shall carry on the business of peddler or huckster within the City without a license therefor, first obtained according to the provisions of this Article. (1949 Comp. §§7.1001, 7.1002)

Sec. 16-59. Fee.

For a license to carry on the business of either a peddler or huckster there shall be paid for each day the business is carried on the sum of ten dollars (\$10.00), such license to be obtained from the City Clerk. (1949 Comp. §7.1003)

Sec. 16-60. Exempt sales.

The hawking or peddling of produce by persons raising or producing the same shall be exempt from the provisions of this Article. (1949 Comp. §7.1108)

ARTICLE VI

Emergency, Police and Fire Alarm Systems

Sec. 16-61. Reserved.

Sec. 16-62. Permit for installation; fee.

(a) It shall be unlawful to install and thereafter operate and maintain any emergency alarm device or system of any kind without having first obtained a permit therefor for each device or system installed. A permit fee of fifty dollars (\$50.00) shall be paid prior to the installation of any such device or system in any place within the City or under any circumstances covered by the provisions of this Article.

(b) Any such permit shall provide that the particular device or system may be inspected at any time prior to installation or subsequent thereto by the City Council or its duly authorized appointee or representative to determine the location, quality, sufficiency of workmanship and effectiveness of such device or system. (Ord. 534 §1; Ord. 902 §2)

Sec. 16-63. Installation and maintenance costs.

Any and all costs and recurring charges attributable to the installation and maintenance of systems permitted by this Chapter which terminate directly in the Police Department or Fire Department of the City shall be borne entirely by the licensee or permittee. If the location of either the Police Department or Fire Department shall be changed at any time necessitating changing the location of any alarm systems terminating at such departments, such systems shall be moved at the expense of the licensee or permittee and, except as the City Council may deem appropriate, no part of such costs shall be borne by the City. (Ord. 534 §1)

Sec. 16-64. Rules and regulations.

City Council may from time to time adopt such reasonable rules and regulations as it may deem necessary to assure the quality, efficiency and effectiveness of any such emergency alarm devices. (Ord. 534 §1)

Sec. 16-65. False alarms.

False alarms present a risk to emergency personnel responding thereto and to the general public; repeated incidents of false alarms at the same location shall be a basis for imposition of a fine or fines or suspension or revocation of the permit required to operate and maintain any emergency alarm device or system.

(1) False burglar, holdup or police emergency alarms. Except for alarms caused by an act of nature or through faulty telephone communications, a fine of fifty dollars (\$50.00) shall be levied for each false burglar, holdup or police emergency alarm to which the police respond in excess of six (6) in any three-hundred-sixty-five-day period. Repeated false alarms in excess of six (6) alarms in such period for whatever reason shall also be grounds for suspension by the Chief of Police of the permit for such system as a faulty system. The Chief of Police shall at all times have the authority to suspend the permit for any such system until such time as suitable personnel practices are instituted or satisfactory repair or replacement is made correcting such faulty system. The Chief of Police, at any time, may also recommend to the City Council the termination of the permit required to operate and maintain such system for any violation of this Article or for any faulty system which cannot be made reliable against false alarms in keeping with the provisions of this Section. Any alarm system shall be deactivated if the permit therefor is suspended or terminated and shall remain deactivated until the suspension is terminated by reinstatement or a new permit for the system is issued.

(2) False fire alarms. Except for alarms caused by an act of nature or through faulty telephone communications, a fine shall be levied for each false fire or false emergency alarm at the same location to which the Fire Department responds in excess of six (6) in any three-hundred-sixty-five-day period in accordance with the following schedule:

a. One hundred fifty dollars (\$150.00) per vehicle owned and operated by the Fire Department responding to each false alarm;

b. Normal response shall consist of two (2) engines, one (1) ladder and one (1) rescue truck.

Repeated false alarms in excess of six (6) alarms in such period for whatever reason shall also be grounds for suspension by the Fire Chief of the permit for such system as a faulty system. The Fire Chief shall at all times have the authority to suspend the permit for any such system until such time as suitable personnel practices are instituted or satisfactory repair or replacement is made correcting such faulty system. The Fire Chief, at any time, may also recommend to the City Council the termination of the permit required to operate and maintain such system for any violation of this Article or for any faulty system which cannot be made reliable against false alarms in keeping with the provisions of this Section. Any alarm system shall be deactivated if the

permit therefor is suspended or terminated and shall remain deactivated until the suspension is terminated by reinstatement or a new permit for the system is issued. (Ord. 534 §1; Ord. 902 §3)

Sec. 16-66. Alarm systems outside City limits.

The provisions of this Article shall apply to any and all emergency alarm devices, the signal of which originates outside the corporate limits of the City when such signal terminates directly within or gives an alarm within the Police Department or Fire Department of the City. (Ord. 534 §1)

Sec. 16-67. Trunk-line facilities.

No alarm system or device which transmits a signal or prerecorded message directly to the Police or Fire Departments shall be connected to or be permitted to use the primary telephone trunk line serving any City governmental facility. (Ord. 534 §1)

Sec. 16-68. Penalty.

In addition to any other remedies or penalties provided herein, any person violating the provisions hereof shall be punished by a fine not to exceed three hundred dollars (\$300.00) or by imprisonment for a term not to exceed ninety (90) days or by both such fine and imprisonment. (Ord. 534 §1)

ARTICLE VII

Bicycles

Sec. 16-69. License required.

No person who resides within this municipality shall ride or propel a bicycle on any street or upon any public path set aside for the exclusive use of bicycles unless such bicycle has been licensed and a license is attached thereto as provided herein. (Ord. 835)

Sec. 16-70. License application.

Application for a bicycle license shall be made upon a form provided by this municipality and shall be made to the Chief of Police or other authorized official. A license fee as prescribed by the bicycle licensing authority shall be paid to this municipality before each license is granted. (Ord. 835)

Sec. 16-71. Issuance of license.

(a) The Chief of Police or other designated official upon receiving proper application therefor is authorized to issue a bicycle license.

(b) The Chief of Police or other authorized official shall not issue a license for any bicycle when he or she knows or has reasonable grounds to believe that the applicant is not the owner of or entitled to the possession of such bicycle.

(c) The Chief of Police or other authorized official shall keep a record of the number of each license, the date issued, the name and address of the person to whom issued, and the number on the frame of the bicycle for which issued, and a record of all bicycle license fees collected by him or her. (Ord. 835)

Sec. 16-72. Attachment of license.

(a) The Chief of Police or other authorized official upon issuing a bicycle registration card shall also issue a license bearing the license number assigned to the bicycle and the name of this municipality.

(b) The Chief of Police or other authorized official shall cause such license to be firmly attached to the frame of the bicycle for which issued in such position as to be plainly visible.

(c) No person shall remove a license from a bicycle during the period for which issued. (Ord. 835)

Sec. 16-73. Penalty.

Any bicycle not properly licensed pursuant to this Article VII may be impounded until properly licensed. (Ord. 835)