



City of La Quinta

CITY / SA / HA / FA MEETING DATE: June 16, 2015

ITEM TITLE: INTRODUCE AN ORDINANCE AMENDING SEVERAL CHAPTERS OF TITLE 5 OF THE MUNICIPAL CODE RELATING TO BUSINESS REGULATIONS AND DELETING CHAPTERS 5.16, 5.28, 5.44, 5.52, AND 11.60 OF THE MUNICIPAL CODE

AGENDA CATEGORY:

BUSINESS SESSION: 3

CONSENT CALENDAR:

STUDY SESSION:

PUBLIC HEARING:

RECOMMENDED ACTION:

- A) Move to take up Ordinance No. ___ by title and number only and waive further reading.
- B) Move to introduce at first reading, Ordinance No. ___ amending several chapters of Municipal Code Title 5 relating to business regulation provisions and deleting chapters 5.16, 5.28, 5.44, 5.52 and 11.60.

EXECUTIVE SUMMARY:

- The first comprehensive review of the Municipal Code (“code”) is underway. Of the 15 chapters being addressed, 13 were adopted at the City’s incorporation in 1982 and have remained unchanged since adoption. The remaining two chapters were adopted in 1995 and 2001 and have not been updated since that time.
- Updates to Title 5 are necessary to align the code with current state code, adhere to best practices, consolidate provisions, remove unnecessary detail, provide for flexibility, and update terms.

FISCAL IMPACT:

None.

BACKGROUND/ANALYSIS:

Fifteen of the 17 chapters of Title 5 of the code are addressed in this report. No updates were required to chapters 5.10 cable television systems, and 5.11 video franchises.

The following summarizes the substantial changes to each chapter amended:

CHAPTER 5.08 CABARETS

The title of this chapter has been changed to more clearly reflect the subject matter it seeks to regulate, i.e. entertainment businesses where alcohol is served. Unnecessary provisions covered more thoroughly by state law, such as hours of operation and unlocked doors, have been deleted. The remaining sections will be incorporated into Title 9 conditional use permit provisions when that Title is revised, and this chapter will be deleted in its entirety.

CHAPTER 5.12 DANCES

This chapter will eventually be deleted and its sections incorporated into Title 9 temporary use permit provisions when that Title is revised. In the meantime, the chapter has been amended to consolidate and clarify sections, refer to the standardized notice and appeal sections recently adopted, and update language to reflect the contract relationship with County police and fire services.

CHAPTER 5.16 DRUG PARAPHERNALIA DISPLAY

State law deals with this subject more thoroughly and preempts municipal law so this chapter has been deleted and the subject matter addressed in the miscellaneous business regulations chapter (5.72) by requiring compliance with state law but reserving the City's power to remedy.

CHAPTER 5.20 HANDBILLS

The ability to regulate handbill distribution has been maintained to allow the City to remedy violations but the requirement to obtain a permit to do so has been eliminated because in practice, no permit for this activity has ever been sought or issued. Sections have been updated and two added to require a business license and set a penalty for noncompliance.

CHAPTER 5.24 HOTEL REGISTRATION [AND OCCUPANCY]

This chapter has been combined with a similar chapter entitled: Occupancy of Hotel Rooms by Minors (11.60). It has been renamed to include the added subject matter. As an important tool for law enforcement, the chapter has been reworked to require hotel proprietors to collect and maintain all the information on guests that investigators may need.

CHAPTER 5.28 ICE VENDING MACHINES

This chapter has been deleted. It was adopted in 1982 as part of Ordinance 10, which contained 102 chapters pulled from codes of various cities and the County to create the first La Quinta Municipal Code. It is unnecessary in a desert setting, has never been applied, and such machines are governed by County health codes.

CHAPTER 5.32 MASSAGE, THERAPY BUSINESSES

Revisions to this chapter release the City of the onerous responsibility of screening and permitting these businesses by requiring them to hold valid certifications and permits issued by the State Massage Therapy Council. In addition, fee amounts have been

removed and reference to the City's fee schedule inserted for greater flexibility to adjust. Reference to the standardized notice and appeal sections has also been inserted.

CHAPTER 5.38 PARKING ATTENDANTS

Title 9 includes a section dealing with valet parking that does not utilize public right-of-ways. The regulations in this chapter addressing parking attendants using public right-of-ways will be added to Title 9 use permit provisions when that Title is revised. Until that time, the chapter has been amended to update the insurance requirements and refer to the standardized notice and appeal sections recently adopted.

CHAPTER 5.40 PASSENGER CARRIERS

On April 2, 1996, the City executed an Implementation Agreement with Sunline Services Group and other Valley cities to authorize Sunline to regulate taxis and alternative for-hire transportation on its behalf. Section 1.3.2 of that Agreement states: "...the cities shall repeal any laws, regulations, and ordinances which regulate, license or franchise operators of taxicabs and Alternative Transportation within their respective city limits..." Most previous sections of this chapter are now being deleted to adhere to that Agreement, but in case that Agreement should ever become ineffective, language has been added to incorporate Sunline's ordinance as part of La Quinta's code until such time as the City adopts a new ordinance to regulate the activity.

CHAPTER 5.44 SECONDHAND DEALERS, PAWNBROKERS, AND LOAN BROKERS

State law deals with this subject more thoroughly and preempts municipal law so this chapter has been deleted and the subject matter addressed in the miscellaneous business regulations chapter (5.72) by requiring compliance with State law but reserving the City's power to remedy.

CHAPTER 5.48 PEDDLERS – SOLICITORS

This chapter was preserved to allow the City to regulate the activities of peddlers and solicitors through a permitting process. The minor amendments update the definitions and refer to the standardized notice and appeal sections recently adopted.

CHAPTER 5.52 PRIVATE PATROLS

State law deals with this subject more thoroughly and preempts municipal law so this chapter has been deleted and the subject matter addressed in the miscellaneous business regulations chapter (5.72) by requiring compliance with State law but reserving the City's power to remedy.

CHAPTER 5.60 [LIQUIDATION-TYPE] SALES

This chapter will eventually be deleted and its sections incorporated into Title 9 temporary use permit provisions when that Title is revised. At this time, language has been updated and reference made to the standardized notice and appeal sections recently adopted.

CHAPTER 5.72 MISCELLANEOUS BUSINESSES REGULATED

Formally, this chapter addressed only locksmith businesses. It has now been amended to consolidate the four business types that refer to compliance with State law, including locksmiths, private patrols, drug paraphernalia, and secondhand dealers.

CHAPTER 5.80 SEXUALLY ORIENTED BUSINESSES

This chapter was adopted in 1996 by numerous cities and has held up in court. Therefore, only minor clean-up changes have been made to the text including reference to the standardized notice and appeal sections recently adopted.

CHAPTER 11.60 OCCUPANCY OF HOTEL ROOMS BY MINORS

This chapter has been deleted and its provisions incorporated into chapter 5.24.

All chapters showing tracked changes are attached (Attachment 1).

ALTERNATIVES:

Council may direct staff to make additional/different amendments to these chapters of the code and/or amend only certain sections of these chapters.

Report prepared by: Susan Maysels, City Clerk

Report approved for submission by: Frank J. Spevacek, City Manager

Attachment: 1. Tracked changes

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA QUINTA, CALIFORNIA, AMENDING SEVERAL CHAPTERS OF TITLE 5 AND DELETING CHAPTERS 5.16, 5.28, 5.44, 5.52, AND 11.60 OF THE MUNICIPAL CODE

WHEREAS, Title 5 of the Municipal Code contains the chapters that address business regulations, and;

WHEREAS, a comprehensive review of Title 5 was undertaken to examine each chapter for accuracy, relevance, streamlining, straight-forward language, and compliance with State law, and;

WHEREAS, amendments to several chapters of Title 5 are needed as a result of the comprehensive review to update the Municipal Code,

NOW THEREFORE, the City Council of the City of La Quinta does ordain as follows:

SECTION 1. CHAPTER 5.08 CABARETS shall be retitled and amended as written in Exhibit A attached hereto.

SECTION 2. CHAPTER 5.12 DANCES shall be amended as written in Exhibit A attached hereto.

SECTION 3. CHAPTER 5.16 DRUG PARAPHERNALIA DISPLAY shall be deleted.

SECTION 4. CHAPTER 5.24 HOTEL REGISTRATION shall be retitled and amended as written in Exhibit A attached hereto.

SECTION 5. CHAPTER 5.28 ICE VENDING MACHINES shall be deleted.

SECTION 6. CHAPTER 5.38 PARKING ATTENDANTS shall be amended as written in Exhibit A attached hereto.

SECTION 7. CHAPTER 5.40 PASSENGER CARRIERS shall be amended as written in Exhibit A attached hereto.

SECTION 8. CHAPTER 5.44 SECONDHAND DEALERS, PAWNBROKERS, AND LOAN BROKERS 2.55 OFFICIAL HOLIDAYS shall be deleted.

SECTION 9. CHAPTER 5.48 PEDDLERS – SOLICITORS shall be amended as written in

Exhibit A attached hereto.

SECTION 10. **CHAPTER 5.52 PRIVATE PATROLS** shall be deleted.

SECTION 11. **CHAPTER 5.60 SALES** shall be renamed and amended as written in Exhibit A attached hereto.

SECTION 12. **CHAPTER 5.72 MISCELLANEOUS BUSINESSES REGULATED** shall be amended as written in Exhibit A attached hereto.

SECTION 13. **CHAPTER 5.80 SEXUALLY ORIENTED BUSINESSES** shall be amended as written in Exhibit A attached hereto.

SECTION 14. **CHAPTER 11.60 OCCUPANCY OF HOTEL ROOMS BY MINORS** shall be deleted.

SECTION 15. **SEVERABILITY.** The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

SECTION 16. **EFFECTIVE DATE.** This Ordinance shall be in full force and effect thirty days after its adoption.

SECTION 17. **POSTING.** The City Clerk shall, within 15 days after passage of this Ordinance, cause it to be posted in at least three public places designated by resolution of the City Council, shall certify to the adoption and posting of this Ordinance, and shall cause this Ordinance and its certification, together with proof of posting to be entered into the Book of Ordinances of the City of La Quinta.

PASSED, APPROVED and ADOPTED, at a regular meeting of the La Quinta City Council held this ___ day of ___ 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

LINDA EVANS, Mayor
City of La Quinta, California

ATTEST:

SUSAN MAYSELS, City Clerk
City of La Quinta, California

(CITY SEAL)

APPROVED AS TO FORM:

WILLIAM H. IHRKE, City Attorney
City of La Quinta, California

Chapter 5.08 ENTERTAINMENTS COMBINED WITH THE CONSUMPTION OF ALCOHOLIC BEVERAGES

5.08.010 Entertainments defined.

As used in this chapter, “entertainments” means every act, play, burlesque show, revue, pantomime scene, song and dance act, song rendition, music rendition, or other entertainment participated in by one or more persons which is performed, exhibited, shown or produced in any place within the city where alcoholic beverages as defined by the State Alcoholic Beverage Control Act are being sold or offered for sale for consumption on the premises.

5.08.020 Soliciting of drinks or trade.

No person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010 shall conduct, sponsor or allow any entertainment at any time when the practice of employees soliciting or accepting drinks of alcoholic beverages from patrons is permitted.

No person shall engage in personally soliciting trade on any public street or sidewalk at or near the entrance of a place with entertainment, nor shall any person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010, conduct, sponsor or allow any entertainment when the practice of soliciting business is engaged in or permitted.

5.08.030 Entertainment not to be visible or audible from street.

No person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010, shall suffer or permit any entertainment to be conducted which is visible or plainly audible from any public street or sidewalk, except for such temporary periods not exceeding one minute when patrons are entering or exiting through a doorway.

Chapter 5.12 DANCES

5.12.010 Definitions.

In this chapter, unless another meaning is clearly apparent from the context:

- A. “Club dance” means any dance held by a dancing club.
- B. “Dancing club” means any club or association of persons which conducts dances (other than public dances for its members or bona fide guests) more often than once per month at which a fee is charged, either for admission to the dance or for dancing

therein, or at which any collection or donation of money is made or received, or in which the amount of dues to be paid by each member is dependent upon attendance at such dances by such members.

C. “Public dance” means a gathering of persons in or upon any premises where dancing is participated in, either as the main purpose for the gathering or as an incident to some other purpose, and to which premises the public is admitted.

D. “Public dance hall” means a place where dancing is conducted, whether for profit or not for profit, and to which the public is admitted, either with or without charge or at which the public is allowed to participate in the dancing, either with or without charge.

5.12.020 Hours.

No person shall conduct, manage, carry on, allow or participate in dancing at any dancing club, public dance or public dance hall between the hours of two a.m. and eight a.m.

5.12.030 Permit required.

No person, whether as principal, agent, employee or otherwise, shall conduct, manage, carry on, or participate in any dancing club, dancing school, studio, public dance or public dance hall unless by authority of a permit from the city manager.

5.12.040 Operation during suspension or revocation.

It is unlawful to conduct or manage or carry on any dancing club, public dance, or public dance club or hall in the city under any permit issued under this chapter while the permit is in a state of suspension or while any suspension or revocation with respect to the permit continues to exist; and it is unlawful for any person to participate in any such dance.

5.12.060 Effect of permit.

The issuance of any permit or temporary permit shall not be deemed to permit any violation of law or ordinance or rule prescribed pursuant to Sections 5.12.250 and 5.12.260.

5.12.070 Posting of permit. The permit shall be conspicuously posted upon the premises referred to therein, during the term thereof.

5.12.080 Requisites to issuance of permit—Factors considered.

No permit or temporary permit shall be issued under this chapter unless and until it appears and is determined by the city manager, in his/her discretion, that the conduct of the dance hall, dancing club, or public dance will comport with and not prejudice or work to the disadvantage or injury or harm of the public peace, safety, morals, health or welfare, and that the applicant will, for the term of the permit, have in force and effect adequate insurance to protect the public and the city with regard to reasonably foreseeable accidents and other liability, and the city manager and other city

departments, in acting upon any such application, shall consider any and all facts and evidence pertinent, relevant or material with respect thereto and require such conditions to permit issuance as the city manager deems necessary including making the permit conditional upon the attendance of a special police or fire officer or officers, appointed under Section 5.12.270 through 5.12.290.

5.12.100 Permit—Issuance.

Permits to conduct dancing clubs, dancing schools, studios, public dances or public dance halls may be issued or renewed by the city manager upon the written application of any person for himself or on behalf of any other person, and payment of the required charges.

5.12.110 Permit—Expiration date.

Every such permit shall expire on September 30th following the date of issuance.

5.12.120 Filing of application—Fee.

Every such application shall be filed with the city manager, and at the time of filing the applicant shall submit a payment in such amount as has been prescribed by resolution of the city council, to defray the expense of investigation and processing.

5.12.130 Exemption from fee for casual dances.

There shall be no charge or fee for investigation where dances are proposed to be held by charitable, memorial, fraternal or labor associations, student bodies of schools or the proposed dances are in connection with patriotic or holiday celebrations or festivals, where such dances are casual and for one such occasion only and are not conducted more often than once per month.

5.12.140 Application—Presentation—Contents.

Every such written application for a permit shall be presented to the city manager and shall set forth the following facts:

- A. Applicant. The name and residence of the applicant or applicants, and if any applicants are a firm, association, corporation or club, the names and residences of the partners, officers, directors, managers and of all employees who will be in charge of the dancing club, public dance, or public dance hall;
- B. Location. The place for which the permit is desired or in which any dance or dances are proposed to be held;
- C. Time of Dances. The number and dates of the dances proposed to be held;
- D. Police. Whether a special police officer pursuant to Sections 5.12.270 through 5.12.290 is desired for the dance or dances, and will be present at times dancing is conducted, carried on or allowed.

5.12.150 Reference.

Upon filing of each application, it shall be referred by the city manager to departments designated by the city manager for investigation and report.

5.12.160 Investigation.

The departments so designated shall make a thorough investigation as required for the protection of the public peace, health, safety and general welfare, and may require the submission of additional information by the applicant as is necessary to the investigation.

5.12.170 Recommendation.

Thereafter, and within five business days from referral of the application, each department designated shall report its findings and conclusions and make recommendations concerning the application.

5.12.180 Consideration, decision by city manager – Time period, temporary permit.

After receiving the reports as provided for in Section 5.12.170, the city manager may make such further investigations as he deems proper or advisable in the interest of the public peace, health, safety and general welfare, and within thirty days from the filing of the application shall either approve, conditionally approve or deny the application according to the requirements of the public peace, health, safety or general welfare. Should the city manager fail to act within said time, the application shall be deemed denied. At any time after the application is filed, however, and pending complete processing thereof, the city manager may issue a temporary permit upon stated terms and conditions, including a fixed expiration date or indefinite period subject to termination on notice, so long as the city manager tentatively determines that the temporary permit for the activity desired to be held will comport with and not prejudice nor work to the disadvantage or injury of the public peace, safety, morals, health or welfare.

5.12.190 Suspension of permit—Requirement of police officer.

The city manager may at any time temporarily suspend any permit issued under this chapter, or may require the attendance of a special police officer during all or certain times dancing is conducted, carried on or allowed, as a condition to the continued exercise of the permit, when s/he finds and determines that the public peace, safety, morals, health or welfare require or will be promoted or best served by such suspension or special police officer attendance.

5.12.200 Service of notices and orders.

The service of any notices or orders pursuant to this chapter shall be served in accordance with Section 1.01.300 of this code.

5.12.210 Right to be heard.

The holder of any permit, suspended permit or revoked permit shall be afforded an opportunity to be heard and to present evidence on his/her behalf at an appeal

hearing before the city manager held in accordance with sections 2.08.180 through 2.08.230 of this code.

5.12.220 Action by city manager upon hearing.

Upon hearing held by the city manager , and adjournments and continuances thereof upon the notice, the city manager may revoke, suspend, further suspend or apply conditions to the further exercise of any permit issued under this chapter because of anything done or omitted by the permittee, his/her agents or employees or the patrons of his/her establishment upon the premises involved contrary to the provisions of any applicable state law, or of this chapter or any ordinance of the city, or of the rules prescribed by the city manager pursuant to sections 5.12.230 and 5.12.240, or when the public peace, safety, morals, health or welfare require or will be promoted or best served by any such action.

5.12.230 Power to make rules and regulations.

The city manager may make rules and regulations governing dancing clubs, public dances, or public dance halls within this city which shall govern and apply to all permittees under this chapter.

5.12.270 Special police officers—Requested by applicant .

Any person conducting, managing, or carrying on any dancing club, public dance or public dance hall shall have the right to apply to the city manager for appointment of a special police officer or officers of the city to be present and in attendance at the dancing club, public dance or public dance hall during all times that dancing is conducted, carried on or allowed therein, for the purpose of preserving order and preventing any violation of any law of the state, or any ordinance of the city, or any rule prescribed under Sections 5.12.230 and 5.12.240.

5.12.280 Special police and fire officers required by city.

The city manager may require the presence and attendance of a special police officer or officers, or also a special fire officer or officers in accordance with the provisions of the Uniform Fire Code relating to standby firemen at places of public assembly, any of which requirements may be prescribed as a condition or conditions to the exercise of any permit, long term or temporary, as provided for in this chapter. In such event, the permit shall be effective only during the attendance of the police and/or fire officer or officers.

5.12.290 Cost of policing.

A. Fees. The expense of any such special officer or officers so appointed for such attendance shall be paid by the person so conducting, managing, or carrying on any dancing club, public dance, or public dance hall in accordance with such schedule of fees for such services as may be found to be reasonable and established by the chief of police or the fire chief, as the case may be.

B. Payment shall be made to the County Sheriff's Department and/or County Fire Department for the expense of the special officer(s) in the manner and on the dates prescribed by those County departments.

5.12.300 Appeals.

Any person aggrieved by any decision of the city manager with respect to denial or issuance of any permit, conditions attached thereto, or any other administrative action taken pursuant to the terms of this chapter, may appeal to the city council pursuant to Sections 2.04.100 through 2.04.130 of this code.

~~Chapter 5.16 DRUG PARAPHERNALIA DISPLAY - delete~~

Chapter 5.20 HANDBILLS

5.20.010 Purpose.

To protect the people from the nuisance of, and incident to, the promiscuous distribution of handbills and circulars, particularly commercial handbills, as defined in this chapter, with the resulting detriment and danger to public health and safety, the public interest, convenience and necessity requires the regulation thereof, and to that end the purposes of this chapter are specifically declared to be as follows:

A. To protect the people against the unlawful activities or operations of dissolute persons of criminal habits or tendencies, representing themselves as solicitors, canvassers, or handbill solicitors, canvassers, or handbill distributors, together with their employers, by regulating the business of handbill and advertising distribution;

B. To protect local residents against trespassing by solicitors, canvassers, or handbill distributors, upon private property of such residents if they have given reasonable notice, as defined in Section 5.20.080 that they do not wish to be solicited by such persons, or do not desire to receive handbills or advertising matter;

C. To protect the people against the health and safety menace and the expense incident to the littering of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and commercial handbills;

D. To preserve to the people their constitutional right to receive and disseminate information not restricted under the ordinary rules of decency and good morals and public order, by distinguishing between the nuisance created by the promiscuous distribution of advertising and commercial circulars and the right to deliver noncommercial handbills to all who are willing to receive them, said right being limited solely by the needs of pedestrian and traffic safety.

5.20.020 Definitions.

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

A. "Commercial handbill" means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, sign, bill, poster, picture, lithograph, map, plat or any other printed or otherwise reproduced original or copies of any matter or literature:

1. Which advertises for sale any merchandise, product, commodity, thing or service; or

2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; or

3. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this subdivision shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to the meeting, theatrical performance, exhibition or event of any kind, when either of them is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing contained in this subdivision shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license where the license is or may be required by any law of this state, or under any ordinance of this city; or

4. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

B. "Handbill distributor" means and includes any person engaging or engaged in the business for hire or gain of distributing commercial or noncommercial handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such handbills.

C. "Newspaper" means and includes any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

D. "Noncommercial handbill" means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, sign, bill, poster, picture, lithograph, map, plat or any other printed or

otherwise reproduced original or copies of any matter or literature not included in the definition of a sign, or a commercial handbill, or a newspaper.

E. "Person" means and includes any person, firm, partnership, association, corporation, company, or organization of any kind.

F. "Private premises" means and includes any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule, building or other structure.

G. "Public place" means and includes any and all streets, boulevards, avenues, lanes, alleys, walkways, bikeways or other public ways, and any and all public parking facilities, public parks, public golf courses, squares, spaces, plazas, grounds and buildings.

5.20.030 Posting notice, placard or bill prohibited in certain cases.

No person shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster advertisement or other paper or device calculated to attract the attention of the public, to or upon any sidewalk, crosswalk, curb or curbstone, flagstone or any other portion or part of any public way or public place, or any lamppost, electric light, telegraph, telephone or trolley line pole, or railway structure, hydrant, tree or tree-box, or upon the piers, columns, trusses, girders, railings, gates or other parts of any public bridge or viaduct or other public structure or building, or upon any pole, box, or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or the state and the ordinances of the city.

5.20.040 Throwing, broadcasting or distributing handbills in public places prohibited.

It is unlawful for any person to deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any public place within this city; and it is also unlawful for any person to hand out or distribute or sell any commercial handbill in any public place; provided however, that it is not unlawful for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill in any public place to any person willing to accept the noncommercial handbill as provided in this chapter.

5.20.050 Placing commercial handbills in or on vehicles prohibited.

No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any automobile or other vehicle.

5.20.060 Distribution on uninhabited or vacant private premises prohibited.

It is unlawful for any person to distribute, deposit, place, throw, scatter, or cast any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

5.20.070 Distribution prohibited where properly posted.

It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill upon any inhabited private premises, if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words “NO TRESPASSING,” “NO PEDDLERS OR AGENTS,” “NO ADVERTISEMENT” or similar notice indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon the premises.

5.20.080 Distribution on inhabited private premises—Not posted.

In the case of inhabited private premises which are not posted as provided in this chapter, a person holding a valid city business license, unless requested by anyone upon the premises not to do so, may place or deposit any such handbill in or upon the inhabited private premises, if the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or elsewhere except that mailboxes may not be used.

5.20.090 Distributors' compliance; Advertising from own premises .

It is unlawful for any person to engage in the business of handbill distributor for hire, or for any person to distribute commercial or noncommercial handbills, without first complying with the terms of this chapter and all other relevant laws and regulations; provided, that nothing contained in this chapter shall apply to any person advertising his/her business or activity upon his/her own premises, if the business or activity is regularly established at a definite location in the city, and also if a valid business license has been obtained therefor, if the business license is required under the terms of any applicable law or ordinance.

5.20.100 Business license required.

A city business license shall be obtained by every person in accordance with chapter 3.28 of this code before any person may become a handbill distributor.

5.20.110 Exemption.

The provisions of this chapter shall not be deemed to apply to the distribution of mail by the United States, nor to newspapers as defined in this chapter, except that no common carrier shall deliver newspapers in the city by leaving the same at any stopping place or in any street corner or elsewhere in the city unless such papers are bound, tied or fastened together in such a way or manner as will prevent the same from blowing and becoming scattered, nor may such papers remain at any stopping place anywhere in the city later than 9:00 a.m. daily.

5.20.120 Violation – Penalty.

Any person violating any provision of this chapter is guilty of an infraction.

Chapter 5.24 HOTEL REGISTRATION AND OCCUPANCY

5.24.005 Definitions.

The following definitions are applicable to this chapter:

- A. “Adult” means any competent person over eighteen years of age.
- B. “Hotel” means lodginghouse, roominghouse, recreation vehicle park, hotel or motel or apartment house.
- C. “Minor child” means any person less than eighteen years of age.
- D. “Occupancy” or “occupation” includes but is not limited to any type of rental, lease, sublease or letting of hotel rooms for compensation or otherwise.
- E. “Parent” means the natural or adopted parent or relative eighteen years or more of age, or the legal guardian.
- F. “Room” means and includes any rental, hotel room, apartment, or any type of hotel accommodation.

5.24.010 Registration required.

Every owner, keeper or proprietor of any lodginghouse, roominghouse, recreation vehicle park, hotel or motel shall keep a register wherein s/he shall require all guests, roomers or lodgers to inscribe their names and addresses upon their procuring lodging or a room or accommodations. Before furnishing any lodging for hire to any person, the proprietor, keeper, manager or owner thereof shall compare each name inscribed against a valid government-issued identification document as verification of accurate identity inscribed in register and shall set opposite the each name the correct date and time when so inscribed, and the room or space occupied, or to be occupied by the lodger, roomer or guest. At the time of departure of each guest, every owner, keeper or proprietor shall endorse upon such register the date of such departure and no person shall erase, alter, delete or remove any information written in such register.

5.24.020 Form of register ; retention of register.

The register required in Section 5.24.010 shall be kept in either a substantially bound book, compilation of registration cards, or electronic format; and which register shall be preserved for a minimum period of three years after the date of its most recent entry.

5.24.030 Access to register.

The register shall at all times be open to inspection by the chief of police, any regular police officer of this city, code enforcement officer, city audit staff members, and any other city officer or employee for law enforcement or other official city business purposes.

5.24.040 Duty to register.

Every person engaging or to whom there is furnished any room or accommodations at a lodginghouse, roominghouse, recreation vehicle park, hotel or motel shall first sign the register and give the information as provided in the preceding sections.

5.24.050 False name or address.

No person referred to in Section 5.24.030 shall write or allow to be written any other than his/her true name and address upon the registration; nor shall any person write thereon other than the true name and address of any other guest upon the registration.

5.24.060 Hotel owner responsibility.

No hotel owner, operator or employee shall permit the occupancy of any room by any minor child, unless the minor child is accompanied by his/her parent, legal guardian or a responsible adult authorized in writing by a parent or legal guardian of the minor child.

5.24.070 Duty of parent or adult.

No adult or parent registering with a minor child, as provided in Section 5.24.050, shall, except in the case of sickness, death, or act of God, fail to remain registered for a period equal to the longest period of occupation by the minor child.

~~Chapter 5.28 ICE VENDING MACHINES – delete~~

Chapter 5.32 MASSAGE, THERAPY BUSINESSES

5.32.010 Definitions.

- A. “Applicant” means the individual seeking a permit pursuant to this chapter.
- B. “Certified copy” means a copy of a document that is certified by the issuer as being a true and accurate copy of the original document or a similar document bearing an original signature of the issuer.
- C. “Certified massage practitioner” means a person who is certified by the Massage Therapy Council, under California Business and Professions Code § 4604.2 and who administers massage.
- D. “Certified massage therapist” means a person who is certified by the Massage Therapy Council, under California Business and Professions Code § 4604 and who administers massage.
- E. “Certified statement” means a written assertion, claim or declaration bearing the original signature of the issuer.
- F. “Communicable disease” shall mean tuberculosis, or any disease which may be transmitted from a massage therapist to a patron through normal physical contact during the performance of any massage service.

G. “Complete application” shall mean an application, which provides all of the requisite information required to be provided by an applicant pursuant to this chapter.

H. “Disqualifying conduct” means any of the following when occurring within five years of any application made pursuant to this chapter:

1. Pandering as set forth in California Penal Code Section 266i;
2. Keeping or residing in a house of ill-fame as set forth in California Penal Code Section 315;
3. Keeping a house for the purpose of assignation or prostitution, or other disorderly house as set forth in California Penal Code Section 316;
4. Prevailing upon a person to visit a place of illegal gambling or prostitution as set forth in California Penal Code Section 318;
5. Lewd conduct as set forth in California Penal Code Section 647, subdivision (a);
6. Prostitution activities as set forth in California Penal Code Section 647, subdivision (b);
7. Any offense committed in any other state which, if committed or attempted in this state, would have been punishable as one or more of the offenses set forth in California Penal Code Sections 266(i), 315, 316, 318, or 647, subdivisions (a) or (b);
8. Any felony offense involving the sale of any controlled substance specified in California Health and Safety Code Sections 11054, 11055, 11056, 11057, or 11058;
9. Any offense committed in any other state which, if committed or attempted in this state, would have been punishable as a felony offense involving the sale of any controlled substance specified in California Health and Safety Code Sections 11054, 11055, 11056, 11057, or 11058;
10. Any misdemeanor or felony offense which relates directly to the practice of massage therapy, whether as a massage therapy business owner or operator, or as a massage therapist; or
11. Any felony the commission of which occurred on the premises of a massage therapy establishment.

I. “Filing date of application” means the date on which the permit administrator determines that a complete application pursuant to this chapter has been submitted to the permit administrator by the applicant.

J. “Full nudity” or “semi-nudity” means any of the following: (a) the appearance or display of an anus, male or female genital, pubic region, or a female breast below a point immediately above the top of the areola, and/or (b) a state of undress which less than completely and opaquely covers an anus, male or female genital, pubic region or a female breast below a point immediately above the top of the areola.

K. “Manager” means the individual(s) who are responsible for the management and/or supervision of a massage therapy business.

L. “Massage” or “massage therapy” means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus or appliances, with or without supplementary aids such as creams, ointments, or other similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor. “Massage” and “massage therapy” shall include such manipulation of the body or similar procedures described in this paragraph that are performed in hydrotherapy, spa or similar bath facilities.

M. “Massage certificate” means a valid certificate issued by the Massage Therapy Council pursuant to California Business and Professions Code § 4600 et seq.

N. “Massage therapy establishment” means any business that derives income or compensation from massage therapy services, whether or not massage is performed on the premises of a fixed business site.

O. “Massage therapist” means an individual who, for any consideration whatsoever, performs or offers to perform a massage.

P. “Massage Therapy Council” means the organization created pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code (Business and Professions Code § 4600 et seq.) to provide State certification of massage practitioners and massage therapists.

Q. “Operator” means any of the following: (a) the owner, (b) the permit holder and applicant(s) therefor, (c) custodian, (d) manager, or (e) person in charge of any massage therapy establishment.

R. “Off-premises massage” means a massage performed at a location that is not a massage therapy establishment for which a permit to operate as a massage therapy establishment has been granted by the city.

S. “Patron” means any person who receives a massage in exchange for any form of consideration including, but not limited to, the payment of money.

T. “Permit” means a written permit to operate a massage therapy establishment. A “reciprocal permit” means a permit issued by this jurisdiction based on the fact that the applicant holds a valid massage therapy establishment permit issued by another jurisdiction in the Coachella Valley. An “original permit” means a massage therapy establishment permit issued by the City without regard to whether the applicant holds a massage therapy establishment permit issued by another jurisdiction.

U. “Permit administrator” means the city manager or his designee, who will be responsible for issuing and revoking permits and otherwise administering any provision of this chapter.

V. “Permittee” means the person to whom a permit has been issued pursuant to this chapter.

W. “Person” means any of the following: (a) an individual, (b) a proprietorship, (c) a partnership, (d) a corporation, (e) an association, (f) a limited liability company or (g) any other legal entity.

X. “Physicians certificate” means a certified statement from a physician licensed to practice medicine in the United States that provides that the applicant has, within sixty days prior to the filing date of the application, been examined by said physician and it has been determined that the applicant is free of any communicable disease as defined in this chapter.

Y. “Specified anatomical area” means human genitals, pubic region, anus, or a female breast below a point immediately above the top of the areola.

Z. “Specified sexual activities” means any of the following: (a) the fondling or other erotic touching of human genitals, pubic region, anus, or female breasts, (b) sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation, masturbation, or sodomy, or (c) excretory functions as part of or in connection with the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, sex acts, normal or perverted, actual or simulated, including inter-course, oral copulation, masturbation, or sodomy.

5.32.020 Massage therapy establishment permits and massage certifications required.

A. Massage Establishment Permit. No person shall operate, engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, the operation of a massage establishment unless: (1) all persons providing massage in connection with the establishment are certified massage practitioners and/or certified massage therapists; and (2) the massage establishment operator has obtained a massage establishment permit from the City pursuant to the provisions of this Chapter, as well as any other permits, licenses and other approvals required by law.

B. Massage Therapist Certification. Only a person holding a current massage certificate issued by the Massage Therapy Council shall perform or offer to perform massage therapy in the city. Nothing herein shall exempt a person from zoning or other applicable requirements set out elsewhere in this code or in the zoning ordinance, and every person shall comply with all such requirements.

C. Off-premises Endorsement. Except as expressly provided in this chapter, no person shall perform or offer to perform an off-premises massage unless he or she has a valid massage therapist off-premises endorsement, issued to him or her pursuant to the provisions of this chapter. Nothing herein shall exempt a person from zoning or other applicable requirements set out elsewhere in this code or in the zoning ordinance, and every person shall comply with all such requirements.

D. The permit requirements of this chapter shall be in addition to the requirement of a business license set out elsewhere in this code, as well as any other license, permit or fee required by any local, county, state or federal law.

5.32.030 Consent.

By applying for a permit under this chapter, the applicant shall be deemed to have consented to the provisions of this chapter and to the exercise thereunder by the

permit administrator and the city's officials, representatives and employees charged with implementing and/or enforcing the provisions set forth in this chapter.

5.32.040 Permit administrator's responsibilities.

The city shall designate a permit administrator who shall be responsible for granting or denying all permits described in this chapter and said permits shall only be granted or denied pursuant to the provisions described herein and all other applicable laws. If no designation is made pursuant to this provision, the city manager shall be deemed the permit administrator.

Where used herein with respect to the permit administrator's responsibilities, words such as "shall" and "must" are not intended by the city to self-impose liability and are instead intended only to be directory.

5.32.050 Reciprocal massage therapy establishment permit allocation.

A. If an applicant holds a current massage therapy establishment permit issued by any other jurisdiction in the Coachella Valley, then application for a reciprocal massage therapy establishment permit may be made by submission, to the permit administrator, of all of the following:

1. A certified copy of a current massage therapy establishment permit issued by any other jurisdiction in the Coachella Valley;
2. A certified copy of the original and all renewal applications related to the massage therapy establishment permit issued by the other Coachella Valley jurisdiction(s); and
3. A non-refundable application fee as represented in the City's fee schedule to defray the costs of administering this chapter.

B. If the massage therapy permit submitted in support of an application for a reciprocal permit includes an off-premises endorsement, the application shall be deemed an application for both a massage therapy establishment permit and an off-premises endorsement and no further documentation, information or fees shall be required in order to apply for an off-premises endorsement to the reciprocal permit.

5.32.060 Original massage therapist permit application.

A. If an applicant does not hold a current massage therapy establishment permit issued by another jurisdiction in the Coachella Valley, application for issuance of a massage therapy establishment permit shall be made, under oath, on a form provided by the City. The following information, documents and other requirements shall be included with the submission of all such applications:

1. The applicant's legal name, any aliases and date of birth;
2. The applicant's home and business addresses, corresponding telephone numbers, and permanent address and telephone number, if different;
3. Written evidence that the applicant is at least eighteen (18) years of age;
4. The previous home addresses of the applicant for the ten (10) years prior to the filing date of the application, and the dates of residency at each such address;

5. The names, addresses and descriptions of all current and former businesses owned, operated or managed by applicant for the ten (10) years prior to the filing date of the application, and the dates applicant owned, operated or managed each such business;
6. Employment history for the ten (10) years prior to the date of application, and all massage or similar business history and experience;
7. Two front-face portrait photographs taken within thirty (30) days of the date of application, at least two inches by two inches in size;
8. Applicant's weight, height, color of hair and eyes, and sex;
9. The applicant's driver's license number or identification number;
10. The applicant's fingerprints taken within the previous sixty (60) days by an agency approved by the permit administrator;
11. The applicant's social security number and/or state or federally issued tax identification number;
12. A description of the proposed massage establishment, including the type of treatments to be administered;
13. A list of all of applicant's criminal convictions, excluding traffic violations;
14. Whether or not the applicant has ever been convicted of any disqualifying conduct, as defined in this chapter;
15. Whether or not the applicant is required to register as a sex offender pursuant to the California Penal Code Section 290;
16. Whether or not applicant has had a previous permit, license or other authority for massage services denied, suspended or revoked by any entity. If so, the date, location and reasons for the denial, suspension or revocation;
17. Whether or not the applicant has been a sole proprietor, general partner, officer, director, member or employee of any massage therapy business that has had a permit, license or authority to operate a massage business denied, suspended or revoked by any entity. If so, the applicant shall provide the name and location of the massage therapy establishment or business for which the permit was denied, suspended or revoked, the date of the denial, suspension or revocation, and the reason(s) for the denial, suspension or revocation;
18. A complete list of the names and current residence addresses of all proposed massage therapists, practitioners, technicians, aides, trainees and other employees who are or will be employed in the massage establishment, if known. If not known at the time of submission of the application, the applicant shall provide the required information no later than seven (7) calendar days prior to opening for business;
19. For each person that the massage establishment does or will employ, retain or permit to perform massage, whether on- premises or off-premises, a certified copy of that person's current massage certificate issued by the Massage Therapy Council, and a copy of that person's identification card issued by the Massage Therapy Council;
20. The name and current residence addresses of all proposed operators and managers who will be principally in charge of the operation of the massage therapy establishment.

B. The applicant shall provide the permit administrator with the authorization to seek information and conduct the necessary background investigations to determine the truthfulness and correctness of the information provided by applicant and whether the applicant is qualified pursuant to this chapter to receive the requested massage therapy establishment permit.

C. The applicant shall date and sign the application and declare under penalty of perjury that the information contained in the application is true and correct.

D. The applicant shall pay a non-refundable application deposit fee as represented in the city's fee schedule at the time of filing an application to defray the costs of administering this chapter which fee shall be in addition to any other permit application fees.

5.32.070 Supplemental application for off-premises endorsement.

A. If an applicant does not hold a current permit with an off-premises endorsement issued by another Coachella Valley jurisdiction, application for an off-premises endorsement to a massage therapy establishment permit shall be made, under oath, on a form provided by the City. The following information, documents and other requirements shall be included with the submission of all such applications:

1. The applicant's legal name;

2. A copy of applicant's massage therapy establishment permit issued pursuant to this chapter, or reciprocal permit, if application therefor is not submitted concurrently; and

3. A complete list of the names and current residence addresses of all persons who are anticipated to provide off-premises massage, as well as a certified copy of each person's current massage certificate and identification card issued by the Massage Therapy Council.

B. The applicant shall provide the permit administrator with the authorization to seek information and conduct the necessary background investigations to determine the truthfulness and correctness of the information provided by applicant and whether the applicant is qualified pursuant to this chapter to receive the requested off-premises endorsement.

C. The applicant shall date and sign the application, declaring under penalty of perjury that the information contained in the application is true and correct.

D. The applicant shall pay a non-refundable application deposit fee as represented in the city's fee schedule at the time of filing an application for an off-premises endorsement to defray the cost of administering this chapter, which fee shall be in addition to any other permit application fees.

5.32.080 Processing the application.

A. All applications shall be submitted to the permit administrator.

B. Upon receipt of an application and payment of a nonrefundable application deposit fee, the permit administrator shall immediately stamp the application as received on that date. Within thirty (30) days thereafter, the permit administrator shall notify the applicant if the application is deemed incomplete. Any subsequent submission shall be deemed a new application.

C. Upon receipt of a completed application, the permit administrator shall cause an investigation to be made by the appropriate individuals or departments as determined by the permit administrator to be necessary for review and investigation of the accuracy of the information contained in the application and compliance with all applicable regulations.

D. The building official or his designee shall inspect the premises proposed to be devoted to the massage therapy establishment and shall make a recommendation to the permit administrator concerning compliance with the provisions of this chapter.

E. Each department or division to which the application is submitted by the permit administrator shall respond in writing to the permit administrator.

F. The permit administrator shall grant or deny an application for an original permit within sixty (60) business days of receipt of a complete application. The permit administrator shall grant or deny a reciprocal permit or a renewal application within thirty (30) calendar days of receipt of a complete application therefor.

5.32.090 Grounds for denial of application.

A. An application for a massage therapy establishment permit shall be denied if the permit administrator finds that, in the case of an application for a reciprocal permit, the massage therapy establishment permit or off-premises endorsement that the applicant alleges to have been issued by another Coachella Valley jurisdiction is not valid and/or current. In all other cases, the application shall be denied if the permit administrator finds any of the following:

1. The applicant is not eighteen (18) years of age or older;
2. The application contains false information;
3. Any of the massage certificates submitted with the application are determined to be invalid;
4. The applicant has been convicted of disqualifying conduct;
5. The applicant is required by the California Penal Code to register as a sex offender;
6. The applicant has had a massage therapist permit, or a permit or license to operate a massage therapy establishment, denied, revoked or suspended by any entity within five (5) years prior to the date of the application; or
7. The application is incomplete or any required information or document has not been provided with the application.

B. If the permit administrator denies the application, he or she shall notify the applicant of the denial in writing and state the reason(s) for the denial.

C. Any subsequent information submitted to cure the grounds for denial of an application shall be treated as a new application.

5.32.100 Issuance of permit.

A. The permit administrator shall issue the permit if there are no grounds to deny the permit as set forth in this chapter.

B. A massage therapy establishment permittee shall not perform, offer to perform, or allow the performance of massage therapy services at any site other than a lawfully operating fixed-location massage therapy establishment unless the

permittee's massage therapy establishment permit includes an off-premises endorsement.

C. Every massage therapy establishment shall display the massage therapy establishment permit issued to it pursuant to this chapter in a conspicuous place so that it may be readily seen by persons entering the premises.

D. All areas of the massage therapy establishment shall be subject to reasonable inspections during its hours of operation to ensure compliance with this Code, state laws regulating the practice of massage, and all other applicable laws and regulations.

5.32.110 Temporary permits.

A. Upon a finding of good cause therefor, the permit administrator may issue a temporary permit to any person who possess a valid permit issued by any other governmental entity pursuant to requirements that are similar to those set out in this chapter.

B. Application for a temporary permit shall be made by written request that includes a statement, under penalty of perjury, of the justification for a temporary permit. Said request shall be submitted to the permit administrator, together with the following:

1. A certified copy of a valid permit issued by any other jurisdiction, and a copy of the application for such permit;
2. A certified copy of the provisions of the ordinance or other local law pursuant to which the permit was issued by said other jurisdiction;
3. If the person intends to personally provide massage services, a certified copy of the person's valid massage certificate issued by the Massage Therapy Council;
4. Proof of identification; and
5. A non-refundable application deposit fee as represented in the City's fee schedule to defray the cost of administering this chapter which fee shall be in addition to any other permit application fees. .

C. All temporary permits shall automatically expire thirty (30) days after the date of issuance of the subject temporary permit. The permit administrator shall have the discretion to extend the term of any temporary permit an additional thirty (30) days provided that the entire term of the subject temporary permit does not exceed a total period of ninety (90) days.

D. The permit administrator may condition the issuance of a temporary permit on any additional requirements that he or she deems necessary to assure the purpose and policy of this chapter is met.

5.32.120 Keeping application and ordinance current.

A. During the effective duration of the permit, the permittee shall promptly update, correct or supplement the information contained in the application therefor on file with the permit administrator when necessary to keep the information contained therein current and accurate. Circumstances giving rise to the need for such supplemental information include, but are not limited to, changes in the types of services to be provided, and changes in the persons employed or retained by the

massage therapy establishment to perform massage or the status of such person's massage certificate. Corrections and supplemental information shall be provided within seven (7) calendar days of the permittee becoming aware of the information.

B. Where reference is made herein to any statute or other law, said reference shall include any subsequent amendment or superseding provision thereto.

5.32.130 Renewal of permit.

A. All permits shall expire one year from the date they are issued, except that an off-premises endorsement shall expire concurrently with the corresponding massage therapy establishment permit.

B. Applications for renewal of a permit shall be made thirty (30) calendar days prior to the expiration date of the permit. Application for renewal shall be in the same manner as the original application. However, to the extent that the information previously submitted to the permit administrator remains current, a statement to that effect shall be sufficient and no further information or documentation shall be required except as follows:

1. **Renewal of a Reciprocal Permit.**

a. Where the applicant seeks to renew a reciprocal permit, application for renewal shall include evidence that the underlying massage therapy establishment permit remains valid and current.

b. For renewal of a reciprocal permit, permittee shall pay a nonrefundable renewal application deposit fee as represented in the city's fee schedule to help defray the expense administering this chapter which fee shall be in addition to any other permit application fees.

c. A reciprocal permit shall not be renewed if the underlying massage therapy establishment permit has expired and has not been renewed, or if the underlying permit has been revoked, or is otherwise no longer valid. If renewal of a reciprocal permit is denied because the underlying permit is no longer valid, permittee shall submit a complete, original application and comply with all submission requirements set out in this chapter for application for an original massage therapist permit. All such applications shall also include an explanation of the reason that the reciprocal permit is no longer valid.

2. **Renewal of Original Permits.**

a. For renewal of an all massage therapy establishment permits other than reciprocal permits, permittee shall pay a non-refundable renewal application deposit fee as represented in the city's fee schedule at the time of filing the renewal application to help defray the expense of administering this chapter which fee shall be in addition to any other permit application fees.

5.32.140 Therapists dress and identification.

A. During all times that he or she is performing or offering to perform massage therapy services, every massage therapist shall wear a badge that identifies his or her first and/or last name. Upon receipt of a request or complaint by a patron, the

massage therapist shall advise the patron of the full name of the massage therapy establishment through which the massage therapy services were arranged, and the identity of the permit administrator through whom the establishment was issued a massage therapy establishment permit.

B. All massage therapists shall have in their possession a valid massage certificate and identification card issued by the Massage Therapy Council at all times that he or she is performing or offering to perform massage therapy services within the city.

C. All massage therapists shall wear non-transparent outer garments covering all specified anatomical areas while on the premises of a massage therapy establishment, as well as while performing or offering to perform any massage therapy services, whether on-premise or off-premise.

5.32.150 Other prohibited activities.

A. It is unlawful for any massage therapist, any patron, or any other person present where massage therapy services are being offered or performed, to expose or touch any specified anatomical areas, whether his or her own, or those of another person.

B. It is unlawful for any massage therapist, any patron, or any other person present where massage therapy services are being offered or performed, to be in a state of full nudity or semi-nudity, as defined by this chapter.

C. It is unlawful for any massage therapist, any patron, or any other person present where massage therapy services are being offered or performed, to engage in any specified sexual activities.

D. No person shall provide or offer to provide any massage therapy services to a minor unless written permission is provided by the minor's parent or legal guardian.

E. No person shall provide or offer to provide massage therapy services other than under the name of a massage therapy establishment possessing a valid massage therapy establishment permit.

F. No person shall provide or offer to provide massage therapy services under any name not specified the massage certificate issued to him or her by the Massage Therapy Council.

G. No permittee or person shall provide or offer any alcoholic beverage to a patron during the course of providing or offering to provide any massage therapy service.

H. No permittee shall transfer or assign any permit issued pursuant to this chapter to another person or entity. Any attempted transfer shall result in the automatic termination of said permit.

5.32.160 Permits issued pursuant to superceded ordinance.

A. If the operator of a massage establishment held a permit validly issued by the city prior to the effective date of this ordinance, and was in compliance with all requirements of the city with respect thereto, said permit holder shall have until the expiration date of said existing permit, or one year from the effective date of this chapter, whichever date is earlier, to obtain a permit issued pursuant to the provisions of this chapter.

B. If a massage therapist held a permit validly issued by the city prior to the effective date of this ordinance, and was in compliance with all requirements of the city with respect thereto, said permit holder shall have until the expiration date of said existing permit, or one year from the effective date of this chapter, whichever date is earlier, to obtain a permit issued pursuant to the provisions of this chapter, if applicable, and a massage certificate issued by the Massage Therapy Council.

5.32.170 Suspension and revocation of permit.

A massage therapist permit and any off-premises endorsement issued pursuant to this chapter, or any predecessor to this chapter, shall be revoked by the permit administrator if he or she receives notice that, after administrative proceedings conducted in conformity with the city's Municipal Code, the city has made any of the following findings or determinations with respect to the permittee:

- A. The massage therapy establishment or provision of massage services is conducted in a manner that does not comply with all applicable laws, including but not limited to this chapter and the city's building, zoning and health regulations.
- B. The holder of the permit is convicted of any disqualifying conduct or is required to register as a sex offender as set forth in California Penal Code Section 290;
- C. The permittee fails to timely notify the permit administrator of any update to the information contained in the permit application that is required to keep the information current;
- D. Information contained in the approved application is inaccurate;
- E. Any patron of the permittee contracts any communicable disease during the course of any services offered by the permittee;
- F. The holder of the permit, or any applicant therefor, refuses to allow representatives of the city or permit administrator to inspect business records of the permittee, or any premises utilized by the permittee for massage therapy services;
- G. The permittee fails to comply with any of the provisions of this chapter; or
- H. The holder of the permit has ceased to meet any of the requirements for issuance of the permit.

5.32.180 Appeals.

Any person aggrieved by a decision of the permit administrator may file an appeal to the city council in accordance with Sections 2.04.100 through 2.04.130 of this code. The decision of the city council concerning the appeal shall be final.

5.32.190 Other remedies.

- A. Any violation of the provisions of this chapter is unlawful and a public nuisance, subject to abatement, removal or injunction thereof in the manner provided by law.
- B. Any violation of the provisions of this chapter shall constitute a misdemeanor and the violator shall be subject to the imposition of criminal penalties in accordance with this Code and any applicable state laws.
- C. In lieu of issuing a criminal citation, the city may issue an administrative citation and assess an administrative fine consistent with the provisions of this Code.

D. Each and every day a violation of this chapter exists constitutes a separate and distinct offense and shall be subject to citation.

E. The remedies provided herein are not to be construed as exclusive remedies and, in the event of a violation, the city may pursue any proceedings or remedies otherwise permitted by law.

5.32.200 Exemptions.

The provisions of this chapter shall not apply to any of the following types of individuals while engaged in the performance of the duties of their respective professions:

A. Any physician, surgeon, chiropractor, osteopath, or acupuncturist duly licensed to practice their respective professions in the State of California, or any nurse or physical therapist working under the supervision thereof, when engaging in any massage therapy practice or activity within the scope of said license. Practical nurses or other persons without qualifications as massage therapists or other persons not duly licensed by the State of California to practice pursuant to the Medical Practice Act, whether or not employed by a physician, surgeon, chiropractor, osteopath, or acupuncturist, may not perform or offer to perform massage therapy without first satisfying the applicable requirements of this chapter.

B. Any treatment administered in good faith in any course of the practice of any healing art or profession by any person licensed to practice any such art or profession under the Business and Professions Code of the State of California or any other laws of the State of California.

C. Barbers, beauticians, manicurists, and pedicurists who are duly licensed under the laws of the State of California, except that this exemption shall apply solely to the massaging of the scalp, face, neck, arms, hands, or feet of the customer or client for cosmetic or beautifying purposes.

D. Licensed employees of hospitals, nursing homes, sanatoriums, or other health care facilities that are duly licensed by the State of California.

5.32.210 Transfer of permit.

No massage therapy establishment permit or off-premises endorsement shall be transferable and any attempted transfer shall render the permit and endorsement null and void. A change of location of a massage therapy establishment will require a new massage therapy establishment permit.

5.32.220 Massage therapy establishment regulations.

To ensure the health and safety of all persons, every person operating or maintaining a massage therapy establishment, and/or providing massage services, in the City shall comply with each of the following requirements at all times:

A. A separate wash basin shall be provided for each portion of a massage therapy establishment wherein massage services are performed for the individual use of each person performing massage services. The basin shall be provided with soap and hot and cold running water at all times and shall be located within, or as close as practicable, to the area devoted to the performing of massage services. In addition,

there shall be provided at each wash basin, sanitary towels placed in permanently installed dispensers.

B. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

C. Clean and sanitary towels and linens shall be provided for each patron of the establishment or each patron receiving massage services. No common use of towels or linens shall be permitted.

D. Massage therapy establishments shall be operated in compliance with all applicable laws and regulations, including without limitation, the California Massage Therapy Act (Business and Professions Code section 4600 et seq.).

E. It shall be the responsibility of the holder of the massage therapy establishment permit and the massage establishment operator to ensure that each person employed or retained by the massage establishment as a massage therapist has first obtained a valid massage certificate from the Massage Therapy Council and acts in compliance with the provisions of this Chapter at all times.

5.32.230 Reserved.

5.32.240 Revocation and suspension of permits issued under prior Chapter 5.32.

The following provisions shall apply to massage therapists permits issued prior to October 19, 2001 and to massage establishment permits issued prior to [INSERT EFFECTIVE DATE OF THIS ORDINANCE] (references to “this chapter” in this section mean this chapter as it existed prior to such dates):

A. A permit issued under authority of this chapter may be suspended for violation of any of its provisions or for fraud or misrepresentation in the permit application, but no permit shall be revoked until after a hearing has been held before the city manager or his designee, to determine just cause for the revocation; provided however the chief of police may order any permits suspended pending the hearing, and it is unlawful for any person to carry on the business of a massage technician or to operate a massage therapy establishment depending upon the particular type of permit which has been suspended until the suspended permit has been reinstated by the city manager. Notice of the hearing shall be given in writing and served at least five days prior to the date of the hearing thereon. The notice shall state the ground of the complaint against the holder of the permit, or against the business carried on by the permittee at the massage establishment, and shall state the time and place where the hearing will be had following the five day notice period.

B. The notice shall be served upon the permit holder in accordance with Section 1.01.300 of this code.

5.32.250 Violation and penalty for permits issued under prior Chapter 5.32.

The following provisions shall apply to massage therapist permits issued prior to October 19, 2001 and to massage establishment permits issued prior to [INSERT EFFECTIVE DATE OF THIS ORDINANCE] (references to “this chapter” in this section mean this chapter as it existed prior to such dates):

A. Every person, except those persons which are specifically exempted by this chapter, whether acting as an individual, owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee or operator, or whether acting as a participant or worker in anyway, who gives massages or conducts a massage therapy establishment or room, or who gives or administers or who practices the giving or administering of steam baths, electric light baths, electric tub baths, shower baths, sponge baths vapor baths, fomentation, sun baths, mineral baths alcohol rubs, Russian, Swedish, or Turkish baths, or any other type of baths, salt flows or any type of therapy or who does or practices any of the other things or acts mentioned in this chapter without first obtaining a permit to do so from the city or violates any provision of this chapter shall be guilty of a misdemeanor.

B. Any owner, operator, manager, or permittee in charge or in control of a massage therapy establishment who knowingly employs a person performing as a massage technician as defined in this chapter who is not in possession of a valid permit or who allows such an employee to perform, operate or practice within such a place of business is guilty of a misdemeanor.

C. Any massage therapy establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be and is declared to be unlawful and a public nuisance and the city attorney may, in addition to or in lieu of prosecuting a criminal action under this chapter, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in the manner provided by law; and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove the massage establishments and restrain and enjoin any person from operating, conducting or maintaining a massage therapy establishment contrary to the provisions of this chapter.

Chapter 5.38 PARKING ATTENDANTS

5.38.010 Definitions.

For purposes of this chapter, certain words and phrases shall be construed as set forth in this section, unless it is apparent from the context that a different meaning is intended.

A. “Operator” means any person, firm or corporation engaging in the activity of parking of vehicles for patrons or guests of a business whether the operator is employed by or is under contract to, the business for which the vehicles are being parked.

B. “Public right-of-way” means any area dedicated to public use for public street, pedestrian way or other public purposes, or which includes but is not limited to roadways, parkways, alleys, sidewalks and pedestrian ways.

5.38.020 Permit required.

No person shall, as an “operator” as that term is defined in Section 5.38.010, conduct any activity involving the movement of a vehicle by the operator on or over any public right-of-way or publicly owned property, unless there has first been obtained from the city manager a permit, as provided in this chapter, which permit is in full force and effect.

5.38.030 Operations on public rights-of-way or property.

No operator, unless possessing a permit expressly allowing them to be done, shall commit or do any of the following acts:

A. Receive, take possession of (for purposes of parking or temporary storage until return of same to the patron or guest) or move a patrons or guests vehicle, upon any portion of a public right-of-way or other public property;

B. Park and leave standing any patrons or guests vehicle upon any portion of a public right-of-way or other public property (including any publicly owned off-street parking space).

5.38.040 Unauthorized parking on private property.

No operator shall park any patrons or guests vehicle upon private property without express authorization by the owner or other person in charge of the private property.

5.38.050 Application for permit.

An application for a permit pursuant to this chapter shall be filed with the city manager or his designee. There shall be submitted such information as the city manager deems necessary in order to evaluate and act upon the permit application. Each application shall include, in general, at least the following basic information in writing: an outline of the method of operating the vehicle-parking service including, but not limited to, the hours of operation, the number of employees, the location(s) from which vehicles will be picked up, and to which they will be delivered to the patrons or guests, the location(s) where vehicles will be stored or placed, and the location(s) of any proposed signs and any proposed attendant stands.

5.38.060 Fees.

Each applicant for a permit under this chapter, and each person filing any appeal pursuant to provisions of this chapter, shall pay at the time of filing the application or appeal a processing fee or fees in an amount or amounts as may have been established by resolution of the city council.

5.38.070 Permits—Issuance—Denial.

Permits as applied for shall be issued by the city manager or his designee, provided it appears that all requirements of this chapter and of other applicable ordinances and laws have been, and will appropriately be, met fully by the applicant, and that the permit can be issued subject to prescribed conditions adequate to assure that there will be no undue interference with normal traffic flow on public rights-of-way, and otherwise to protect the public safety and other persons' property rights and their rights to coequal use and enjoyment of public property. Any permit application may be denied if the city manager concludes it cannot be issued subject to such safeguards.

5.38.080 Permits—Issuance with conditions.

The issuance of any permit pursuant to this chapter shall, if appropriate, have conditions attached thereto adequate to meet the public purposes referred to in Section 5.38.070, and the city manager or his designee shall have discretionary authority to prescribe any such necessary or appropriate conditions, including primary insurance coverage with city-approved coverage amounts and with the city named as additionally insured.

5.38.090 Revocation or modification of permits.

A. Any permit granted pursuant to the provisions of this chapter maybe revoked or modified by the city manager for any of the following grounds or reasons:

1. Any acts done under the permit have interfered or tended to interfere with the normal flow of vehicular or pedestrian traffic on any public right-of-way;
2. The permittee or permittee's employees have failed to comply with the provisions of the city's sign ordinance, or with conditions attached to the permit relating to sign control;
3. There was given any false or fictitious information in connection with the application for the obtaining of the permit;
4. There has been a violation of or a failure to comply with any condition attached to the permit or any provision or regulation of this chapter or of any other applicable rules or regulations;
5. The character or moral integrity of the permittee or permittee's employees is determined inimical to the public safety or general welfare of the community;
6. Any other reason exists for which the permit might have been lawfully denied in the first instance, or that for any reason the continued operations under the permit will be inimical to the public safety or general welfare of the community.

B. Such a revocation or modification of a permit shall be made only after opportunity has been granted to the permittee for a due process hearing before the city manager or his designated agent pursuant to section 2.08.180 through 2.08.230 of this code.

C. Upon the failure of the permittee to respond to the opportunity for hearing after issuance of the notice of the hearing, the permit may be revoked, or may be modified in such particulars as are deemed necessary in the public interest, and any such

revocation or modification shall be effective upon notice or knowledge thereof being received by the permittee pursuant to Section 1.01.300 of this code.

D. Any such revocation or modification of any permit may be in addition to any penalties otherwise provided for by law.

5.38.100 Appeals.

Any person aggrieved by, dissatisfied with, or excepting to any action, denial, order, requirement, condition, permit, decision or determination made by the city manager or his designee in administering the provisions of this chapter may appeal to the city council pursuant to Sections 2.04.100 to 2.04.130 of this code. Upon any failure to file the written appeal within the time allowed, the action of the city manager or his/her designee shall be final and conclusive.

Chapter 5.40 PASSENGER CARRIERS

5.40.010 Franchise and license requirements and general regulations.

A. Requirements and Exceptions. No person shall engage in the business of transporting passengers in a vehicle or vehicles over the streets of the city, where the passengers' trips originate from points within the city, whether any such vehicle used is a taxicab, motorbus, limousine, automobile for hire, or other transportation vehicle with a driver for hire, unless the person operating the business or engaging therein is acting pursuant to a franchise, license, permit or contract to do so pursuant to this chapter. This chapter shall apply to any business carrying passengers from a principal point or points of origin outside the city but which regularly carries the passengers over the city streets as a major portion of the journey or journeys. This chapter shall not apply to any business of renting automobiles or other vehicles without drivers, nor to any passenger carrier operated by a public agency or entity or to any passenger carrier operating pursuant to express and specific permission granted by superior authorized agency such as the State Public Utilities Commission or the Interstate Commerce Commission.

B. Compliance with Sunline Regulations. All passenger carriers described in subsection A of this section and subject to this chapter shall be subject to and governed by any and all ordinances, resolutions, regulations, and other official actions taken by the Sunline Transit Agency and Sunline Services Group, two California joint exercise of powers agencies to which the city is a member of each joint exercise of powers agency, including but not limited to any and all ordinances, resolutions, regulations, and official actions taken pursuant to the "Implementation Agreement Authorizing the Sunline Services Group to Regulate Taxicabs," as amended from time to time, to which the city is a party of that implementation agreement. All passenger carriers described in subsection A of this section and subject to this chapter shall, in addition to all other requirements, comply with the franchise, license, permit, and contract requirements established by Sunline Transit Agency and Sunline Services Group.

C. In the event that the city takes official action to no longer be a member of the Sunline Transit Agency or Sunline Services Group, or the city takes official action to no longer be a party to the Implementation Agreement Authorizing the Sunline Services Group to Regulate Taxicabs, then all passenger carriers described in subsection A of this section and subject to this chapter shall remain subject to and governed by all ordinances, resolutions, regulations, and other official actions then in place by Sunline Transit Agency and Sunline Services Group, except that the city shall be the governing agency with jurisdiction over the passenger carriers. The city manager shall have the authority to enact any and all regulations that would allow for the city to continue to regulate all passenger carriers as described in this subsection until such time as the city enacts an ordinance or ordinances amending this chapter or other provisions of the code in furtherance of regulating passenger carriers.

5.40.020 Interference with drivers.

No driver of any taxicab, automobile for hire or motorbus shall permit more persons to ride in the driver's compartment thereof than can be seated in the regular seats in the compartment, or permit any person to sit on or stand at any place in or on the taxicab, automobile for hire or motorbus where the person obstructs the driver's view of traffic ahead or to either side.

5.40.030 Refusal to pay fare.

It is unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this chapter, after having hired them.

5.40.040 Charging of improper fare.

It is unlawful to charge, collect or receive any other or different compensation for the use of the taxicab or automobile for hire than that specified in the tariff or schedule of fares on file and at the time in effect.

~~Chapter 5.44 SECONDHAND DEALERS, PAWNBROKERS, AND LOAN BROKERS - delete~~

Chapter 5.48 PEDDLERS—SOLICITORS

5.48.010 Definitions.

A. "Peddler" means and includes any person who travels or goes from place to place and peddles, hawks, vends or sells any goods, wares, merchandise, medicines or services carried or caused to be carried or conveyed by the person peddling, hawking, vending or selling them.

B. "Solicitor" means and includes any person who travels or goes from place to place selling, offering to sell or contracting to sell, for future delivery, at wholesale or retail,

any goods, wares, merchandise or services within the city, except in those instances where the solicitations are made to established businesses for stock-in-trade, resale, fixtures or other business needs.

C. "Peddler" or "solicitor" also includes persons engaged in the above described activities at any outdoor location not in conjunction with an established place of business on the same premises within a building, or not as a part of the established place of business in a building.

5.48.020 Peddling or soliciting—Permit required.

It is unlawful for any person to act as, or carry on the business of, a peddler or solicitor at any place or places within the city, unless and until a permit so to do has been issued by the city manager and is in full force and effect.

5.48.030 Application to peddle or solicit—Additional information.

Applicants for permits to commence, manage, engage in, maintain, conduct or carry on the business described in Section 5.48.010, as peddler or solicitor, must furnish to the city manager the following additional information:

A. Name—Description. Name and description of applicant;

B. Address. Permanent home address and full local address of applicant;

C. Kind of Business. A brief description of the nature of the business and the goods to be sold;

D. Employer—Credentials. If employed, the name and address of the employer, together with credentials establishing the exact relationship;

E. Duration of Permit. The length of time for which the right to do business is desired;

F. Source of Stock. The place where the goods or property proposed to be sold or orders taken for the sale thereof, are manufactured or produced, where the goods or products are located at the time the application is filed, and the proposed method of delivery;

G. Photographs. Two photographs of applicant and two photographs of any vehicle used in the peddling or solicitation, taken within sixty days immediately prior to the date of filing application; Kind of Photograph. Pictures of applicant shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;

H. Fingerprints—Character References. The fingerprints of the applicant and the names of at least two reliable property owners of the county who will certify as to the applicant's good character and business respectability; or, in lieu of the names of references, such other available evidence as to the good character and business

respectability of the applicant as will enable an investigator to properly evaluate the character and business responsibility;

I. Criminal Record. A statement as to whether or not applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than Vehicle Code violations, the nature of each offense and the punishment or penalty assessed therefor.

5.48.040 Fee for investigation.

At the time of filing with the city manager any application for a peddler's or solicitor's permit, the applicant shall, in order to qualify the application for filing, pay a fee in such amount as may have been prescribed by resolution of the city council, to defray the expense of investigation and processing.

5.48.050 Investigation of application.

Upon receipt of the original application, the city manager shall cause such investigation of applicant's business and moral character to be made as s/he deems necessary for the protection of the public good.

5.48.060 Denial of permit—Notice.

If, as a result of the investigation, applicant's character or business responsibility is found to be unsatisfactory, the city manager shall endorse on the application his/her disapproval and his/her reasons for it and shall notify applicant pursuant to section 1.01.300 of this code that his/her application is disapproved and that no permit will be issued.

5.48.070 Appeal—Right to appeal.

Any person aggrieved by the action of the city manager in the denial of a permit shall have the right of appeal to the city council pursuant to sections 2.04.100 through 2.04.130.

5.48.080 Approval of application—Issuance of permit.

If as a result of investigation, the character and business responsibility of applicant are found to be satisfactory, the city manager shall approve the application, execute a permit addressed to applicant for carrying on the business applied for, and deliver the permit to the applicant.

5.48.090 Photographs.

To each such permit there shall be attached photographs of permittee and of any vehicle used in the business, the photographs to be identical with those filed by permittee with his/her application pursuant to Section 5.48.030 G.

5.48.100 Business license required.

A city business license shall be obtained by every person in accordance with chapter 3.28 of this code before any person shall engage in peddling or soliciting in the city.

Chapter 5.52 PRIVATE PATROLS - delete

Chapter 5.60 LIQUIDATION-TYPE SALES

5.60.010 Definitions.

For the purpose of this chapter only, the following words and terms shall be deemed to mean and be construed as follows:

A. "Advertise," "advertisement," "advertising," "publish," and "publication," mean any and all means, whether oral, written, lettered or printed, used for conveying to the public notice of the conduct of a sale as defined in this section, or notice of intention to conduct the sale, including but not limited to oral or written announcements by proclamation or outcry, newspaper advertisement, magazine advertisement, handbill, written or printed notice, printed display, billboard display, poster, e-mail, twitter, internet and other electronic media, television and radio announcement.

B. "Inspector" means an inspector or investigator appointed by the city manager, or means any city police officer.

C. "Permit" means a permit issued pursuant to this chapter.

D. "Permittee" means a person to whom a permit has been issued pursuant to this chapter.

E. "Sale" means any sale of, or any offer to sell, to the public, or any group thereof, goods, wares or merchandise on order, in transit or in stock, in connection with a declared purpose as set forth by advertising that the sale is anticipatory to or to avoid the termination, liquidation, revision, windup, discontinuance, removal, dissolution or abandonment of the business or that portion of the business conducted at any location:

1. Stopping of Business. All sales advertised in any manner calculated to convey to the public the belief that upon the disposal of the goods to be placed on sale, the business or that portion thereof being conducted at any location will cease, be removed, be interrupted, discontinued or changed; and

2. Names Used for Sales. All sales advertised to be "adjuster's sale," "assignee's sale," "bankrupt sale," "benefit of administrator's sale," "benefit of creditors sale," "benefit of trustee's sale," "building coming down sale," "closing sale," "closing out sale," "creditor's committee sale," "creditors' sale," "damaged goods sale," "end sale," "execution sale," "final days sale," "fire sale," "forced out sale," "forced out of business sale," "insolvent sale," "insurance salvage sale," "last days sale," "lease expires sale," "lease expiring sale," "liquidation sale," "loss of lease sale," "mortgage sale," "outselling sale," "receiver's sale," "removal sale," "recognition sale," "salvage sale," "selling out sale," "smoke sale," "smoke and water sale," "trustee's sale," "quitting

business sale,” “wholesale closing out sale,” “we quit sale,” “we give up sale,” “fixtures for sale,” or advertised by any other expression or characterization closely similar to any of the foregoing and calculated to convey the same meaning; and

3. Business Failure. All sales advertised in a manner calculated to indicate that the goods, wares or merchandise to be sold, or any part thereof, have been involved in any business failure or have been derived from a business which has failed, been closed, discontinued or liquidated; and

4. Vacation of Premises. All sales accompanied by notice or advertising indicating that the premises are available for purchase or lease or are otherwise to be vacated; and

5. Business Emergency or Failure. All sales accompanied by advertising indicating a business emergency or failure affecting the seller or any previous holder of the goods to be disposed of.

5.60.020 Permit required.

No person, firm or corporation shall hereafter publish or conduct any sale of the type defined in this chapter without first having obtained a permit from the city manager in the manner provided in this chapter.

5.60.030 Agreement to abide by regulations.

Each permit issued under the provisions of this chapter shall have printed, written or stamped on the face thereof the following:

“This permit is granted by the City Manager of the City of La Quinta and accepted by the permittee upon the condition that the said permittee comply with and abide by all the provisions of Chapter 5.60 of the La Quinta Municipal Code.”

5.60.040 Signing of agreement—Witnessing.

At the time of the delivery of the permit, the statement must be signed by the permittee in the presence of an employee of the city who shall sign as a witness.

5.60.050 Condition of permit.

Any permit issued under the provisions of this chapter shall authorize the one type of sale named in the application, at the place named therein, for a period of not more than sixty calendar days, and shall permit the sale of goods only which are set out in the application, all of which goods throughout the duration of the sale must be definitely separated from any other goods displayed at or within the store or place of business; and all advertising signs or notices referred to, or calling attention to the sale, must be confined to the display or displays of goods involved in the sale.

5.60.060 Application for sale permit.

No permit to conduct a sale as defined in this chapter shall be granted except upon written application to the city manager, filed and verified before a person authorized to administer oaths, by the person who intends to conduct the sale, and each application shall set forth and contain the following information:

A. Location. Description by street location and kind of building, of the location at which the sale is to be held;

B. Occupancy—Tenancy. The nature of the occupancy, whether by ownership, lease or sublease, and if by lease or sublease, the effective date of the termination of the tenancy;

C. Advertising. A copy of all advertisements proposed to be used in connection with the sale, and a statement of the means or methods of advertising to be used in advertising the sale;

D. Reason for Sale. The facts in regard to the insurance, bankruptcy, insolvency, assignment, mortgage, foreclosure, administration, receivership, trusteeship, removal, executorship removal, or other cause advertised to be the reason for the proposed sale;

E. Inventory. An inventory or statement, in such form and in such detail as the city manager may require, setting forth the amount and description of goods, wares or merchandise to be sold at the sale and, when required by the city manager, the date of acquisition of the goods, wares or merchandise and the persons from whom obtained, and the place from which the goods were last taken.

5.60.070 Detailed description of goods.

The city manager may require that all goods, wares and merchandise listed upon the inventory or statement shall be so described in detail by manufacturer's name and lot number, the individual number of articles so numbered, colors, sizes and otherwise, that the identity of the goods with the goods listed on the inventory can be readily determined.

5.60.080 Filing fee.

No application for any permit pursuant to the provisions of this chapter shall be accepted by or on behalf of the city manager unless the application is accompanied by a filing fee in such amount as has been prescribed by resolution of the city council to defray the expense of investigation and processing, no part of which fee shall be refunded whether the application is granted or denied.

5.60.090 Investigation of applicant.

Upon the filing of the application with the city manager, the city manager may make or cause to be made an examination, audit, or investigation of the applicant and his/her affairs, in relation to the proposed sale.

5.60.100 Issuance or refusal of permit.

If the city manager finds that the statements in the application are true, that the inventory is complete, that the advertising set forth is not false, fraudulent, deceptive or misleading in any respect, and that the methods to be used by the applicant in

conducting the sale are not such as, in the opinion of the city manager, will work a fraud upon the purchasers, the city manager shall issue to the applicant a permit to conduct the sale in accordance with the provisions of this chapter; otherwise the city manager shall deny the application and refuse the permit.

5.60.110 Insufficiency of information.

The city manager may refuse a permit because of the insufficiency of the information set forth in the application.

5.60.120 Amended application.

In case of refusal, the city manager shall grant the applicant permission to file an amended application.

5.60.130 Hearing before denial.

No application shall be denied unless an opportunity for hearing has been given the applicant before the city manager pursuant to Sections 2.08.180 through 2.08.230 of this code.

5.60.140 Renewal of permit—Application—Fee.

The city manager may, upon verified application therefor, renew the permit for a period of not to exceed thirty days, upon the payment of a renewal fee in such amount as has been prescribed by resolution of the city council, to defray the expense of investigation and processing.

5.60.150 Form of application for renewal.

The verified application for renewal shall set forth a complete list of goods listed in the original application and remaining unsold, and shall not contain any goods, wares or merchandise not named in the original application.

5.60.160 Investigation—Renewal.

Upon receipt of the application for renewal, the city manager shall cause an investigation to be made within five business days from the date of filing with the city manager the application for renewal, and if satisfied of the truth of the statements therein contained, the city manager shall grant the renewal, which shall be endorsed and signed as provided for the original permit.

5.60.170 Second renewal.

The city manager may renew any original permit in the manner provided in this chapter, not to exceed two times, upon payment of a fee for each such renewal, in such amount as has been prescribed by resolution of the city council, to defray the expense of investigation and processing.

5.60.180 Limit upon duration of sales.

The city manager shall not issue permits or renewals which will allow the conduct of any sale or sales of any kind or kinds named in Section 5.60.010 at any one location for more than one hundred twenty calendar days in any one twelve-month period.

5.60.190 Power to revoke—Grounds.

The city manager shall have the power to revoke at any time any permit granted in accordance with this chapter whenever any such sale or special sale is being conducted in violation of any of the provisions of this chapter or in such manner as to deceive or defraud the public, or if:

A. Further Grounds—Misstatement in Application. The holder of any such permit has made any material misstatement in the application for the permit;

B. Fraud in Conduct of Sale. S/He has been guilty of any fraudulent practice, or practices, in the conduct of the sale authorized by the permit;

C. Omissions in Inventory. S/He has failed to include in the inventory required by the provisions of this chapter the goods, wares or merchandise required to be contained in the inventory;

D. Addition of Goods. S/He has added, caused to be added, or permitted to be added any goods, wares or merchandise not described in the original inventory; or

E. Improper Advertising. S/He has violated any of the provisions of this chapter or of the laws pertaining to advertising.

5.60.200 Complaint prerequisite to revocation.

No permit shall be revoked for any cause enumerated in Section 5.60.190 until a written complaint has first been filed with the city manager, setting forth in ordinary and concise language the charge made against the permittee.

5.60.210 Verification—Form of complaint.

The complaint shall be verified by the oath of the person making the charge, the verification to be made in the form prescribed by the Code of Civil Procedure of the state for verified pleadings in civil actions.

5.60.220 Service of complaint—Notice of hearing.

Service of the complaint and notice of hearing shall be in the manner provided in Section 1.01.300 of this code.

5.60.230 Scope of permit—Unlawful changes.

Any permit issued pursuant to the provisions of this chapter shall be valid only for the advertising, representation and sale of the particular goods, wares or merchandise described in the original application therefor, and at the particular time, and particular

place stated therein, and by the particular applicant; and any renewal, replenishment or substitution of such goods, wares or merchandise, or change of the time or place for the sale, or change of person conducting the sale, is unlawful and shall render the permit void.

5.60.240 Ordering goods for sale.

No person in contemplation of conducting any such sale or special sale, or during the continuance of such a sale, shall order any goods, wares or merchandise for the purpose of selling them at the sale.

5.60.250 Presumption from purchase near time of sale.

Any unusual purchase, or additions to the stock of such goods, wares or merchandise, within sixty days before the filing of the application for a permit to conduct such a sale shall be presumptive evidence that the purchase or additions were made in contemplation of the sale for the purpose of selling them at the sale.

5.60.260 Separate offenses.

Each sale of goods, wares or merchandise as were not inventoried and described in the original application shall constitute a separate offense under this chapter.

5.60.270 Rules governing sales and advertising.

The city manager may provide such rules and regulations for the conduct and advertisement of the sale or special sale as, in his/her opinion, will serve to prevent deception and to protect the public.

5.60.280 Loss of identity.

Any removal of any goods, wares or merchandise inventoried and described in the original application form from the place of sale mentioned in the application shall cause the goods to lose their identity as the stock of any of the sales defined in this chapter; and no permit thereafter will be issued for the conducting of a sale of any such goods, wares or merchandise in such manner as to identify them with the store, store name, store owner or location referred to in the original application.

5.60.290 Posting of permit.

Upon, coincident and throughout the duration of any sale, as defined in this chapter, the permit issued by the city manager shall be prominently displayed near the entrance to the premises.

5.60.300 Copies of application and stock list.

A duplicate original of the application and stock list pursuant to which the permit was issued shall at all times be available to the city manager, or to his/her inspector and investigators, to examine all merchandise in the premises for comparison with the stock list.

5.60.310 Records of permittee.

Suitable books and records shall be kept by the permittee and shall at all times be available to the inspector and investigators.

5.60.320 Daily revision of stock list.

At the close of business each day the permittee's copy of the stock list attached to the application shall be revised and those items disposed of during the day shall be so marked thereon.

5.60.330 Exemptions.

The provisions of this chapter shall not apply to or affect the following persons:

A. Judicial Sales. Persons acting pursuant to an order or process of a court of competent jurisdiction;

B. Official Sales. Persons acting in accordance with their powers and duties as public officers such as sheriffs and marshals;

C. Auctions. Duly licensed auctioneers, selling at auction;

D. Publisher of Advertising. Any publisher of a newspaper, magazine or other publication, who publishes any such advertisement in good faith, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this chapter have not been complied with;

E. Season, Clearance Sales. End of season sales and clearance sales not included within Section 5.60.010 E.

5.60.340 Appeals.

Any person aggrieved by any decision of the city manager with respect to denial or issuance of any permit, conditions attached thereto, or any other administrative action taken pursuant to the terms of this chapter, may appeal to the city council pursuant to Section 2.04.100 through 2.04.130 of this code.

Chapter 5.72 MISCELLANEOUS BUSINESSES REGULATED

5.72.010 Compliance with state law regarding locksmith businesses.

Every person, defined as every individual, firm, partnership, association, limited liability company, corporation, and any other type of entity recognized by law, shall be subject to and comply with Articles 1 through 9 (commencing with Section 6980) of Chapter 8.5 of Division 3 of the Business and Professions Code of the State of California, as amended from time to time.

5.72.020 Compliance with state law regarding private patrols.

Every person, defined as every individual, firm, partnership, association, limited liability company, corporation, and any other type of entity recognized by law, shall be subject to and comply with Articles 1 through 8 (commencing with Section 7580) of Chapter 11.5 of Division 3 of the Business and Professions Code of the State of California, as amended from time to time.

5.72.030 Compliance with state law regarding drug paraphernalia.

Every person, defined as every individual, firm, partnership, association, limited liability company, corporation, and any other type of entity recognized by law, shall be subject to and comply with Article 4 (commencing with Section 11364) of Chapter 6 of Division 10 of the Health and Safety Code of the State of California, as amended from time to time.

5.72.040 Compliance with state code regarding secondhand dealers, pawnbrokers, and loan brokers.

Every person, defined as every individual, firm, partnership, association, limited liability company, corporation, and any other type of entity recognized by law, shall be subject to and comply with Articles 1 through 7 (commencing with Section 21500) of Chapter 9 of Division 8 of the Business and Professions Code of the State of California as amended from time to time.

5.72.050 Violation of Municipal code.

In addition to noncompliance or violation of state law, any failure to comply or violation of the state law identified in Sections 5.72.010, 5.72.020, 5.72.030, 5.72.040 shall be a violation of this code and, in addition to any other rights and remedies available to the city, shall be a public nuisance subject to remedial action in accordance with applicable law.

Chapter 5.80 SEXUALLY ORIENTED BUSINESSES

5.80.010 Purpose.

The purpose of this chapter is to regulate sexually oriented businesses which, because of their very nature, are believed to have many of the recognized significant secondary effects on the community which include, but are not limited to: depreciated property values and increased vacancies in residential and commercial areas in the vicinity of the sexually oriented businesses; higher crime rates, noise, debris or vandalism in the vicinity of sexually oriented businesses; and blighting conditions such as low-level maintenance of commercial premises and parking lots which thereby have a deleterious effect upon adjacent areas. Reasonable and uniform regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the neighborhoods in the vicinity of the sexually oriented businesses. It is neither the intent, nor effect of this chapter to impose limitations or restrictions on the content of any communicative material. Similarly, it is neither the

intent, nor effect of this chapter to restrict or deny access by adults to sexually oriented materials or merchandise protected by the First Amendment, or to deny access by the distributors of sexually oriented business to their intended market.

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

5.80.020 Definitions.

As used in this chapter:

“Employee” means a person over eighteen years of age who renders any service, or performs in connection with the operation of a sexually oriented business, either on site or off site, irrespective of whether said person is paid a salary, wage, or other compensation by the operator of the business or patrons.

“Escort” means a person who, for any form of consideration, agrees or offers to act as a companion, guide or date for another person, for sexual purpose, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

“Escort agency” means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

“Establishment” 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, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;
3. The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business or to an existing non-sexually oriented business;
4. The relocation of any such sexually oriented business; or
5. The substantial enlargement of any such sexually oriented business by an increase of the floor area occupied by the business of more than fifteen percent.

“Live art class” means any premises on which all of the following occur: there is conducted a program of instruction involving the drawing, photographing or sculpting of live models exposing specified anatomical parts; instruction is offered in a series of at least two classes; the instruction is offered indoors; an instructor is present in the classroom while any participants are present; and preregistration is required at least twenty-four hours in advance of participation in the class.

“Operator” means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

“Permittee” means the person to whom a permit has been issued pursuant to this chapter.

“Sexually oriented arcade” means any business establishment or concern, where, for any form of consideration including, but is not limited to cash in the form of paper bills, coins or slugs, which are operated manually or electronically controlled still, motion picture or video machines, projectors, or other image-producing devices are maintained to display images to an individual in individual viewing areas when those images are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts.

“Sexually oriented bookstore,” “sexually oriented novelty store” and “sexually oriented video store” mean any establishment, which as a regular and substantial course of conduct, displays and/or distributes sexually oriented merchandise, books, periodicals, magazines, photographs, drawings, sculptures, motion pictures, videos, slides, films, or other written, oral or visual representations which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts. (See “sexually oriented business” for definition of regular and substantial portion of its business.) The term “sexually oriented bookstore” shall be deemed to be inclusive of the terms “sexually oriented novelty store” and “sexually oriented video store.”

Sexually Oriented Business. 1. “Sexually oriented business” means any business establishment or concern which as a regular and substantial course of conduct performs as a sexually oriented bookstore, sexually oriented theater, sexually oriented arcade, sexually oriented cabaret, escort, escort agency, stripper, sexually oriented model studio or sexually oriented hotel/motel; any business establishment or concern which as a regular and substantial course of conduct sells or distributes sexually oriented merchandise or sexually oriented material; or any other business establishment or concern which as a regular and substantial course of conducts offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical parts. “Sexually oriented business” does not include those uses or activities, the regulation of which is preempted by state law. “Sexually oriented business” shall also include any business establishment or concern which, as a regular and substantial course of conduct provides or allows sexually oriented entertainers, models, actors, actresses or employees to appear in any place in attire which does not opaquely cover specified anatomical parts. For the purposes of this section, a business establishment or concern has established the provision of products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical parts as a

regular and substantial course of conduct when one or more of the following conditions exist:

a. The area devoted to sexually oriented merchandise and/or sexually oriented material exceeds more than thirty-three percent of the total display or floor space area open to the public;

b. The business establishment or concern obtains a significant or substantial portion of its revenues from the sale, rental or lease of entertainment, material or merchandise characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts or advertises the availability of the same;

c. The regular and substantial course of conduct of the business consists of or involves the sale, trade, display, advertisement or presentation of services, products or entertainment which are characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts;

d. An establishment may have other significant and substantial 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 a sexually oriented business. Such other business purposes will not serve to exempt such establishments from being categorized as a sexually oriented bookstore, so long as one of its significant or substantial business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

2. The definition of “sexually oriented business” 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.

“Sexually oriented cabaret” means a nightclub, bar, lounge, restaurant or similar establishment or concern which features as a regular and substantial course of conduct, any type of live entertainment, films, motion pictures, videos, slides, other photographic reproductions, or other oral, written or visual representations which are characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts.

“Sexually oriented entertainer” means a person who for any form of consideration or gratuity performs or appears in performances which are characterized by the emphasis on specified anatomical areas or specified sexual activities.

“Sexually oriented hotel/motel” means a motel, hotel or similar commercial establishment which (1) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, 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, social media or other electronic means; or (2) offers a sleeping room for rent for a period of time less than ten hours; or (3) allows a tenant or occupant to sub-rent or let others use the sleeping room for a time period of less than ten hours.

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

“Sexually oriented merchandise” means sexually oriented implements and paraphernalia, such as, but not limited to: dildos, auto sucks, sexually oriented vibrators, edible underwear, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity.

“Sexually oriented model studio” means any premises where there is furnished, provided or procured a figure model or models who pose in any manner which is characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts where such model(s) is being observed or viewed by any person for the purpose of being sketched, painted, drawn, sculptured, photographed, filmed or videotaped for a fee, or any other thing of value, as a consideration, compensation, or gratuity for the right or opportunity to so observe the model or remain on the premises. Sexually oriented model studio shall not include any live art class or any studio or classroom which is operated by any public agency, or any private educational institution authorized to issue and confer a diploma or degree under Section 94300 et seq. of the Education Code.

“Sexually oriented theater” means a business establishment or concern which regularly features live entertainment, motion pictures, videos, slide photographs, or other pictures or visual reproductions which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts.

“Specified anatomical parts” means:

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

“Specified criminal acts” mean acts which are sexual crimes against children, sexual abuse, rape, crimes connected with another sexually oriented business including, but

not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering, or distribution or sale of illegal drugs.

“Specified sexual activities” means:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory function in the context of a sexual relationship, any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or
2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
3. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or
4. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
6. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or
7. Human excretion, urination, menstruation, vaginal or anal irrigation; or
8. Striptease; the removal of clothing to the point where specified anatomical parts are not opaquely covered or are minimally covered with devices commonly referred to as pasties and G strings, or equivalent clothing.

“Transfer” of a sexually oriented 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, 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.

5.80.025 Permit required.

Prior to the establishment or transfer of a sexually oriented business, the owner of the business shall obtain both a sexually oriented business permit and a business license from the city. It is unlawful for any person, association, partnership or corporation to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises within the city, the business of a sexually oriented business, or be engaged as a sexually oriented entertainer, as defined in this chapter, without possessing a permit issued pursuant to the provisions of this chapter for each and every separate office or place of business conducted by the above. The permit fee required by this chapter shall be in addition to any other license, permit or fee required under any of the provisions of this code.

Neither the filing of an application for the permit, nor payment of any other license, permit or fee required under any other provision of this code, shall authorize the engaging in, conducting or carrying on of a sexually oriented business, or as a sexually oriented entertainer.

5.80.030 Application requirements.

The property owner, or authorized agent of the property owner, is eligible to request a sexually oriented business permit. The application fee for any sexually oriented business permit shall be eight hundred thirty-five dollars and is nonrefundable and shall be used to defray the cost of investigation, processing and hearing as set forth herein. The application fee for a sexually oriented entertainer permit shall be one hundred dollars. The fees set forth herein shall be in effect until the city council shall by resolution fix some other rate based upon a cost factor.

All permits shall expire one year from the date of issuance. Applications for renewal of a permit shall be made thirty days prior to the expiration date. The renewal application fee for a sexually oriented business permit shall be one hundred dollars. The renewal application fee for a sexually oriented entertainer shall be twenty-five dollars. Said renewal application fees are nonrefundable and shall be used to defray the cost of investigation and processing the renewal applications. The fees set forth herein shall be in effect until the city council shall by resolution fix some other rate based upon a cost factor.

The following information is required at the time a sexually oriented business permit is submitted to the planning department:

A. A completed sexually oriented business permit application specifying the single type of sexually oriented business permitted and signed by the property owner or authorized representative;

B. The nonrefundable deposit or fee as set forth by ordinance or resolution of the city council.

C. Any person, association, partnership or corporation desiring to obtain a business license tax certificate and a permit for a sexually oriented business shall make an application, under oath, to the city manager upon a form provided by the city manager. If the applicant is a corporation, the requirement to provide the application information applies to each of the officers, directors and/or stockholders owning not less than ten percent of the stock of the corporation. If the applicant is a partnership, this requirement applies to each of the partners, including limited partners. The application shall contain the following:

1. The name, including any aliases, current permanent residential address, e-mail address, and telephone number of the applicant;

2. The business name, proposed business address of the sexually oriented business, website address and its telephone number;

a. If the applicant is a corporation, the name shall be exactly as set forth in its articles of incorporation and it shall provide a copy of its articles of incorporation. The applicant shall show the name and residence address of each of the officers, directors and each stockholder owning ten percent, or greater, of the stock of the corporation and the address of the corporation itself, if different than the address of the sexually oriented business. The application shall show that the corporation is in good standing under the laws of California,

b. If the applicant is a partnership, the application shall provide a copy of the partnership agreement and show the name and residence address of each of the partners including limited partners and the address of the partnership itself, if different than the address of the sexually oriented business;

3. The name and permanent address of the owner of the property upon which the applicant intends to locate the sexually oriented business. If the property owner is a corporation, the name shall be exactly as set forth in its articles of incorporation and the applicant shall show the name and residence address of each of the officers, directors and stockholders owning ten percent or greater of the stock of the corporation. If the property owner is a partnership, the application shall show the name and residence address of each of its partners, including limited partners;

4. In the event the applicant is not the owner of record of the real property upon which the sexually oriented business is or will be located, the application must be accompanied by a notarized statement from the owner of record of the real property acknowledging that a sexually oriented business is or will be located on the property. In addition, the applicant must furnish a copy of the lease or rental agreement pertaining to the premises in which the sexually oriented business will be located;

5. The days, hours and location where the sexually oriented business is proposed to be conducted, and the admission fee, if any, to be charged;

6. The name(s) of person(s) having the management or supervision of the applicant's business;

7. Whether or not the applicant has been convicted of a specified criminal act within the last three years, the nature of such offense, the date of conviction, place convicted and the sentence received therefor;

8. Whether or not the applicant has ever had any similar license or permit issued by an agency revoked or suspended, or has had any professional or vocational license or permit revoked or suspended, and the reasons therefor, and the business activity or occupation subsequent to such action of suspension or revocation. 9. Driver's license or other acceptable identification and social security number of the applicant.;

10. Acceptable written proof that the applicant is at least eighteen years of age. 11. The height, weight, color of eyes, color of hair and date of birth of the applicant. 12. The business, occupation or employment history of the applicant for the last five-year period immediately preceding the date of the filing of the application. 13. Each residence and business address of the applicant for the five-year period immediately preceding the date of the filing of the application. 14. One front-faced portrait photograph of the applicant at least two inches by two inches in size shall be taken by the city police.;

15. A detailed description of the proposed entertainment, including type of entertainment, number of persons engaged in the entertainment and any further information about the entertainment or entertainers, as the city manager may deem necessary;

16. The name and address of any other sexually oriented business owned or operated by any person whose name is required to be given in subsection C of this section;

17. A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant. 18. Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit;

19. Such other identification and information necessary to discover the truth of the matters required to be set forth in the application;

20. Applicant must furnish for any person whose name is required to be given in subsection (C)(6) of this section the information requested by subsections (C)(1), (9)—(14), (16), (18) and (19) of this section;

21. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it 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 inches;

22. A current certificate and straight-line drawing prepared within thirty days prior to application by a California registered land surveyor depicting the property lines and the structures containing any established existing uses regulated by this chapter within one thousand five hundred feet of the property to be certified; the property lines of any established religious institution/synagogue, school, public park, recreation area, public building, family-oriented restaurant, business involving an on-premises sale of liquor or alcoholic beverages, or area zoned R-1, R-2, PR, PC, PI or C-1 within one thousand five hundred feet of the property. For the purpose of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

D. The holder of the permit for a sexually oriented business shall notify the city's code compliance department of each change in any of the data required to be furnished by this section within ten days after such change occurs

5.80.050 Investigation and application.

A. Upon receipt of an application properly filed with the city and upon payment of the nonrefundable application fee, the city or its designee shall immediately stamp the application as received subject to the provisions of Section 5.80.030. The person receiving the application shall immediately thereafter send photocopies of the application to the Riverside County sheriff's department and any other city agencies responsible for enforcement of health, fire, and building codes and laws. Each department or agency shall promptly conduct an investigation of the applicant,

application and the proposed sexually oriented business in accordance with its responsibilities under law and as set forth in this chapter. The investigation shall be completed within twenty days of receipt of the application by the city or its designee. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and, in the event it disapproves, state the reasons therefor. The sheriff's department shall only be required to check local and state summary criminal history information, including NCIC, and certify whether disqualifying criminal history has been discovered. The sheriff's department shall not be required to approve or disapprove applications. For this purpose, the sheriff's department is specifically authorized by the city council pursuant to California Penal Code Sections 11105 and 13300 to obtain such information as relates to disqualifying criminal convictions for licensing purposes, as specified in Section 120.05(C)(1)(j) and to disclose so much of the information obtained to the city's designee as directly relates to such disqualifying criminal history, for such appropriate action as is required based upon such specific criminal conduct applicable to the subject applicant. No information shall be relayed relating to a criminal arrest not resulting in conviction, or to a criminal arrest for which pretrial or post-trial diversion has been ordered.

B. A department or agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the city. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the city or its designee.

5.80.060 Findings—Requirements.

The city shall issue a sexually oriented business permit within the later of forty days of receipt of a completed application or ten days from receipt of the complete investigation report in Section 5.80.050 if it finds that:

A. The sexually oriented business shall be located in the city's SOB overlay zone zoning districts.*

* The distance of separation required by subsections B through F of this section shall be made by using a straight line, without regard to intervening structures or objects, from the nearest external structural wall of the proposed sexually oriented business to the nearest property line of the lot upon which is located a residential use, religious institution, park, recreation area, public building, family-oriented restaurant or school. The measurement taken when the proposed use is located on the same lot as an already existing sexually oriented business, shall be the distance between the two shall be measured in a straight line between the nearest external structural walls of each use without regard to intervening structures or objects. No request for subdivision, reparcelization or lot line adjustment shall be approved where the primary purpose is to avoid the intent of these distance requirements.

B. The sexually oriented business shall not be located within seven hundred fifty feet of any residential zone.

C. The sexually oriented business shall not be located within one thousand five hundred feet of a school. "School" means institutions for teaching or caring for minor children, e.g., child care facilities, preschool, day schools, elementary schools, secondary schools, high schools; and institutions of higher learning receiving approved graduates of preparatory school, and offering instructions in art, letters and science, leading to the bachelor's degree or master's degree (e.g., colleges and universities).

D. The sexually oriented business shall not be located within one thousand five hundred feet of any lot upon which there is properly located a public park, recreation area or public building; nor within one thousand feet of any lot used by a religious institution for religious activities.

E. The sexually oriented business shall not be located within seven hundred fifty feet of any other sexually oriented business including sexually oriented businesses located on the same parcel. In no event may more than one sexually oriented business be located in the same structure.

F. The sexually oriented business shall not be located within seven hundred fifty feet of any business involving on-premises sale of liquor or alcoholic beverages, nor shall it be located within seven hundred fifty feet of a family-oriented restaurant. (A "family-oriented restaurant" means any restaurant which provides specific inducement to encourage attendance by children such as: play equipment, promotional toy items, child's menu separate from regular menu.)

G. The sexually oriented business shall not be located within any structure for which a part is within one hundred feet of the ultimate right-of-way of a major, primary or secondary thoroughfare as defined in the general plan of the city. For the purpose of this chapter, a property fronts on such a road if the property and any portion of the right-of-way for the road have a contiguous boundary.

H. The parking requirements for sexually oriented businesses shall be as follows:

1. Bookstores and retail establishments: One parking space per three hundred square feet of gross floor area;

2. Theaters: One parking space per three seats, if seats are fixed, or one parking space per twenty-four square feet of gross floor area;

3. Cabarets: One parking space per three seats, if seats are fixed, or one parking space per thirty-five square feet of gross floor area;

4. Motion picture arcade: One parking space per individual viewing area plus one parking space per employee;

5. Motel/hotel: One parking space per guest room for first fifty rooms; three-quarters parking space per guest room thereafter.

I. The sexually oriented business shall not be located completely or partially within any mobile structure or pushcart.

J. The sexually oriented business shall not stage any special events, promotions, festivals, concerts or similar events which would increase the demand for parking beyond the approved number of spaces for the particular use.

K. The sexually oriented business shall provide a security system that visually records and monitors all parking lot areas. All indoor areas of the sexually oriented business which are accessible to the public shall be open to public view at all times with the exception of restroom facilities. "Accessible to the public" shall include but not be limited to those areas which are only accessible to members of the public who pay a fee and/or join a private club or organization.

L. The sexually oriented business complies with the city's sign regulations.

M. The sexually oriented business complies with the development and design requirements of the zone in which it is to be located.

N. The sexually oriented business shall not display any sexually oriented material or sexually oriented merchandise which would be visible from any location other than from within the sexually oriented business.

O. The sexually oriented business shall not allow admittance to any person under the age of eighteen if no liquor is served, or under the age of twenty-one if liquor is served.

P. With the exclusion of sexually oriented hotels, the sexually oriented business shall not operate between the hours of one a.m. and nine a.m.

Q. The applicant shall not have been convicted of a crime relating to a specified criminal act for which:

1. Less than two years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for "specified criminal acts";

2. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense for "specified criminal acts";

3. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanors for "specified criminal acts" occurring within any twenty-four-month period;

4. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

5. An applicant who has been convicted of the above may qualify for a sexually oriented business permit only when the time period required above in this section has elapsed.

R. The sexually oriented business shall provide separate restroom facilities for male and female patrons. The restrooms shall be free from sexually oriented materials and sexually oriented merchandise. Only one person shall be allowed in the restroom at any time, unless otherwise required by law, in which case the sexually oriented business shall employ a restroom attendant of the same sex as the restroom users who shall be present in the restroom during operating hours. The attendant shall prevent any person(s) from engaging in any specified sexual activities within the restroom and shall ensure that no person of the opposite sex is permitted in the restroom.

S. The interior of the sexually oriented business which has individual viewing areas, shall be configured such that there is unobstructed view using the naked eye, unaided by any other devices, of every public area of the premises, including but not limited to the interior of all individual viewing areas, from a permanent security station physically demarked in the establishment which is no larger than thirty-two square feet of floor area with no single dimension being greater than eight feet in a public portion of the establishment. No public area, including but not limited to the interior of any individual viewing area, shall be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing into the interior of the individual viewing area from the manager's station. A security guard shall be stationed in the security station at all times the business is in operation or open to the public in order to enforce all rules and regulations. No individual viewing area shall be designed or operated to permit occupancy of more than one person at a time. "Individual viewing area" means any area designed for occupancy of one person for the purpose of viewing live performances, pictures, movies, videos or other presentations.

T. All areas of the sexually oriented business shall be illuminated at a minimum of the following footcandles, minimally maintained and evenly distributed at ground level:

| | |
|---------------------------|---|
| Bookstores | 20 footcandles |
| Retail establishments | 20 footcandles |
| Theater | 5 footcandles (except during performances, at which time the lighting shall be at least 1.25 footcandles) |
| Cabaret | 5 footcandles |
| Motion picture arcade | 10 footcandles in public areas |
| Individual viewing booths | 1.25 footcandles |
| Motion picture | 10 footcandles (except during performances at which time the |

| | |
|-------------|--|
| theater | lighting shall be at least 1.25 footcandles) |
| Motel/hotel | 20 footcandles in public areas |

U. At least one security guard in addition to the manager, is required for every fifty patrons at sexually oriented businesses providing live entertainment. The manager may act as the security guard where less than fifty patrons are present.

V. The individual viewing areas of the sexually oriented business shall be operated and maintained with no holes, openings or other means of direct visual or physical access between the interior space of two or more individual viewing areas.

W. A traffic study has been prepared for the sexually oriented business in conformance with industry standards. The applicant shall demonstrate that the project will not result in a reduction in any roadway level of service below that level of service designated on the general plan for that roadway.

X. The sexually oriented business shall comply with the noise element of the general plan, interior and exterior noise standards and any mitigation measures necessary to reduce the project's noise impacts to the city's articulated noise standards.

Y. The sexually oriented business shall comply with all building and construction standards of the Uniform Building Code, Chapter 24 hereof, Title 24 of the California Code of Regulations, and all other federal, state and city-adopted standards for the specific use.

Z. Whenever live entertainment is provided, patrons shall be physically separated from sexually oriented entertainers by a floor to ceiling or, if appropriate, stage floor to ceiling, permanent, solid barrier and a buffer zone of at least three feet. "Live entertainment," for the purposes of this requirement, means any existent display by a human being which is characterized by an emphasis on specified anatomical parts or specified sexual activities. The three-foot buffer zone provision shall not apply to an individual viewing area where the stage is completely separated from the individual viewing area by a floor to ceiling permanent, solid barrier.

AA. No building, premises, structure, or other facility shall be permitted to contain more than one type of sexually oriented business as such types of sexually oriented business are defined in Section 5.80.020. For the purposes of this section, the catchall phrase "sexually oriented business" shall not be considered a single type of sexually oriented business.

BB. No individual viewing area may be occupied by more than one person at any one time.

CC. No patron shall come into direct or indirect physical contact with any sexually oriented entertainer.

DD. All building openings, entries, windows, etc., shall be located, covered or screened in such a manner as to prevent a view into the interior from outside the building.

EE. Lighting in Parking Lots. Lighting shall be required which conforms to the dark sky ordinance and is designed to illuminate all off-street parking areas serving such use for the purpose of increasing the personal safety of store patrons and reducing the incidence of vandalism and theft.

FF. Amplified Sound. No loudspeakers or sound equipment shall be used by a sexually oriented business for the amplification of sound to a level discernible by the public beyond the wall of the building in which such use is conducted.

GG. The building entrance to the adult use shall be clearly and legibly posted by a notice indicating that minors are precluded from entering the premises. As used in this subsection, “minor” means an individual less than eighteen years of age.

HH. Commercial businesses licensed or operating within the city shall not display or exhibit any material in a manner which exposes to public view photographs or illustrations of specified sexual activities or one or more naked adults in poses which emphasize or direct the viewer's attention to the subject's genitals. As used in this subsection, “exposes to public view” means exposes to the view of the person outside the building in which the commercial business is located.

II. The permit required by this chapter shall be displayed in a prominent area.

The city shall deny the requested permit in writing if the above findings have not been made and shall state reasons for the denial.

5.80.070 Permit duration.

A sexually oriented business permit shall be valid for a period of one year from the date of issuance.

5.80.080 Permit renewal.

A sexually oriented business permit shall be renewed on a year-to-year basis provided that the permittee and the sexually oriented business continues to meet the requirements set forth in this chapter. A request for permit renewal must be filed thirty days in advance of the permit expiration and shall be accompanied by a completed sexually oriented business permit application as required in Section 5.80.050. If said application conforms to the previously approved application and the sexually oriented business has not changed, the permit shall be renewed by the city for another year. Any change or alteration in that nature or operation of the sexually oriented business will require the renewal to be reviewed by the city.

5.80.090 Permits nontransferable, use-specific.

No sexually oriented business permit may be sold, transferred or assigned by any permittee or by operation of law, to any other person, group, partnership, corporation or any other entity unless the proposed transferee has first submitted a complete application pursuant to Section 5.80.030 as well as a transfer fee equal to one-half of the basic application permit. Any such sale, transfer or assignment or attempted sale, transfer or assignment shall be deemed to constitute a voluntary surrender of the permit and the permit shall be thereafter null and void. Any sexually oriented business permit held by a corporation or partnership is subject to the same rules of transferability as contained above. Any change in the nature or composition of the sexually oriented business from one element of a sexually oriented business to another element of a sexually oriented business shall also render the permit null and void. Any sexually oriented business permit shall only be valid for the exact location specified on the permit.

5.80.100 Enforcement, suspension and revocation.

A. Inspections. The permittee shall permit officers of the city, the county, and each of their authorized representatives to conduct unscheduled inspections of the premises of the sexually oriented business for the purpose of ensuring compliance with the law at any time the sexually oriented business is open for business or occupied.

B. Suspension of Permit.

1. The city shall suspend a permit if it determines that a permittee, or an employee of a permittee, has:

- a. Violated or is not in compliance with any section of this chapter; or
- b. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises; or
- c. Refused to allow an inspection of sexually oriented business premises as authorized by this chapter; or
- d. Knowingly permitted gambling by any person on the sexually oriented business premises; or

e. Operated the sexually oriented business in violation of a building, fire, health or zoning statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance or regulation violation, the city or its designee shall promptly notify the permittee of the violation and shall allow the permittee a seven-day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven-day period, the city or its designee, shall forthwith suspend the permit and shall notify the permittee of the suspension; or

f. Engaged in permit transfer contrary to Section 5.80.090. In the event that the city suspends a permit on the grounds that a permittee engaged in a permit transfer contrary to Section 5.80.090, the city shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable section of this chapter has been satisfied; or

g. Operated the sexually oriented business in violation of any of the findings required in Section 5.80.060; or

h. Been convicted of an act for which initial denial of a license would have been required pursuant to Section 5.80.060(Q).

2. The suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected.

C. Revocation Grounds. The city may revoke a sexually oriented business permit when it discovers that any of the following have occurred:

1. Any of the findings contained in Section 5.80.060 ceases to be satisfied and a permit suspension has occurred during the twelve months prior to the violation triggering revocation;

2. The application contains incorrect, false or misleading information that tended to enhance the applicant's opportunity for obtaining a permit;

3. The applicant is convicted of any felony or misdemeanor which is classified as a sex or sex related offense, any violation of the city's zoning ordinance, any violation of the city's massage ordinance, or any violation of any other sexually oriented business ordinance of any other city, county or state;

4. Individual viewing areas are being operated with more than one occupant at any one time, or are being maintained with holes, openings or other means of direct visual access between the interior space of two or more individual viewing areas. For the purpose of this section, "individual viewing area" means a viewing area designed for single occupancy;

5. Any person has been convicted of a sex-related offense as a result of his or her activity on the premises of the sexually oriented business; or

6. Any person or persons has engaged in any specified sexual activities on the premises.

D. Revocation Notice. Upon determining that the grounds for permit revocation exist, the city shall furnish written notice of the proposed revocation to the permittee in accordance with Section 1.01.300 of this code. Such notice shall summarize the principal reasons for the proposed revocation, shall state that the permittee may appeal the decision pursuant to Sections 2.08.180 through 2.08.220 of this code. The city manager's decision shall be the city's final decision and shall not be appealable to the city council.

E. Reapplication after Revocation. No person, corporation, partnership or member thereof or any other entity may obtain a sexually oriented business permit for a business once its permit has been revoked.

5.80.110 Violation—Penalty.

A. Every person, whether acting as an individual owner, employee of the owner, permittee, or operator or employee of the permittee, or whether acting as a mere helper for the owner, permittee, employer or operator, or whether acting as a participant or worker in any way, who operates or conducts or who participates in the

operation of any unpermitted sexually oriented business, or who violates any provisions of this chapter shall be guilty of a misdemeanor and shall be fined pursuant to Section 1.01.230. Each day the violation continues shall be regarded as a separate offense for which the full penalty may be imposed.

B. Any establishment operated, conducted or maintained contrary to the provision of this chapter is unlawful and a public nuisance, and the city attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for the abatement, removal and enjoinder thereof in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such sexually oriented business and restrain and enjoin any person from operating, conducting or maintaining such an establishment contrary to the provisions of this chapter.

C. Any establishment operated in violation of the chapter is a public nuisance, abatable pursuant to Chapter 11.72 of this code.

D. In any action to abate any such public nuisance, the city shall be entitled to recover all enforcement costs, including staff costs and attorney fees.

5.80.120 Prohibition against nudity.

It is unlawful for any person to appear in a sexually oriented business in such a manner so as to knowingly and intentionally:

A. Expose his or her genitals, pubic hair, natal cleft, perineum, anal region or pubic hair region; or

B. Expose any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum, anal region, nipple and/or areola of the female breast or pubic hair region; or

C. Expose the nipples and/or areola of the female breasts except as necessary while engaging in the breast feeding of an infant under the age of two years old; or

D. Allow any person to engage in any of the activities described in subsections A through C of this section in a sexually oriented business when such person has ownership or managerial control over the sexually oriented business.

5.80.130 Expansion of legal nonconforming uses.

Notwithstanding any other provisions of this code, no sexually oriented business legally operating prior to the effective date of the ordinance codified in this chapter may be expanded in any manner unless and until the entire sexually oriented business complies in all respects with the provisions of this chapter and/or any other provisions of the code pertaining to the operation of the business. For the purposes of this

section, the term “expansion” shall include any physical expansion of the facility in which the sexually oriented business is located or operating and/or the introduction and/or addition of any category of sexually oriented business not legally operating on the property prior to the enactment of the ordinance codified in this chapter as such separate categories of sexually oriented business uses are contained in Section 5.80.020. For the purposes of this section, the catchall phrase “sexually oriented business” shall not be considered a single category of sexually oriented business.

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF LA QUINTA)

I, SUSAN MAYSELS, City Clerk of the City of La Quinta, California, do hereby certify the foregoing to be a full, true, and correct copy of Ordinance No. which was introduced at a regular meeting on the day of 2015, and was adopted at a regular meeting held on the day of 2015, not being less than 5 days after the date of introduction thereof.

I further certify that the foregoing Ordinance was posted in three places within the City of La Quinta as specified in City Council Resolution No. 2015-023.

SUSAN MAYSELS, City Clerk
City of La Quinta, California

DECLARATION OF POSTING

I, SUSAN MAYSELS, City Clerk of the City of La Quinta, California, do hereby certify that the foregoing ordinance was posted on , 2015 pursuant to Council Resolution.

SUSAN MAYSELS, City Clerk
City of La Quinta, California

Chapter 5.08 CABARETS ENTERTAINMENTS COMBINED WITH THE CONSUMPTION OF ALCOHOLIC BEVERAGES

5.08.010 Entertainments defined.

As used in this chapter, "entertainments" means every act, play, burlesque show, revue, pantomime scene, song and dance act, song rendition, music rendition, or other entertainment participated in by one or more persons which is performed, exhibited, shown or produced in any place within the city where alcoholic beverages as defined by the State Alcoholic Beverage Control Act are being sold or offered for sale for consumption on the premises. (Ord. 10 § 1, 1982)

5.08.020 Soliciting of drinks or trade.

No person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010 shall conduct, sponsor or allow any entertainment at any time when the practice of employees soliciting or accepting drinks of alcoholic beverages from patrons is permitted. (Ord. 10 § 1, 1982)

No person shall engage in personally soliciting trade on any public street or sidewalk at or near the entrance of a place with entertainment, nor shall any person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010, conduct, sponsor or allow any entertainment when the practice of soliciting business is engaged in or permitted. (Ord. 10 § 1, 1982)

5.08.030 Entertainment not to be visible or audible from street.

No person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010, shall suffer or permit any entertainment to be conducted which is visible or plainly audible from any public street or sidewalk, except for such temporary periods not exceeding one minute when patrons are entering or exiting through a doorway. (Ord. 10 § 1, 1982)

5.08.040 Solicitation of trade. Moved into 5.08.020 above

~~No person shall engage in personally soliciting trade on any public street or sidewalk at or near the entrance of a place with entertainment, nor shall any person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010, conduct, sponsor or allow any entertainment when the practice of soliciting business is engaged in or permitted. (Ord. 10 § 1, 1982)~~

5.08.050 Locked doors. [covered more thoroughly by state building & fire code]

~~No person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010, shall conduct, sponsor or allow any entertainment therein at any time when the regularly used doors thereto are not unlocked with free ingress and egress while patrons are in the establishment. (Ord. 10 § 1, 1982)~~

5.08.060 Hours of entertainment. Unnecessary - Covered by State Law

~~No person owning, operating, managing or otherwise controlling any place as defined in Section 5.08.010, shall conduct, sponsor or allow any entertainment therein between the hours of two a.m. and six a.m. (Ord. 10 § 1, 1982)~~

NOTE: This Chapter will be deleted when this use and related regulations are incorporated into Title 9 Planning & Zoning in the conditional use permit section.

Chapter 5.12 DANCES

5.12.010 Definitions.

In this chapter, unless another meaning is clearly apparent from the context:

- A. "Club dance" means any dance held by a dancing club.

- B. "Dancing club" means any club or association of persons which conducts dances (other than public dances for its members or bona fide guests) more often than once per month at which a fee is charged, either for admission to the dance or for dancing therein, or at which any collection or donation of money is made or received, or in which the amount of dues to be paid by each member is dependent upon attendance at such dances by such members.

- C. "Public dance" means a gathering of persons in or upon any premises where dancing is participated in, either as the main purpose for the gathering or as an incident to some other purpose, and to which premises the public is admitted.

- D. "Public dance hall" means a place where dancing is conducted, whether for profit or not for profit, and to which the public is admitted, either with or without charge or at which the public is allowed to participate in the dancing, either with or without charge. (Ord. 10 § 1, 1982)

5.12.020 Hours.

No person shall conduct, manage, carry on, allow or participate in dancing at any dancing club, public dance or public dance hall between the hours of two a.m. and eight a.m. (Ord. 10 § 1, 1982)

5.12.030 Permit required.

No person, whether as principal, agent, employee or otherwise, shall conduct, manage, carry on, or participate in any dancing club, dancing school, studio, public dance or public dance hall unless by authority of a permit from the city manager. (Ord. 10 § 1, 1982)

5.12.040 Operation during suspension or revocation.

It is unlawful to conduct or manage or carry on any dancing club, public dance, or public dance club or hall in the city under any permit issued under this chapter while the permit is in a state of suspension or while any suspension or revocation with respect to the permit continues to exist; and it is unlawful for any person to participate in any such dance. (Ord. 10 § 1, 1982)

5.12.060 Effect of permit.

The issuance of any permit or temporary permit shall not be deemed to permit any violation of law or ordinance or rule prescribed pursuant to Sections 5.12.250 and 5.12.260. (Ord. 10 § 1, 1982)

5.12.070 Posting of permit. The permit shall be conspicuously posted upon the premises referred to therein, during the term thereof. (Ord. 10 § 1, 1982)

5.12.080 Requisites to issuance of permit—Factors considered.

No permit or temporary permit shall be issued under this chapter unless and until it appears and is determined by the city manager, in his/[her](#) discretion, that the conduct of the dance hall, dancing club, or public dance will comport with and not prejudice or work to the disadvantage or injury or harm of the public peace, safety, morals, health or welfare, and that the applicant will, for the term of the permit, have in force and effect adequate insurance to protect the public and the city with regard to reasonably foreseeable accidents and other liability, and the city manager and other city departments, in acting upon any such application, shall consider any and all facts and evidence pertinent, relevant or material with respect thereto [and require such conditions to permit issuance as the city manager deems necessary including making the permit conditional upon the attendance of a special police or fire officer or officers, appointed under Section 5.12.270 through 5.12.290.](#) (Ord. 10 § 1, 1982)

~~5.12.090 Permit requiring policing. Covered in 5.12.080 above.~~

~~Whenever the public peace, health, safety or general welfare so require, the city manager, at the time of issuance or at any time during the term of any permit issued under this chapter, may make the permit conditional upon the attendance of a special police or fire officer or officers, appointed under Sections 5.12.270 through 5.12.290, at any dancing club, public dance or public dance hall during any or all times dancing is being conducted, carried on or allowed, and in such event the permit shall be effective only during the attendance of the police or fire officer or officers. (Ord. 10 § 1, 1982)~~

5.12.100 Permit—Issuance.

Permits to conduct dancing clubs, dancing schools, studios, public dances or public dance halls may be issued or renewed by the city manager upon the written application of any person for himself or on behalf of any other person, and payment of the required charges. (Ord. 10 § 1, 1982)

5.12.110 Permit—Expiration date.

Every such permit shall expire on September 30th following the date of issuance. (Ord. 10 § 1, 1982)

5.12.120 Filing of application—Fee.

Every such application shall be filed with the city manager, and at the time of filing the applicant shall submit a payment in such amount as has been prescribed by resolution of the city council, to defray the expense of investigation and processing. (Ord. 10 § 1, 1982)

5.12.130 Exemption from fee for ~~of~~ casual dances.

There shall be no charge or fee for investigation where dances are proposed to be held by charitable, memorial, fraternal or labor associations, student bodies of schools or the proposed dances are in connection with patriotic or holiday celebrations or festivals, where such dances

are casual and for one such occasion only and are not conducted more often than once per month. (Ord. 10 § 1, 1982)

5.12.140 Application—Presentation—Contents.

Every such written application for a permit shall be presented to the city manager and shall set forth the following facts:

A. Applicant. The name and residence of the applicant or applicants, and if any applicants are a firm, association, corporation or club, the names and residences of the partners, officers, directors, managers and of all employees who will be in charge of the dancing club, public dance, or public dance hall;

B. Location. The place for which the permit is desired or in which any dance or dances are proposed to be held;

C. Time of Dances. The number and dates of the dances proposed to be held;

D. Police. Whether a special police officer pursuant to Sections 5.12.270 through 5.12.290 is desired for the dance or dances, and will be present at times dancing is conducted, carried on or allowed. (Ord. 10 § 1, 1982)

5.12.150 Reference.

Upon filing of each application, it shall be referred by the city manager to departments designated by the city manager for investigation and report. (Ord. 10 § 1, 1982)

5.12.160 Investigation.

The departments so designated shall make a thorough investigation as required for the protection of the public peace, health, safety and general welfare, and may require the submission of additional information by the applicant as is necessary to the investigation. (Ord. 10 § 1, 1982)

5.12.170 Recommendation.

Thereafter, and within five business days from ~~reference~~referral of the application, each department designated shall report its findings and conclusions and make recommendations concerning the application. (Ord. 10 § 1, 1982)

5.12.180 Consideration, decision by city manager – Time period, temporary permit.

After receiving the reports as provided for in Section 5.12.170, the city manager may make such further investigations as he deems proper or advisable in the interest of the public peace, health, safety and general welfare, and within thirty days from the filing of the application shall either approve, conditionally approve or deny the application according to the requirements of the public peace, health, safety or general welfare. Should the city manager fail to act within said time, the application shall be deemed denied. At any time after the application is filed, however, and pending complete processing thereof, the city manager may issue a temporary

permit upon stated terms and conditions, including a fixed expiration date or indefinite period subject to termination on notice, so long as the city manager tentatively determines that the temporary permit for the activity desired to be held will comport with and not prejudice nor work to the disadvantage or injury of the public peace, safety, morals, health or welfare. (Ord. 10 § 1, 1982)

5.12.190 Suspension of permit—Requirement of police officer.

The city manager may at any time temporarily suspend any permit issued under this chapter, or may require the attendance of a special police officer during all or certain times dancing is conducted, carried on or allowed, as a condition to the continued exercise of the permit, when s/he finds and determines that the public peace, safety, morals, health or welfare require or will be promoted or best served by such suspension or special police officer attendance. (Ord. 10 § 1, 1982)

5.12.200 Service of notices and orders.

~~The service of any notices or orders pursuant to this chapter, shall be served in A copy of the city manager's order in that regard mentioned in Section 5.12.190 shall be served in accordance with Section 1.01.300 of this code. the same manner as is in Sections 5.12.210 through 5.12.240 provided for notices of hearing, and be effective thereupon. (Ord. 10 § 1, 1982)~~

5.12.210 Duration of suspension—Hearing—Notice. [suspension covered in 5.12.190 sufficiently, hearing covered in 5.12.210]

~~No temporary suspension under this chapter or added condition requiring the attendance of a special police officer shall continue for more than ten days unless within said ten day period the suspension or added condition is further continued or made permanent by revocation of the permit involved or a condition requiring the attendance of a special police officer is affixed to the permit for the balance of its term upon hearing by the city manager within the city held upon three days' notice of the time and place thereof, given as follows in Section 5.12.220. (Ord. 10 § 1, 1982)~~

5.12.220 Notice—Manner of service. [Covered in 5.12.200]

~~The service of any such notice shall be made upon the holder of a permit to whom it is directed by either:~~

~~—
A. Personal Service. Delivering a true copy of the notice to the holder personally, or if a firm, association, corporation, or club, by delivery thereof to a partner or officer or director thereof;
or~~

~~—
B. Delivery to Premises. Delivering the notice to and leaving it with any person over eighteen years of age in charge of the premises referred to in the permit; or~~

~~—
C. Posting on Premises. In case no such person is found upon the premises, by affixing it to a conspicuous place on the door to an entrance to the premises. (Ord. 10 § 1, 1982)~~

5.12.2310 Right to be heard.

The holder of any permit, suspended permit or revoked permit shall be afforded an opportunity to be heard and to present evidence on his/her behalf at an appeal ~~the~~ hearing before the city manager held in accordance with sections 2.08.180 through 2.08.230 of this code. (Ord. 10 § 1, 1982)

5.12.240220 Action by city manager upon hearing.

Upon hearing held by the city manager him, and adjournments and continuances thereof upon the notice, the city manager may revoke, suspend, further suspend or apply conditions to the further exercise of any permit issued under this chapter because of anything done or omitted by the permittee, his/her agents or employees or the patrons of his/her establishment upon the premises involved contrary to the provisions of any applicable state law, or of this chapter or any ordinance of the city, or of the rules prescribed by the city manager pursuant to sections 5.12.2530 and 5.12.2640, or when the public peace, safety, morals, health or welfare require or will be promoted or best served by any such action. (Ord. 10 § 1, 1982)

5.12.2530 Power to make rules and regulations.

The city manager may make rules and regulations governing dancing clubs, public dances, or public dance halls within this city which shall govern and apply to all permittees under this chapter. (Ord. 10 § 1, 1982)

5.12.260 Custody of rules. [covered by the Public Records Act]

~~The rules mentioned in Section 5.12.250 shall be filed with the city clerk and shall be available for inspection by the public. (Ord. 10 § 1, 1982)~~

5.12.270 Special police officers—Requested by applicant Application by management.

Any person conducting, managing, or carrying on any dancing club, public dance or public dance hall shall have the right to apply to the city manager for appointment of a special police officer or officers of the city to be present and in attendance at the dancing club, public dance or public dance hall during all times that dancing is conducted, carried on or allowed therein, for the purpose of preserving order and preventing any violation of any law of the state, or any ordinance of the city, or any rule prescribed under Sections 5.12.2350 and 5.12.2640. (Ord. 10 § 1, 1982)

5.12.280 Special police and fire officers required by city.

The city manager may require the presence and attendance of a special police officer or officers, or also a special fire officer or officers in accordance with the provisions of the Uniform Fire Code relating to standby firemen at places of public assembly, any of which requirements may be prescribed as a condition or conditions to the exercise of any permit, long term or temporary, as provided for in this chapter. In such event, the permit shall be effective only during the attendance of the police and/or fire officer or officers. (Ord. 10 § 1, 1982)

5.12.290 Cost of policing.

A. Fees. The expense of any such special officer or officers so appointed for such attendance shall be paid by the person so conducting, managing, or carrying on any dancing club, public dance, or public dance hall in accordance with such schedule of fees for such services as may be found to be reasonable and established by the chief of police or the fire chief, as the case may be.

B. Payment shall be made to the County Sheriff's Department and/or County Fire Department for the City Manager. The expense of the special officer(s) in the manner and on the dates prescribed by those County departments. shall be paid to the city manager each week in advance for all dancing to be conducted, carried on or allowed during that time, in accordance with a written statement made at the time of such payment to the city manager.

~~C. Payment to Officers. The city manager shall in turn cause payment of the money to the special officers as earned by them. (Ord. 10 § 1, 1982)~~

5.12.300 Appeals.

Any person aggrieved by any decision of the city manager with respect to denial or issuance of any permit, conditions attached thereto, or any other administrative action taken pursuant to the terms of this chapter, may appeal to the city council pursuant to Sections 2.04.100 through 2.04.130 of this code. by filing a written notice of appeal with the city clerk, specifying the grounds of appeal. Unless an adjustment of the matter is then made by the city manager satisfactory to the appellant, the city clerk shall thereupon fix an early time and place of hearing on the appeal. Notice thereof shall be given to the appellant and other persons who in the city clerk's opinion appear to be interested persons of record, of the time and place of hearing by serving such notice personally or by depositing it in the United States mail addressed to all such persons at their last known addresses, respectively. The city council shall, after hearing, have authority to determine all questions raised on the appeal, and to take any action consistent with the terms of this chapter, or which could legally have been taken by the city manager in the matter. (Ord. 10 § 1, 1982)

NOTE: This Chapter will be deleted when this use and related regulations are incorporated into Title 9 Planning & Zoning in the temporary use permit section.

Chapter 5.16 DRUG PARAPHERNALIA DISPLAY

Delete this chapter. Move it into 5.72 (Misc. Business Regs) and refer to compliance with state law.

5.16.010 Display of drug paraphernalia to minors.

~~The following regulations shall apply in any business establishment merchandising drug paraphernalia:~~

~~A. It is unlawful for any person in charge or control of any business establishment wherein drug paraphernalia is displayed for sale, offered for sale or sold, to knowingly allow or permit a minor, not accompanied by one or both of his or her parents or by his or her legal guardian, to enter and remain within any room of the establishment where drug paraphernalia is displayed for sale, offered for sale or sold.~~

~~B. It is unlawful for any person in charge or control of a business establishment wherein drug paraphernalia is displayed for sale, offered for sale, or sold, to fail to display and maintain, or fail to cause to be displayed and maintained, at least one sign stating that a minor may not enter unless accompanied by one or both of his or her parents or by his or her legal guardian. Any such sign shall be placed in a conspicuous location near each public entrance to the business establishment wherein the drug paraphernalia is displayed for sale, offered for sale, or sold, or near each public entrance to any particular room or rooms therein where the drug paraphernalia is displayed for sale, offered for sale or sold.~~

~~C. In the event a substantial number of the public invitees or patrons of a business establishment wherein drug paraphernalia is displayed for sale, offered for sale or sold, uses a language other than English as a primary language, any sign required pursuant to this section shall be worded in both English and the language or languages involved. (Ord. 10 § 1, 1982)~~

5.16.020 Minors not to enter.

~~In the event a sign or signs have been posted as required by Section 5.16.010, it shall be unlawful for a minor to enter any room of a business establishment wherein drug paraphernalia is displayed for sale, offered for sale or sold, unless the minor is accompanied by one or both of his or her parents or by his or her legal guardian. (Ord. 10 § 1, 1982)~~

5.16.030 Definitions.

~~Except where the context otherwise requires, the definitions given in this section shall govern the construction of this chapter:~~

~~A. A device "designed primarily for" such smoking or ingestion set forth in subsection B of this section is a device which has been fabricated, constructed, altered, adjusted, or marked especially for use in the smoking or ingestion of marijuana, hashish, hashish oil, cocaine, or any other "controlled substance," and is peculiarly adapted to such purposes by virtue of a~~

~~distinctive feature or combination of features associated with drug paraphernalia, notwithstanding that it might also be possible to use the device for some other purpose.~~

~~B. "Drug paraphernalia," including but not limited to one or more of those items identified in that list set forth in subsection C of this section, means any device designed primarily for use by individuals for the smoking or ingestion of marijuana, hashish, hashish oil, cocaine, or any other "controlled substance," as that term is defined in the Health and Safety Code of the state.~~

~~C. Includable items or devices within the term "drug paraphernalia":~~

~~— 1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes, with or without screens, permanent or otherwise, beads, or punctured metal bowls;~~

~~— 2. A device constructed so as to prevent the escape of smoke into the air and to channel smoke into a chamber where it may be accumulated to permit inhalation or ingestion of larger quantities of smoke than would otherwise be possible, whether the device is known as a "bong," or otherwise;~~

~~— 3. A smokable pipe constructed with a receptacle or container in which water or other liquid may be placed into which smoke passes and is cooled in the process of being inhaled or ingested;~~

~~— 4. A smokable pipe which contains a heating unit, whether the device is known as an "electric pipe," or otherwise;~~

~~— 5. A device constructed so as to permit the simultaneous mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device is known as a "buzz bomb," or otherwise;~~

~~— 6. A canister, container or other device with a tube, nozzle or other similar arrangement attached thereto so constructed as to permit the forcing of smoke accumulated therein into the user's lungs under pressure;~~

~~— 7. A device for holding a cigarette, whether the device is known as a "roach clip," or otherwise;~~

~~— 8. A spoon for ingestion through the nose;~~

~~— 9. A straw or tube for ingestion through the nose or mouth.~~

~~D. "Minor" means any person under the age of eighteen years. (Ord. 10 § 1, 1982)~~

Chapter 5.20 HANDBILLS

5.20.010 Purpose.

To protect the people from the nuisance of and incident to the promiscuous distribution of handbills and circulars, particularly commercial handbills, as defined in this chapter, with the resulting detriment and danger to public health and safety, the public interest, convenience and necessity requires the regulation thereof, and to that end the purposes of this chapter are specifically declared to be as follows:

A. To protect the people against the unlawful activities or operations of dissolute persons of criminal habits or tendencies, representing themselves as solicitors, canvassers, or handbill solicitors, canvassers, or handbill distributors, together with their employers, by regulating the business of handbill and advertising distribution ~~and providing for the imposition of reasonable license fees;~~

B. To protect local residents against trespassing by solicitors, canvassers, or handbill distributors, upon private property of such residents if they have given reasonable notice, as defined in Section 5.20.080 that they do not wish to be solicited by such persons, or do not desire to receive handbills or advertising matter;

C. To protect the people against the health and safety menace and the expense incident to the littering of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and commercial handbills;

D. To preserve to the people their constitutional right to receive and disseminate information not restricted under the ordinary rules of decency and good morals and public order, by distinguishing between the nuisance created by the promiscuous distribution of advertising and commercial circulars and the right to deliver noncommercial handbills to all who are willing to receive them, said right being limited solely by the needs of pedestrian and traffic safety. (Ord. 10 § 1, 1982)

5.20.020 Definitions.

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

A. "Commercial handbill" means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, sign, bill, poster, picture, lithograph, map, plat or any other printed or otherwise reproduced original or copies of any matter or literature:

1. Which advertises for sale any merchandise, product, commodity, ~~or~~ thing or service; or
2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; or

3. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this subdivision shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to the meeting, theatrical performance, exhibition or event of any kind, when either of them is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing contained in this subdivision shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license where the license is or may be required by any law of this state, or under any ordinance of this city; or

4. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

B. "Handbill distributor" means and includes any person engaging or engaged in the business for hire or gain of distributing commercial or noncommercial handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such handbills.

C. "Newspaper" means and includes any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

D. "Noncommercial handbill" means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, [sign](#), [bill](#), [poster](#), [picture](#), [lithograph](#), [map](#), [plat](#) or any other printed or otherwise reproduced original or copies of any matter or literature not included in the definition of a sign, or a commercial handbill, or a newspaper.

E. "Person" means and includes any person, firm, partnership, association, corporation, company, or organization of any kind.

F. "Private premises" means and includes any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule, building or other structure.

G. "Public place" means and includes any and all streets, boulevards, avenues, lanes, alleys, [walkways](#), [bikeways](#) or other public ways, and any and all [public parking facilities](#), public parks, [public golf courses](#), squares, spaces, plazas, grounds and buildings. (Ord. 10 § 1, 1982)

5.20.030 Posting notice, placard or bill prohibited in certain cases.

No person shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster advertisement or other paper or device calculated to attract the attention of the public, to or upon any sidewalk, crosswalk, curb or curbstone, flagstone or any other portion or part of any public way or public place, or any lamppost, electric light, telegraph, telephone or trolley line pole, or railway structure, hydrant, tree or tree-box, or upon the piers, columns, trusses, girders, railings, gates or other parts of any public bridge or viaduct or other public structure or building, or upon any pole, box, or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or the state and the ordinances of the city. (Ord. 10 § 1, 1982)

5.20.040 Throwing, ~~handbills~~ broadcasting or distributing handbills in public places prohibited.

It is unlawful for any person to deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any public place within this city; and it is also unlawful for any person to hand out or distribute or sell any commercial handbill in any public place; provided however, that it is not unlawful for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill in any public place to any person willing to accept the noncommercial handbill as provided in this chapter. (Ord. 10 § 1, 1982)

5.20.050 Placing commercial handbills in or on vehicles prohibited.

No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any automobile or other vehicle. (Ord. 10 § 1, 1982)

5.20.060 Distribution on uninhabited or vacant private premises ~~prohibited of commercial or noncommercial handbills.~~

It is unlawful for any person to distribute, deposit, place, throw, scatter, or cast any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. (Ord. 10 § 1, 1982)

5.20.070 Distribution prohibited where properly posted.

It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill upon any inhabited private premises, if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words "NO TRESPASSING," "NO PEDDLERS OR AGENTS," "NO ADVERTISEMENT" or similar notice indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon the premises. (Ord. 10 § 1, 1982)

5.20.080 Distribution on inhabited private premises—Not posted.

In the case of inhabited private premises which are not posted as provided in this chapter, ~~the aforesaid licensed~~ a person holding a valid city business license, unless requested by anyone upon the premises not to do so, may place or deposit any such handbill in or upon the inhabited private premises, if the handbill is so placed or deposited as to secure or prevent the

handbill from being blown or drifted about the premises or elsewhere except that mailboxes may not be used. (Ord. 10 § 1, 1982)

5.20.090 Distributors' compliance; Advertising from own premises ~~Distributors—License, fee.~~

It is unlawful for any person to engage in the business of handbill distributor for hire, or for any person to distribute commercial or noncommercial handbills, without first complying with the terms of this chapter and all other relevant laws and regulations; provided, that nothing contained in this chapter shall apply to any person advertising his/her business or activity upon his/her own premises, if the business or activity is regularly established at a definite location in the city, and also if a valid business license has been obtained therefor, if the business license is required under the terms of any applicable law or ordinance. (Ord. 10 § 1, 1982)

5.20.100 Business license required.

A city business license shall be obtained by every person in accordance with chapter 3.28 of this code before any person may become a handbill distributor.

5.20.100 Commercial handbill license procedure.

~~Any person desiring to distribute commercial handbills shall make application and receive from the city manager a license in the manner and for the period prescribed by the terms of this chapter. The applicant shall make written application to the city manager upon a form or forms provided for such purpose by the city manager. The form shall contain~~

- ~~A. Applicant's name;~~
- ~~B. Business address;~~
- ~~C. Residence address;~~
- ~~D. A brief description of the nature of the business to be conducted by the applicant;~~
- ~~E. The probable number of agents and employees to be engaged;~~
- ~~F. A picture of the applicant, two inches by two inches, taken within the last calendar year;~~
- ~~G. The last two occupations of the applicant;~~
- ~~H. Convictions of crimes other than Vehicle Code violations;~~
- ~~I. A copy or copies of the handbill or handbills to be distributed. (Ord. 10 § 1, 1982)~~

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5.20.110 Action of city manager.

~~The city manager shall investigate the application for truthfulness of the facts therein set forth and shall have a period of ten days for the investigation. If the city manager ascertains the falsity of any of the contents of the application, a permit may be refused the applicant. If the city manager ascertains a crime has been committed by the applicant involving moral turpitude, a permit may be refused. (Ord. 10 § 1, 1982)~~

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5.20.120 Issuance of permit—Hours for distribution of commercial handbills.

~~If applicant complies with the requirements of Sections 5.20.100 and 5.20.110, at the expiration of the ten-day period, or sooner if the city manager is able to make the investigation, applicant shall be issued a permit to distribute commercial handbills. No commercial handbills shall be distributed between the hours of five p.m. and the following eight a.m., nor on any Sunday or holiday. (Ord. 10 § 1, 1982)~~

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5.20.130 Permit fee.

~~A permit fee in such amount as has been prescribed by resolution of the city council shall be charged each applicant and shall be payable to the city manager, to defray the expense of investigation and processing. (Ord. 10 § 1, 1982)~~

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5.20.140 Revocation of license.

~~If at any time after the issuance of a license to distribute commercial handbills, the city manager ascertains a false statement has been made in the application of the licensee, or if the licensee is or has been convicted of a crime involving moral turpitude, or if the licensee violates any provision of this chapter relating to the distribution of handbills, the city manager, after affording the licensee due opportunity for a hearing in which the licensee might refute the charges, may revoke the license of the subject, and the licensee afterward shall not further distribute commercial handbills in the city. (Ord. 10 § 1, 1982)~~

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5.20.150 Licenses nontransferable.

~~No license issued under this chapter shall be transferable by the licensee named, and if it is revoked for cause, neither the licensee named in the license, nor any other person shall further distribute handbills pursuant to the license, and any fees paid for the license shall not be refunded. (Ord. 10 § 1, 1982)~~

5.20.11069 Exemption.

The provisions of this chapter shall not be deemed to apply to the distribution of mail by the United States, nor to newspapers as defined in this chapter, except that no common carrier shall deliver newspapers in the city by leaving the same at any stopping place or in any street corner or elsewhere in the city unless such papers are bound, tied or fastened together in such a way or manner as will prevent the same from blowing and becoming scattered, nor may such papers remain at any stopping place anywhere in the city later than 9:00 a.m. daily.

5.20.120 Violation – Penalty.

Any person violating any provision of this chapter is guilty of an infraction.

Chapter 5.24 HOTEL REGISTRATION AND OCCUPANCY

5.24.010 Registration required.

Every owner, keeper or proprietor of any lodginghouse, roominghouse, recreation vehicle park, hotel or motel shall keep a register wherein s/he shall require all guests, roomers or lodgers to inscribe their names and addresses upon their procuring lodging or a room or accommodations. Before furnishing any lodging for hire to any person, the proprietor, keeper, manager or owner thereof shall compare each name inscribed against a valid government-issued identification document as verification of accurate identity inscribed in register and shall set opposite the each name the correct date and time when so inscribed, and the room or space occupied, or to be occupied by the lodger, roomer or guest. At the time of departure of each guest, every owner, keeper or proprietor shall endorse upon such register the date of such departure and no person shall erase, alter, delete or remove any information written in such register. (Ord. 10 § 1, 1982)

5.24.020 Form of register registration; retention of register.

~~The register required in Section 5.24.010 shall also show the day of the month and year when the name was inscribed, and the room occupied or to be occupied by the lodger, or roomer or guest in the lodginghouse, roominghouse or hotel. (Ord. 10 § 1, 1982)~~
The register required in Section 5.24.010 shall be kept in either a substantially bound book, compilation of registration cards, or electronic format; and which register shall be preserved for a minimum period of three years after the date of its most recent entry.

5.24.030 Access to register.

The register shall at all times be open to inspection by the chief of police, ~~or~~ any regular policeman officer of this city, code enforcement officer, city audit staff members, and any other city officer or employee for law enforcement or other official city business purposes. (Ord. 10 § 1, 1982)

5.24.040 Duty to require registration.

~~Before furnishing any lodging for hire to any person in any lodginghouse, or before renting any room to any person in any roominghouse, or before furnishing any accommodations to any guest at any hotel or motel, the proprietor, manager or owner thereof shall require the person to whom the lodgings are furnished, or room is rented, or accommodations furnished, to inscribe his name and address in the register kept for that purpose as provided in this chapter, and shall set opposite the name the time when the name was so inscribed, and also the room occupied by the lodger, roomer or guest. (Ord. 10 § 1, 1982)~~

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5.24.0450 Duty to register.

Every person engaging or to whom there is furnished any room or accommodations at a lodginghouse, roominghouse, recreation vehicle park, hotel or motel shall first sign the register and give the information as provided in the preceding sections. (Ord. 10 § 1, 1982)

5.24.0560 False name or address.

No person referred to in Section 5.24.0350 shall write or allow to be written any other than his/[her](#) true name and address upon the registration; nor shall any person write thereon other than the true name and address of any other guest upon the registration. (Ord. 10 § 1, 1982)

Chapter 11.60 OCCUPANCY OF HOTEL ROOMS BY MINORS

MOVE 11.60 INTO CHAPTER 5.24 AND DELETE CHAPTER 11.60

11.60.010 Definitions. 5.24.005 Definitions.

The following definitions are applicable to this chapter:

- A. "Adult" means any competent person over eighteen years of age.
- B. "Hotel" means [lodginghouse, roominghouse, recreation vehicle park, hotel or motel](#) ~~any hotel~~ or apartment house.
- C. "Minor child" means any person less than eighteen years of age.
- D. "Occupancy" or "occupation" includes but is not limited to any type of rental, lease, sublease or letting of hotel rooms for compensation or otherwise.
- E. "Parent" means the natural or adopted parent or relative eighteen years or more of age, or the [legal](#) guardian.
- F. "Room" means and includes any rental, hotel room, apartment, or any type of hotel accommodation. (Ord. 10 § 1, 1982)

11.60.030 5.24.060 Hotel owner responsibility.

No hotel owner, operator or employee shall permit the occupancy of any room by any minor child, unless the minor child is accompanied by his/[her](#) parent, legal guardian or a responsible adult authorized in writing by a parent or legal guardian of the minor child. (Ord. 10 § 1, 1982)

11.60.040 5.24.070 Duty of parent or adult.

No adult or parent registering with a minor child, as provided in Section [5.24.050](#) ~~11.60.030~~, shall, except in the case of sickness, death, or act of God, fail to remain registered for a period equal to the longest period of occupation by the minor child. (Ord. 10 § 1, 1982)

5.28 ice vending machines - DELETE. Neither the State, County nor any other City code checked has this in their codes. Not relevant in a desert setting, and these machines are regulated by health departments.

~~Chapter 5.28 ICE VENDING MACHINES~~

~~5.28.010 Locations restricted.~~

~~No person shall place any ice vending machine at any outdoor location without first obtaining approval from the city manager, who shall issue a permit therefor if it is found that the proposed location will be desirable to the public convenience or welfare and will be in harmony with the various elements and objectives of the general plan. (Ord. 10 § 1, 1982)~~

5.32.010 Definitions.

A. “Applicant” means the individual seeking a permit pursuant to this chapter.

B. “Certified copy” means a copy of a document that is certified by the issuer as being a true and accurate copy of the original document or a similar document bearing an original signature of the issuer.

~~C. “Certified massage practitioner” means a person who is certified by the Massage Therapy Council, under California Business and Professions Code § 4604.2 and who administers massage.~~

~~D. “Certified massage therapist” means a person who is certified by the Massage Therapy Council, under California Business and Professions Code § 4604 and who administers massage.~~

E. ~~C.~~ “Certified statement” means a written assertion, claim or declaration bearing the original signature of the issuer.

~~D. “Coachella Valley Model Massage Ordinance” means the provisions of this ordinance as adopted by this or any other jurisdiction within the Coachella Valley.~~

~~FE.~~ ~~E.~~ “Communicable disease” shall mean tuberculosis, or any disease, which may be transmitted from a massage therapist to a patron through normal physical contact during the performance of any massage service.

~~FG.~~ ~~F.~~ “Complete application” shall mean an application, which provides all of the requisite information required to be provided by an applicant pursuant to this chapter.

~~GH.~~ ~~G.~~ “Disqualifying conduct” means any of the following when occurring within five years of any application made pursuant to this chapter:

1. Pandering as set forth in California Penal Code Section 266i;
2. Keeping or residing in a house of ill-fame as set forth in California Penal Code Section 315;
3. Keeping a house for the purpose of assignation or prostitution, or other disorderly house as set forth in California Penal Code Section 316;
4. Prevailing upon a person to visit a place of illegal gambling or prostitution as set forth in California Penal Code Section 318;
5. Lewd conduct as set forth in California Penal Code Section 647, subdivision (a);
6. Prostitution activities as set forth in California Penal Code Section 647, subdivision (b);
7. Any offense committed in any other state which, if committed or attempted in this state, would have been punishable as one or more of the offenses set forth in California Penal Code Sections 266(i), 315, 316, 318, or 647, subdivisions (a) or (b);

8. Any felony offense involving the sale of any controlled substance specified in California Health and Safety Code Sections 11054, 11055, 11056, 11057, or 11058;

9. Any offense committed in any other state which, if committed or attempted in this state, would have been punishable as a felony offense involving the sale of any controlled substance specified in California Health and Safety Code Sections 11054, 11055, 11056, 11057, or 11058;

10. Any misdemeanor or felony offense which relates directly to the practice of massage therapy, whether as a massage therapy business owner or operator, or as a massage therapist; or

11. Any felony the commission of which occurred on the premises of a massage therapy establishment.

~~HI.~~ HI.—~~H.~~ “Filing date of application” means the date on which the permit administrator determines that a complete application pursuant to this chapter has been submitted to the permit administrator by the applicant.

~~IJ.~~ IJ.—~~I.~~ “Full nudity” or “semi-nudity” means any of the following: (a) the appearance or display of an anus, male or female genital, pubic region, or a female breast below a point immediately above the top of the areola, and/or (b) a state of undress which less than completely and opaquely covers an anus, male or female genital, pubic region or a female breast below a point immediately above the top of the areola.

~~JK.~~ JK.—~~J.~~ “Manager” means the individual(s) who are responsible for the management and/or supervision of a massage therapy business.

~~KL.~~ KL.—~~K.~~ “Massage” or “massage therapy” means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus or appliances, with or without supplementary aids such as creams, ointments, or other similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor. “Massage” and “massage therapy” shall include such manipulation of the body or similar procedures described in this paragraph that are performed in hydrotherapy, spa or similar bath facilities.

~~LM.~~ LM. “Massage certificate” means a valid certificate issued by the Massage Therapy Council pursuant to California Business and Professions Code § 4600 et seq.

~~N.~~ N.—~~L.~~ “Massage therapy establishment” means any establishment having a fixed place of business for the purpose of deriving that derives income or compensation from massage therapy services, whether or not massage is performed on the premises of the a fixed business premisesite.

~~OM.~~ OM.—~~M.~~ “Massage therapist” means an individual who, for any consideration whatsoever, performs or offers to perform a massage.

~~PN.~~ PN. “Massage Therapy Council” means the organization created pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code (Business

and Professions Code § 4600 et seq.) to provide State certification of massage practitioners and massage therapists.

Q. — N. “Operator” means any of the following: (a) the owner, (b) the permit holder and applicant(s) therefor, (c) custodian, (d) manager, or (e) person in charge of any massage therapy establishment.

OR. — O. “Off-premises massage” means a massage performed at a location that is not a massage therapy establishment for which a permit to operate as a massage therapy establishment has been granted by the city.

PS. — P. “Patron” means any person who receives a massage in exchange for any form of consideration including, but not limited to, the payment of money.

IQ. — Q. “Permit” means ~~the a~~ written ~~license permit~~ to ~~engage in the practice of operate a~~ massage ~~therapy establishment for compensation as required by the Coachella Valley Model Massage Ordinance~~. A “reciprocal permit” means a permit issued by this jurisdiction based ~~solely~~ on the fact that the applicant holds a valid massage ~~therapist therapy establishment~~ permit issued by another jurisdiction ~~pursuant to the Coachella Valley Model Massage Ordinance in the Coachella Valley~~. An “original permit” means a massage ~~therapist therapy establishment~~ permit issued by ~~this jurisdiction~~ the City without regard to whether ~~or not~~, the applicant holds a massage ~~therapist therapy establishment~~ permit issued by another jurisdiction. ~~A massage establishment permit means a permit issued to the owner or operator of any massage therapy establishment. The massage establishment permit does not exempt the individual massage therapist, providing massage services at the establishment, from having a separate permit to engage in the practice of massage.~~

UR. — R. “Permit administrator” means the city manager or his designee, who will be responsible for issuing and, revoking permits and otherwise administering any provision of this chapter.

VS. — S. “Permittee” means the person to whom a permit has been issued pursuant to ~~the Coachella Valley Model Massage Ordinance and the applicants therefor~~ this chapter.

WT. — T. “Person” means any of the following: (a) an individual, (b) a proprietorship, (c) a partnership, (d) a corporation, (e) an association, (f) a limited liability company or ~~(fg)~~ any other legal entity.

XU. — U. “Physicians certificate” means a certified statement from a physician licensed to practice medicine in the United States that provides that the applicant has, within sixty days prior to the filing date of the application, been examined by said physician and it has been determined that the applicant is free of any communicable disease as defined in this chapter.

~~———— V. “Recognized School of Massage” means any school or educational institution licensed or approved by the state in which it is located, whose purpose it is to upgrade the professionalism of massage therapists and which teaches the theory, ethics, practice, profession or work of massage and which requires a resident course of study before the student shall be furnished with a diploma or a certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning. Schools offering a correspondence course not requiring actual attendance shall not be deemed a recognized school.~~

~~YW. ___—W.~~ “Specified anatomical area” means human genitals, pubic region, anus, or a female breast below a point immediately above the top of the areola.

~~ZX. ___—X.~~ “Specified sexual activities” means any of the following: (a) the fondling or other erotic touching of human genitals, pubic region, anus, or female breasts, (b) sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation, masturbation, or sodomy, or (c) excretory functions as part of or in connection with the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, sex acts, normal or perverted, actual or simulated, including inter-course, oral copulation, masturbation, or sodomy. ~~(Ord. 359 5 4, 2001)~~

5.32.020 Massage therapy establishment permits and massage certifications required.

~~A. Massage Establishment Permit. No person shall operate, engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, the operation of a massage establishment unless: (1) all persons providing massage in connection with the establishment are certified massage practitioners and/or certified massage therapists; and (2) the massage establishment operator has obtained a massage establishment permit from the City pursuant to the provisions of this Chapter, as well as any other permits, licenses and other approvals required by law.~~

~~B. Massage Therapist Permit Certification. Except as expressly provided in this chapter, Only a person holding a current massage therapist permit/certificate issued pursuant to this chapter by the Massage Therapy Council shall perform or offer to perform massage therapy at a massage therapy establishment located within the city. Nothing herein shall exempt a person from zoning or other applicable requirements set out elsewhere in this code or in the zoning ordinance, and every person shall comply with all such requirements.~~

~~CB. ___—B.~~ Off-premises Endorsement ~~to Massage Therapist Permit~~. Except as expressly provided in this chapter, no person shall perform or offer to perform an off-premises massage unless he or she has a valid massage therapist ~~permit, with an~~ off-premises endorsement, issued to him or her pursuant to the provisions of this chapter. Nothing herein shall exempt a person from zoning or other applicable requirements set out elsewhere in this code or in the zoning ordinance, and every person shall comply with all such requirements.

~~DC. ___—C.~~ ~~Unless specifically exempted by state law, the fact that a person possesses other types of permits and/or licenses does not exempt him or her from the requirement of obtaining a permit that is required by this chapter.~~ The permit requirements of this chapter shall be in addition to the requirement of a business license set out elsewhere in this code, as well as any other license, permit or fee required by any local, county, state or federal law. ~~(Ord. 359 5 4, 2001)~~

5.32.030 Consent.

By applying for a permit under ~~the Coachella Valley Model Massage Ordinance~~ this chapter, the applicant shall be deemed to have consented to the

provisions of this chapter and to the exercise thereunder by the permit administrator and the city's officials, representatives and employees charged with implementing and/or enforcing the provisions set forth in this chapter. (~~Ord. 359 S 4, 2001~~)

5.32.040 Permit administrator's responsibilities.

The city shall designate a permit administrator who shall be responsible for granting or denying all permits described in this chapter and said permits shall only be granted or denied pursuant to the provisions described herein and all other applicable laws. If no designation is made pursuant to this provision, the city manager shall be deemed the permit administrator.

Where used herein with respect to the permit ~~administrators~~administrator's responsibilities, words such as "shall" and "must" are not intended by the city to self-impose liability and are instead intended only to be directory. (~~Ord. 359 S 4, 2001~~)

5.32.050 Reciprocal massage ~~therapist-therapy establishment~~ permit allocation.

A. If an applicant holds a current massage ~~therapist-therapy establishment~~ permit issued by any other jurisdiction ~~pursuant to in~~ the Coachella Valley ~~Model Massage Ordinance~~, then application for a reciprocal massage ~~therapist-therapy establishment~~ permit may be made by submission, to the permit administrator, of all of the following:

1. A certified copy of a current massage ~~therapist-therapy establishment~~ permit issued, ~~pursuant to by any other jurisdiction in~~ the Coachella Valley ~~Model Massage Ordinance, by any other jurisdiction~~;

2. A certified copy of the original and all renewal applications related to the massage ~~therapist-therapy establishment~~ permit issued by the other ~~Coachella Valley jurisdiction(s) pursuant to the Coachella Valley Model Massage Ordinance~~; and

3. A non-refundable application fee ~~as represented in the City's fee schedule of twenty-five dollars~~ to defray the costs of administering this chapter.

B. If the massage therapy permit submitted in support of an application for a reciprocal permit includes an off-premises endorsement, the application shall be deemed an application for both a massage ~~therapist-therapy establishment~~ permit and an off-premises endorsement and no further documentation, information or fees shall be required in order to apply for an off-premises endorsement to the reciprocal permit. (~~Ord. 359 S 4, 2001~~)

5.32.060 Original massage therapist permit application.

A. If an applicant does not hold a current massage ~~therapist-therapy establishment~~ permit issued by another jurisdiction ~~that has adopted in~~ the Coachella Valley ~~Model Massage Ordinance~~, application for issuance of a massage ~~therapist-therapy establishment~~ permit ~~by this jurisdiction~~ shall be made, under oath, on ~~the a~~ form ~~set out at Appendix A provided by the City~~. The following information, documents and other requirements shall be included with the submission of all such applications:

A1. — A. The ~~applicant's~~applicant's~~applicant's~~ legal name, any aliases and date of birth;

~~_____B2._____B. A certified letter of intent to employ from the operator of a massage therapy establishment lawfully operating within the city. Each such letter shall verify that the operator of the massage therapy establishment has reviewed the applicants qualifications and that the applicant has met the requirements necessary to perform massage therapy at that facility;~~

~~_____C._____The applicant's/applicants/applicant's home and business addresses, corresponding telephone numbers, and permanent address and telephone number, if different;~~

~~D3._____D. Written evidence that the applicant is at least eighteen (18) years of age;~~

~~E4._____E. The previous home addresses of the applicant for the ten (10) years prior to the filing date of the application, and the dates of residency at each such address;~~

~~F5._____F. The names, addresses and descriptions of all current and former businesses owned, operated or managed by applicant for the ten (10) years prior to the filing date of the application, and the dates applicant owned, operated or managed each such business;~~

~~G6._____G. Employment history for the ten (10) years prior to the date of application, and all massage or similar business history and experience;~~

~~H7._____H. Two front-face portrait photographs taken within thirty (30) days of the date of application, at least two inches by two inches in size;~~

~~I8. Applicant's_____I. Applicants weight, height, color of hair and eyes, and sex;~~

~~J9._____J. The applicant's driver's/applicants drivers/driver's license number or identification number;~~

~~K10._____K. The applicant's/applicantsThe applicant's fingerprints taken within the previous sixty (60) days by an agency approved by the permit administrator;~~

~~L11._____L. The applicant's/applicantsThe applicant's social security number and/or state or federally issued tax identification number;~~

~~_____12M._____M. Proof, in the form specified here, that applicant is (i) a graduate of a recognized school of massage or (ii) certified by the National Certification Board for Therapeutic Massage and Bodywork. Proof of certification by the National Certification Board for Therapeutic Massage and Bodywork shall be in the form of a certified copy of the therapeutic massage and bodywork credential issued by said Board. Proof of graduation from a recognized school of massage shall require both of the following:~~

~~_____1._____Certified copy of the applicants diploma or certificate of graduation, or equivalent documentation, establishing that applicant has successfully completed the course of study for competency as a massage therapist offered by the recognized school of massage; and~~

~~_____2._____Certified transcript from a recognized school of massage verifying applicant has successfully completed a course of study requiring at least three hundred hours of massage therapy training. If the application is submitted concurrently with an application for an off-premises endorsement, the minimum hours of training shall be as set out below for an off-premises endorsement application;~~

~~_____ N. _____ A description of the proposed massage establishment, including the type of treatments to be administered _____ N. administered _____ A certified statement from a physician licensed to practice medicine in the United States that provides that the applicant has, within sixty days prior to the filing date of the application, been examined by said physician and it has been determined that the applicant is free of any communicable disease as defined in this chapter;~~

~~13O. _____ O. _____ A list of all of applicant's criminal applicantscriminal convictions, excluding traffic violations;~~

~~P14. _____ P. _____ Whether or not the applicant has ever been convicted of any disqualifying conduct, as defined in this chapter;~~

~~Q15. _____ Q. _____ Whether or not the applicant is required to register as a sex offender pursuant to the California Penal Code Section 290;~~

~~R16. _____ R. _____ Whether or not applicant has had a previous permit, license or other authority for massage services denied, suspended or revoked by any entity. If so, the date, location and reasons for the denial, suspension or revocation;~~

~~S17. _____ S. _____ Whether or not the applicant has been a sole proprietor, general partner, officer, director, member or employee of any massage therapy business that has had a permit, license or authority to operate a massage business denied, suspended or revoked by any entity. If so, the applicant shall provide the name and location of the massage therapy establishment or business for which the permit was denied, suspended or revoked, the date of the denial, suspension or revocation, and the reason(s) for the denial, suspension or revocation; and~~

~~18. _____ A complete list of the names and current residence addresses of all proposed massage therapists, practitioners, technicians, aides, trainees and other employees who are or will be employed in the massage establishment, if known. If not known at the time of submission of the application, the applicant shall provide the required information no later than seven (7) calendar days prior to opening for business;~~

~~19. _____ For each person that the massage establishment does or will employ, retain or permit to perform massage, whether on- premises or off-premises, a certified copy of that person's current massage certificate issued by the Massage Therapy Council, and a copy of that person's identification card issued by the Massage Therapy Council;~~

~~20. _____ The name and current residence addresses of all proposed operators and managers who will be principally in charge of the operation of the massage therapy establishment. and~~

~~BT. _____ T. _____ The applicant shall provide the permit administrator with the authorization to seek information and conduct the necessary background investigations to determine the truthfulness and correctness of the information provided by applicant and whether the applicant is qualified pursuant to this chapter to receive the requested massage therapist-therapy establishment permit.~~

~~CU. _____ U. _____ The applicant shall date and sign the application and declare under penalty of perjury that the information contained in the application is true and correct.~~

~~DV. _____ V. _____ The applicant shall pay a non-refundable application deposit fee as represented in the city's fee schedule of one hundred and fifty dollars at the time of~~

filing an application to defray the costs of administering this chapter which fee shall be in addition to any other permit application fees. ~~(Ord. 359 § 4, 2001)~~

5.32.070 Supplemental application for off-premises endorsement.

~~_____A._____~~ If an applicant does not hold a current permit with an off-premises endorsement issued by another Coachella Valley jurisdiction ~~pursuant to the Coachella Valley Model Massage Ordinance~~, application for an off-premises endorsement to a massage ~~therapist therapy establishment~~ permit ~~issued by this jurisdiction~~ shall be made, under oath, on ~~the a~~ form set out at Appendix B provided by the City. The following information, documents and other requirements shall be included with the submission of all such applications:

~~1A._____~~ ~~A.~~ The ~~applicant's~~ applicant's legal name;

~~2B._____~~ ~~B.~~ A copy of ~~applicant's~~ applicant's massage ~~therapist therapy establishment~~ permit issued pursuant to this chapter, or reciprocal permit, if application therefor is not submitted concurrently; and

~~_____3C._____~~ ~~C.~~ Proof, ~~in the form specified here~~, that applicant is (i) ~~a graduate of a recognized school of massage or~~ (ii) ~~certified by the National Certification Board for Therapeutic Massage and Bodywork~~. Proof of certification by the National Certification Board for Therapeutic Massage and Bodywork shall be in the form of a certified copy of the therapeutic massage and bodywork credential issued by said Board. Proof of graduation from a recognized school of massage shall require both of the following:

~~_____1._____~~ Certified copy of the applicants diploma or certificate of graduation, or equivalent documentation, establishing that applicant has successfully completed the course of study for competency as a massage therapist offered by the recognized school of massage; and

~~_____2._____~~ Certified transcript from a recognized school of massage verifying applicant has successfully completed a course of study requiring at least five hundred hours of massage therapy training A complete list of the names and current residence addresses of all persons who are anticipated to provide off-premises massage, as well as a certified copy of each person's current massage certificate and identification card issued by the Massage Therapy Council.

~~BD._____~~ ~~D.~~ The applicant shall provide the permit administrator with the authorization to seek information and conduct the necessary background investigations to determine the truthfulness and correctness of the information provided by applicant and whether the applicant is qualified pursuant to this chapter to receive the requested off-premises endorsement.

~~CE._____~~ ~~E.~~ The applicant shall date and sign the application, declaring under penalty of perjury that the information contained in the application is true and correct.

~~DF._____~~ ~~F.~~ The applicant shall pay a non-refundable application deposit fee as represented in the city's fee schedule ~~fee of fifty dollars~~ at the time of filing an application for an off-premises endorsement to defray the cost of administering this chapter, which fee shall be in addition to any other permit application fees. ~~(Ord. 359 § 4, 2001)~~

5.32.080 Processing the application.

A. All applications shall be submitted to the permit administrator.

B. Upon receipt of an application and payment of ~~at~~the nonrefundable application deposit fee, the permit administrator shall immediately stamp the application as received on that date. Within thirty (30) days thereafter, the permit administrator shall notify the applicant if the application is deemed incomplete. Any subsequent submission shall be deemed a new application.

C. Upon receipt of a completed application, the permit administrator shall cause an investigation to be made by the appropriate individuals or departments as determined by the permit administrator to be necessary for review and investigation of the accuracy of the information contained in the application and compliance with all applicable regulations.

~~D. The director of building official and safety or his designee shall inspect the premises proposed to be devoted to the massage therapy establishment and shall make a recommendation to the permit administrator concerning compliance with the provisions of this chapter.~~

~~E. —D.~~ Each department or division to which the application is submitted by the permit administrator shall respond in writing to the permit administrator.

~~EF. —E.~~ The permit administrator shall grant or deny an application for an original permit within sixty (60) business days of receipt of a complete application. The permit administrator shall grant or deny a reciprocal permit or a renewal application within thirty (30) calendar days of receipt of a complete application therefor. ~~(Ord. 359 §4, 2001)~~

5.32.090 Grounds for denial of application.

A. An application for a massage therapy establishment permit shall be denied if the permit administrator finds that, in the case of an application for a reciprocal permit, the massage therapy establishment permit or off-premises endorsement that the applicant alleges to have been issued by another Coachella Valley jurisdiction pursuant to the Coachella Valley Model Massage Ordinance is not valid and/or current. In all other cases, the application shall be denied if the permit administrator finds any of the following:

1. The applicant is not eighteen (18) years of age or older;

2. The application contains false information;

~~3. The applicant did not submit either: (i) a diploma or certificate of graduation or equivalent documentation from a recognized school of massage that verifies that he or she has obtained the requisite number of hours of massage therapy training; or (ii) therapeutic massage and bodywork credentials issued by the National Certification Board for Therapeutic Massage and Bodywork~~Any of the massage certificates submitted with the application are determined to be invalid;

4. The applicant has been convicted of disqualifying conduct;

5. The applicant is required by the California Penal Code to register as a sex offender;

6. The applicant has had a massage therapist permit, or a permit or license to operate a massage therapy establishment, denied, revoked or suspended by any entity within five (5) years prior to the date of the application; or

7. The application is incomplete or any required information or document has not been provided with the application.

B. If the permit administrator denies the application, he or she shall notify the applicant of the denial in writing and state the reason(s) for the denial.

C. Any subsequent information submitted to cure the grounds ~~of a denied~~ for denial of an application shall be treated as a new application. ~~(Ord. 359 5 4, 2001)~~

5.32.100 Issuance of permit.

A. The permit administrator shall issue the permit if there are no grounds to deny the permit as set forth in this chapter.

~~_____ B. Except as expressly provided in this chapter, no person shall perform or offer to perform massage therapy at any location within the city unless said person has first obtained a massage therapist permit issued pursuant to this chapter.~~

~~_____ C. Except as to therapists with an off-premises endorsement, the operator of a massage therapy establishment may only offer massage therapy services performed by a massage therapist to whom a massage therapist permit has been issued by the permit administrator.~~

~~_____ D. A massage ~~therapist therapy establishment~~ permittee shall not perform, ~~or~~ offer to perform, or allow the performance of massage therapy services at any site other than a lawfully operating fixed-location massage therapy establishment unless the ~~permittee's~~ permittee's massage ~~therapist therapy establishment~~ permit includes an off-premises endorsement. ~~(Ord. 359 5 4, 2001)~~~~

~~_____ C. Every massage therapy establishment shall display the massage therapy establishment permit issued to it pursuant to this chapter in a conspicuous place so that it may be readily seen by persons entering the premises.~~

~~_____ D. All areas of the massage therapy establishment shall be subject to reasonable inspections during its hours of operation to ensure compliance with this Code, state laws regulating the practice of massage, and all other applicable laws and regulations.~~

5.32.110 Temporary permits.

~~_____ A. Upon a finding of good cause therefor, the permit administrator may issue a temporary permit to any person who possess a valid permit issued by any other governmental entity pursuant to requirements that are similar to those set out in this chapter, including the training, physical clearance, fingerprinting and background investigation requirements.~~

B. Application for a temporary permit shall be made by written request that includes a statement, under penalty of perjury, of the justification for a temporary permit. Said request shall be submitted to the permit administrator, together with the following:

1. A certified copy of a valid permit issued by any other jurisdiction, and a copy of the application for such permit;

~~_____ 2. A certified copy of the provisions of the ordinance or other local law pursuant to which the permit was issued by said other jurisdiction;~~

3. If the person intends to personally provide massage services, a certified copy of the person's valid massage certificate issued by the Massage Therapy Council;

43. —Proof of identification; and

54. —~~4.~~ A non-refundable application deposit fee as represented in the City's fee schedule to defray the cost of administering this chapter which fee shall be in addition to any other permit application fees. ~~of twenty-five dollars.~~

C. All temporary permits shall automatically expire thirty (30) days after the date of issuance of the subject temporary permit. The permit administrator shall have the discretion to extend the term of any temporary permit an additional thirty (30) days provided that the entire term of the subject temporary permit does not exceed a total period of ninety (90) days.

D. The permit administrator may condition the issuance of a temporary permit on any additional requirements that he or she deems necessary to assure the purpose and policy of this chapter is met. ~~(Ord. 359-5-4, 2001)~~

5.32.120 Keeping application and ordinance current.

A. During the effective duration of the permit, the permittee shall promptly update, correct or supplement the information contained in the application therefor on file with the permit administrator when necessary to keep the information contained therein current and accurate. Circumstances giving rise to the need for such supplemental information include, but are not limited to, changes in the types of services to be provided, and changes in the persons employed or retained by the massage therapy establishment to perform massage or the status of such person's massage certificate. Corrections and supplemental information shall be provided within seven (7) calendar days of the permittee becoming aware of the information.

B. Where reference is made herein to any statute or other law, said reference shall include any subsequent amendment or superseding provision thereto.

~~C. The fees and fines and other sums set forth in this chapter shall be in effect until the city council or, if authority hereunder has been delegated to another agency, the governing body thereof, shall, by resolution, fix some other rate based upon a cost factor. (Ord. 359-5-4, 2001)~~

5.32.130 Renewal of permit.

A. All permits shall expire one year from the date they are issued, except that an off-premises endorsement shall expire concurrently with the corresponding massage ~~therapist therapy establishment~~ permit.

~~B. Applications for renewal of a permit shall be made thirty (30) calendar days prior to the expiration date of the permit. As necessary to update the information contained within the last application or renewal thereof,~~
Application application Application for renewal shall be in the same manner as the original application. However, to the extent that the information previously submitted to the permit administrator remains current, a statement to that effect shall be sufficient and no further information or documentation shall be required except as follows:

1. Renewal of a Reciprocal Permit.

a. Where the applicant seeks to renew a reciprocal permit, application for renewal shall include evidence that the underlying massage ~~therapist-therapy establishment~~ permit ~~has been renewed by the issuing jurisdiction and that it~~ remains valid and current.

~~_____~~ b. For renewal of a reciprocal permit, permittee shall pay a nonrefundable renewal application deposit fee ~~as represented in the city's fee schedule of ten dollars~~ to help defray the expense administering this chapter ~~which fee shall be in addition to any other permit application fees.~~

c. A reciprocal permit shall not be renewed if the underlying massage ~~therapist-therapy establishment~~ permit has expired and has not been renewed, or ~~we if the~~ underlying permit has been revoked, or is otherwise no longer valid. If renewal of a reciprocal permit is denied because the underlying permit is no longer valid, permittee shall submit a complete, original application and comply with all submission requirements set out ~~above in this chapter~~ for application for an original massage therapist permit. All such applications shall ~~also~~ include an explanation of the reason that the reciprocal permit is no longer valid.

2. Renewal of Original Permits.

~~_____~~ a. ~~For renewal of an original massage therapist permit, permittee shall include a current Physicians Certificate, as described above, with his or her renewal application.~~

~~_____~~ b. ~~For renewal of an original massage therapist all massage therapy establishment permits other than reciprocal permits permit, permittee shall also pay a non-refundable renewal application deposit fee as represented in the city's fee schedule of one hundred dollars at the time of filing the renewal application to help defray the expense of administering this chapter which fee shall be in addition to any other permit application fees. (Ord. 359 § 4, 2001)~~

5.32.140 Therapists dress and identification.

A. During all times that he or she is performing or offering to perform massage therapy services, every massage therapist shall wear a badge that identifies his or her first ~~and/or~~ last name. Upon receipt of a request or complaint by a patron, the massage therapist shall advise the patron of the full name of the massage therapy establishment through which the massage therapy services were arranged, and the identity of the permit administrator through whom the ~~therapist establishment~~ was issued ~~his or her qualifying a~~ massage ~~therapist-therapy establishment~~ permit.

B. All massage therapists shall have in their possession a valid ~~permit issued pursuant to the Coachella Valley Model Massage Ordinance as well as valid identification~~ massage certificate and identification card issued by the Massage Therapy Council at all times that he or she is performing or offering to perform massage therapy services within the city.

~~_____~~ C. All massage therapists shall wear non-transparent outer garments covering all specified anatomical areas while ~~on the premises of a massage therapy establishment, as well as while~~ performing or offering to perform any massage therapy services, ~~whether on-premise or off-premise. (Ord. 359 § 4, 2001).~~

5.32.150 Other prohibited activities.

A. It is unlawful for any massage therapist, any patron, or any other person present where massage therapy services are being offered or performed, to expose or touch any specified anatomical areas, whether his or her own, or those of another person.

B. It is unlawful for any massage therapist, any patron, or any other person present where massage therapy services are being offered or performed, to be in a state of full nudity or semi-nudity, as defined by this chapter.

C. It is unlawful for any massage therapist, any patron, or any other person present where massage therapy services are being offered or performed, to engage in any specified sexual activities.

D. No person shall provide or offer to provide any massage therapy services to a minor unless written permission is provided by the ~~'minors'~~minor's parent or legal guardian.

~~_____ E. No permittee-person shall provide or offer to provide massage therapy services other than under any name not specified in the the name of a massage therapy establishment possessing a qualifying valid massage therapy establishment permit.~~

~~_____ F. No person shall provide or offer to provide massage therapy services under any name not specified the massage certificate issued to him or her by the Massage Therapy Council.~~

~~GF. No permittee -or person—~~F. No permittee shall provide or offer any alcoholic beverage to a patron during the course of providing or offering to provide any massage therapy service.

~~HG. —G.~~ No permittee shall transfer or assign any permit issued pursuant to this chapter to another person or entity. Any attempted transfer shall result in the automatic termination of said permit. ~~(Ord. 359-5-4, 2001)~~

5.32.160 Permits issued pursuant to superceded ordinance.

~~_____ A. 5.32.160 Permits issued pursuant to superceded ordinance.~~

~~Provided If~~ the operator of a massage therapist establishment held a permit validly issued by the city prior to the effective date of this ordinance, and was in compliance with all requirements of the city with respect thereto, said permit holders shall have until the expiration date of said existing permit, or one year from the effective date of this chapter, whichever date is earlier, to obtain a permit issued pursuant to the provisions of this chapter. ~~(Ord. 359-5-4, 2001)~~

~~_____ B. If a massage therapist held a permit validly issued by the city prior to the effective date of this ordinance, and was in compliance with all requirements of the city with respect thereto, said permit holder shall have until the expiration date of said existing permit, or one year from the effective date of this chapter, whichever date is earlier, to obtain a permit issued pursuant to the provisions of this chapter, if applicable, and a massage certificate issued by the Massage Therapy Council.~~

5.32.170 Suspension and revocation of permit.

—A massage therapist permit and any off-premises endorsement issued pursuant to ~~the Coachella Valley Model Massage Ordinance~~this chapter, or any predecessor ~~ordinance~~to this chapter, shall be revoked by the permit administrator ~~whom has issued the permit~~ if he or she receives notice that, after administrative proceedings conducted in conformity with the city's Municipal Code, the city has made any of the following findings or determinations with respect to the permittee:

A. The massage therapy ~~business establishment~~ or provision of massage services is conducted in a manner that does not comply with all applicable laws, including but not limited to this chapter and the city's building, zoning and health regulations.

B. The holder of the permit is convicted of any disqualifying conduct or is required to register as a sex offender as set forth in California Penal Code Section 290;

C. The permittee fails to timely notify the permit administrator of any update to the information contained in the permit application that is required to keep the information current;

D. Information contained in the approved application is inaccurate;

E. Any patron of the permittee contracts any communicable disease during the course of any services offered by the permittee;

F. The holder of the permit, or any applicant therefor, refuses to allow representatives of the city or permit administrator to inspect business records of the permittee, or any premises utilized by the permittee for massage therapy services;

G. The permittee fails to comply with any of the provisions of this chapter;
or

H. The holder of the permit has ceased to meet any of the requirements for issuance of the permit. ~~(Ord. 359 § 4, 2001)~~

5.32.180 Appeals.

—A. Any person aggrieved by a decision of the permit administrator may file an appeal to the city council in accordance with Sections 2.04.100 through 2.04.130 of this code that conforms to the following requirements:

—1. All appeals shall be in writing and shall contain the following information: (a) name(s) of the person filing the appeal ("appellants"), (b) a brief statement in ordinary and concise language of the grounds for the appeal; and (c) the signatures of all parties named as appellants and their mailing addresses.

—2. A non-refundable filing fee for an appeal of one hundred dollars, or other amount as established from time to time by city council resolution, must be paid to the city at or prior to the time of the filing of the appeal.

—3. Any appeal filed that fails to provide all of the information required by this section and the appropriate filing fee shall be deemed incomplete.

—4. A complete and proper appeal of the denial of a permit application shall be filed with the city clerk within ten (10) calendar days of service of the letter denying the application or within ten (10) calendar days of any other action that is the subject of appeal.

~~_____ B. After receiving the a complete written appeal, the city clerk shall schedule a public hearing before the city council at the next regularly scheduled city council meeting for which there is sufficient time to have the matter properly noticed.~~

~~_____ C. The decision of the city council concerning the appeal shall be final. (Ord. 359 § 4, 2001)~~

5.32.190 Other remedies.

A. Any violation of the provisions of this chapter is unlawful and a public nuisance, subject to abatement, removal or enjoinder thereof in the manner provided by law.

~~_____ B. Any violation of the provisions of this chapter shall constitute an infraction violation a misdemeanor and the violator shall be subject to the imposition of criminal penalties and civil fines in accordance with this Code and any applicable state laws. For each separate violation of any provision of this chapter, the person convicted of such infraction shall be subject to the following fines for each separate violation: (a) a fine in an amount not to exceed two hundred fifty dollars for a first conviction of an offense; (b) a fine in an amount not to exceed five hundred dollars for a second conviction of the same offense within a twelve month period from the date of the first offense; and (c) a fine in an amount not to exceed seven hundred fifty dollars for a third conviction of the same offense within a twelve month period from the date of the first offense. The fine for a fourth and subsequent convictions of the same offense within a twelve month period of the date from the first offense shall be one thousand dollars.~~

~~_____ C. In lieu of issuing an infraction criminal citation, the city may issue an administrative citation, and or assess an administrative fine consistent with the infraction civil fines set out above, pursuant to any other ordinance within its municipal code provisions of this Code.~~

~~_____ D. Each and every day a violation of this chapter exists constitutes a separate and distinct offense and shall be subject to citation.—D. Nothing in this section shall preclude the city from issuing an infraction or misdemeanor citation upon the occurrence of the same subject offense on a separate day.~~

E. The remedies provided herein are not to be construed as exclusive remedies and, in the event of a violation, the city may pursue any proceedings or remedies otherwise provided permitted by law. (Ord. 359 § 4, 2001)

5.32.200 Exemptions.

The provisions of this chapter shall not apply to any of the following types of individuals while engaged in the performance of the duties of their respective professions:

A. Any physician, surgeon, chiropractor, osteopath, or acupuncturist duly licensed to practice their respective professions in the Sstate of California, or any nurse or physical therapist working under the supervision thereof, when engaging in any massage therapy practice or activity within the scope of said license. Practical nurses or other persons without qualifications as massage therapists or other persons not duly licensed by the sState states State of California to practice pursuant to the

Medical Practice Act, whether or not employed by a physician, surgeon, chiropractor, osteopath, or acupuncturist, may not perform or offer to perform massage therapy without first ~~obtaining a massage therapist permit pursuant to the provisions satisfying the applicable requirements~~ of this chapter.

B. Any treatment administered in good faith in any course of the practice of any healing art or profession by any person licensed to practice any such art or profession under the Business and Professions Code of the Sstate of California or any other laws of the Sstate of California.

C. Barbers, beauticians, manicurists, and pedicurists who are duly licensed under the laws of the Sstate of California, except that this exemption shall apply solely to the massaging of the scalp, face, neck, arms, hands, or feet of the customer or client for cosmetic or beautifying purposes. ~~(Ord. 359 5 4, 2001)~~

D. Licensed employees of hospitals, nursing homes, sanatoriums, or other health care facilities that are duly licensed by the State of California.

5.32.210 Transfer of permit.

~~_____ No massage therapist therapy establishment permit or off-premises endorsement shall be transferable and any attempted transfer shall render the permit and endorsement null and void. A change of location of a massage therapy establishment will require a new massage therapy establishment permit. null and void. (Ord. 359 5 4, 2001)~~

5.32.220 Massage therapy establishment regulations.

~~_____ No person shall own or operate a massage therapy establishment without first obtaining a massage establishment permit.~~

~~_____ In order to obtain and maintain a massage therapy establishment permit, an inspection by the city must reveal that the establishment complies with each of the following requirements To ensure the health and safety of all persons, every person operating or maintaining a massage therapy establishment, and/or providing massage services, in the City shall comply with each of the following requirements at all times:;~~

~~JA. _____~~ ~~J.~~ A separate wash basin shall be provided for each portion of a massage therapy establishment wherein massage services are performed for the individual use of each person performing massage services. The basin shall be provided with soap and hot and cold running water at all times and shall be located within, or as close as practicable, to the area devoted to the performing of massage services. In addition, there shall be provided at each wash basin, sanitary towels placed in permanently installed dispensers.

~~BK. _____~~ ~~K.~~ All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

~~CL. ___ — L.~~ Clean and sanitary towels and linens shall be provided for each patron of the establishment or each patron receiving massage services. No common use of towels or linens shall be permitted.

~~D. Massage therapy establishments shall be operated in compliance with all applicable laws and regulations, including without limitation, the California Massage Therapy Act (Business and Professions Code section 4600 et seq.).~~

~~EM. ___ — M.~~ It shall be the responsibility of the holder of the massage therapy establishment permit ~~or and the employer of any persons purporting to act as massage therapists, massage establishment operator~~ to ensure that each person employed or retained by the massage establishment as a massage therapist has first obtained a valid permit pursuant to this chapter massage certificate from the Massage Therapy Council and acts in compliance with the provisions of this Chapter at all times. ~~(Ord. 359 § 4, 2001).~~

5.32.230 Massage establishment permits Reserved.

~~A. ___ — A.~~ Any person desiring to obtain a permit to operate a massage therapy establishment shall make application to the permit administrator for an investigation. Each application shall be accompanied by a fee in such amount as may have been established by resolution of the city council to defray the expense of investigation and processing.

~~B. ___ — B.~~ The director of building and safety or his designee shall inspect the premises proposed to be devoted to the massage therapy establishment and shall make a recommendation to the permit administrator concerning compliance with the provisions within this chapter.

~~C. ___ — C.~~ The permit administrator shall grant a permit to the establishment if all requirements for a massage therapy establishment described in this chapter are met.

~~D. ___ — D.~~ All permits issued under this chapter are nontransferable. A change of location of a massage therapy establishment will require a new massage establishment permit.

~~E. ___ — E.~~ Every person, association, firm or corporation to whom or for which a massage establishment permit has been granted shall display the permit in a conspicuous place so that it may be readily seen by persons entering the premises where the massage, bath, or treatment is given.

~~F. ___ — F.~~ The director of building and safety, fire department, and police department may, from time to time make an inspection of each massage therapy establishment in the city for the purpose of determining that the provisions of this code are met.

~~G. ___ — G.~~ Any such sale or transfer of any interests in an existing massage therapy establishment or any application for an extension or expansion of the building or other place of business of the massage therapy establishment, shall require inspection and shall require compliance with this chapter. ~~(Ord. 359 § 4, 2001)~~

5.32.240 Revocation and suspension of permits issued under prior Chapter 5.32.

~~___~~ The following provisions shall apply to massage therapists permits issued prior to October 19, 2001 and to ~~all~~ massage establishment permits ~~regardless of date~~

~~of issuance issued prior to [INSERT EFFECTIVE DATE OF THIS ORDINANCE] (references to “this chapter” in this section mean this chapter as it existed prior to such dates):~~

A. A permit issued under authority of this chapter may be suspended for violation of any of its provisions or for fraud or misrepresentation in the permit application, but no permit shall be revoked until after a hearing has been held before the city manager or his designee, to determine just cause for the revocation; provided however the chief of police may order any permits suspended pending the hearing, and it is unlawful for any person to carry on the business of a massage technician or to operate a massage therapy establishment depending upon the particular type of permit which has been suspended until the suspended permit has been reinstated by the city manager. Notice of the hearing shall be given in writing and served at least five days prior to the date of the hearing thereon. The notice shall state the ground of the complaint against the holder of the permit, or against the business carried on by the permittee at the massage establishment, and shall state the time and place where the hearing will be had following the five day notice period.

~~_____B. The notice shall be served upon the permit holder in accordance with Section 1.01.300 of this code. by delivering it to the person or by leaving the notice at the place of business or residence of the permit holder in the custody of a person of suitable age and discretion. In the event the permit holder cannot be found, and the service of notice cannot be made in the manner provided in this section, a copy of the notice shall be mailed, postage fully prepaid, addressed to the permit holder at his place of business or residence at least five days prior to the date of the hearing. (Ord. 359 § 4, 2001)~~

5.32.250 Violation and penalty for permits issued under prior Chapter 5.32.

~~_____The following provisions shall apply to massage therapist permits issued prior to October 19, 2001 and to ~~all~~ massage establishment permits issued prior to [INSERT EFFECTIVE DATE OF THIS ORDINANCE] (references to “this chapter” in this section mean this chapter as it existed prior to such dates) ~~regardless of date of issuance:~~~~

A. Every person, except those persons which are specifically exempted by this chapter, whether acting as an individual, owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee or operator, or whether acting as a participant or worker in anyway, who gives massages or conducts a massage therapy establishment or room, or who gives or administers or who practices the giving or administering of steam baths, electric light baths, electric tub baths, shower baths, sponge baths vapor baths, fomentation, sun baths, mineral baths alcohol rubs, Russian, Swedish, or Turkish baths, or any other type of baths, salt flows or any type of therapy or who does or practices any of the other things or acts mentioned in this chapter without first obtaining a permit to do so from the city or violates any provision of this chapter shall be guilty of a misdemeanor.

B. Any owner, operator, manager, or permittee in charge or in control of a massage therapy establishment who knowingly employs a person performing as a massage technician as defined in this chapter who is not in possession of a valid

permit or who allows such an employee to perform, operate or practice within such a place of business is guilty of a misdemeanor.

C. Any massage therapy establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be and is declared to be unlawful and a public nuisance and the city attorney may, in addition to or in lieu of prosecuting a criminal action under this chapter, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in the manner provided by law; and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove the massage establishments and restrain and enjoin any person from operating, conducting or maintaining a massage therapy establishment contrary to the provisions of this chapter. ~~(Ord. 359 § 4, 2001)~~

Chapter 5.38 PARKING ATTENDANTS

5.38.010 Definitions.

For purposes of this chapter, certain words and phrases shall be construed as set forth in this section, unless it is apparent from the context that a different meaning is intended.

A. "Operator" means any person, firm or corporation engaging in the activity of parking of vehicles for patrons or guests of a business whether the operator is employed by or is under contract to, the business for which the vehicles are being parked.

B. "Public right-of-way" means any area dedicated to public use for public street, pedestrian way or other public purposes, or which includes but is not limited to roadways, parkways, alleys, sidewalks and pedestrian ways. (Ord. 10 § 1, 1982)

5.38.020 Permit required.

No person shall, as an "operator" as that term is defined in Section 5.38.010, conduct any activity involving the movement of a vehicle by the operator on or over any public right-of-way or publicly owned property, unless there has first been obtained from the city manager a permit, as provided in this chapter, which permit is in full force and effect. (Ord. 10 § 1, 1982)

5.38.030 Operations on public rights-of-way or property.

No operator, unless possessing a permit expressly allowing them to be done, shall commit or do any of the following acts:

A. Receive, take possession of (for purposes of parking or temporary storage until return of same to the patron or guest) or move a patrons or guests vehicle, upon any portion of a public right-of-way or other public property;

B. Park and leave standing any patrons or guests vehicle upon any portion of a public right-of-way or other public property (including any publicly owned off-street parking space). (Ord. 10 § 1, 1982)

5.38.040 Unauthorized parking on private property.

No operator shall park any patrons or guests vehicle upon private property without express authorization by the owner or other person in charge of the private property. (Ord. 10 § 1, 1982)

5.38.050 Application for permit.

An application for a permit pursuant to this chapter shall be filed with the city manager or his designee. There shall be submitted such information as the city manager deems necessary in order to evaluate and act upon the permit application. Each application shall include, in general, at least the following basic information in writing: an outline of the method of operating the vehicle-parking service including, but not limited to, the hours of operation, the number of employees, the location(s) from which vehicles will be picked up, and to which they will be delivered to the patrons or guests, the location(s) where vehicles will be stored or placed, and the location(s) of any proposed signs and any proposed attendant stands. (Ord. 10 § 1, 1982)

5.38.060 Fees.

Each applicant for a permit under this chapter, and each person filing any appeal pursuant to provisions of this chapter, shall pay at the time of filing the application or appeal a processing fee or fees in an amount or amounts as may have been established by resolution of the city council. (Ord. 10 § 1, 1982)

5.38.070 Permits—Issuance—Denial.

Permits as applied for shall be issued by the city manager or his designee, provided it appears that all requirements of this chapter and of other applicable ordinances and laws have been, and will appropriately be, met fully by the applicant, and that the permit can be issued subject to prescribed conditions adequate to assure that there will be no undue interference with normal traffic flow on public rights-of-way, and otherwise to protect the public safety and other persons' property rights and their rights to coequal use and enjoyment of public property. Any permit application may be denied if the city manager concludes it cannot be issued subject to such safeguards. (Ord. 10 § 1, 1982)

5.38.080 Permits—Issuance with conditions.

The issuance of any permit pursuant to this chapter shall, if appropriate, have conditions attached thereto adequate to meet the public purposes referred to in Section 5.38.070, and the city manager or his designee shall have discretionary authority to prescribe any such necessary or appropriate conditions, [including primary insurance coverage with city-approved coverage amounts and with the city named as additionally insured.](#) All permits shall contain:

~~A. A condition that the permittee carry insurance against liability for injuries to persons or property in amounts of at least five hundred thousand dollars per incident, with at least twenty five thousand dollars property damage coverage;~~

~~B. A condition that the city shall be named as an additional insured in the policy of liability insurance issued to the permittee; and~~

~~C. A condition that the policy of liability insurance issued to the permittee shall contain provisions that the policy shall be considered primary to any other insurance as it relates to the city's liability for such operations. (Ord. 10 § 1, 1982)~~

5.38.090 Revocation or modification of permits.

A. Any permit granted pursuant to the provisions of this chapter may, ~~after the permittee has been afforded the opportunity of a due process hearing as stated in this section,~~ be revoked or modified by the city manager for any of the following grounds or reasons:

1. Any acts done under the permit have interfered or tended to interfere with the normal flow of vehicular or pedestrian traffic on any public right-of-way;

2. The permittee or permittee's employees have failed to comply with the provisions of the city's sign ordinance, or with conditions attached to the permit relating to sign control;

3. There was given any false or fictitious information in connection with the application for the obtaining of the permit;

4. There has been a violation of or a failure to comply with any condition attached to the permit or any provision or regulation of this chapter or of any other applicable rules or regulations;

5. The character or moral integrity of the permittee or permittee's employees is determined inimical to the public safety or general welfare of the community;

6. Any other reason exists for which the permit might have been lawfully denied in the first instance, or that for any reason the continued operations under the permit will be inimical to the public safety or general welfare of the community.

B. Such a revocation or modification of a permit shall be made only after opportunity has been granted to the permittee for a due process hearing before the city manager or his designated agent ~~pursuant to section 2.08.180 through 2.08.230 of this code, after ten days' notice to the permittee, setting forth the nature and grounds of complaint against him and stating the time and place the hearing will be held.~~

C. Upon the failure of the permittee to respond to the opportunity for hearing after issuance of the receiving notice of the hearing, the permit may be revoked, or may be modified in such particulars as are deemed necessary in the public interest, and any such revocation or modification shall be effective upon notice or knowledge thereof being received by the permittee pursuant to Section 1.01.300 of this code, ~~orally or in writing. Any such order of revocation or modification shall also be effective as to any employee or agent of the permittee, which employee or agent has been notified orally or in writing of the substance of the order.~~

D. Any such revocation or modification of any permit may be in addition to any penalties otherwise provided for by law. (Ord. 10 § 1, 1982)

5.38.100 Appeals.

Any person aggrieved by, dissatisfied with, or excepting to any action, denial, order, requirement, condition, permit, decision or determination made by the city manager or his designee in administering the provisions of this chapter may appeal to the city council pursuant to Sections 2.04.100 to 2.04.130 of this code. ~~by filing written notice specifying the grounds of appeal and the relief sought, with the city clerk within ten days after notice of the action from which appealed.~~ Upon any failure to file the written appeal within the time allowed, the action of the city manager or his/her designee shall be final and conclusive. ~~A timely appeal shall be reviewed by the city manager, and unless an adjustment of the matter is made by the city manager satisfactory to the appellant, the appeal shall be expeditiously scheduled for hearing before the city council, which body at the conclusion of its consideration may affirm, reverse or modify the action appealed from and may take any action which might have been legally taken in the first instance by the city manager or his designee.~~ (Ord. 10 § 1, 1982)

NOTE: The provisions of this Chapter will be incorporated into Title 9 when that title is revised, and this chapter will be deleted.

Chapter 5.40 PASSENGER CARRIERS

5.40.010 Franchise and license requirements and general regulations.

A. Requirements and Exceptions. No person shall engage in the business of transporting passengers in a vehicle or vehicles over the streets of the city, where the passengers' trips originate from points within the city, whether any such vehicle used is a taxicab, motorbus, limousine, automobile for hire, or other transportation vehicle with a driver for hire, unless the person operating the business or engaging therein is acting pursuant to a franchise, license, permit or contract to do so pursuant to this chapter. This chapter shall apply to any business carrying passengers from a principal point or points of origin outside the city but which regularly carries the passengers over the city streets as a major portion of the journey or journeys. This chapter shall not apply to any business of renting automobiles or other vehicles without drivers, nor to any passenger carrier operated by a public agency or entity or to any passenger carrier operating pursuant to express and specific permission granted by superior authorized agency such as the State Public Utilities Commission or the Interstate Commerce Commission.

B. Compliance with Sunline Regulations. All passenger carriers described in subsection A of this section and subject to this chapter shall be subject to and governed by any and all ordinances, resolutions, regulations, and other official actions taken by the Sunline Transit Agency and Sunline Services Group, two California joint exercise of powers agencies to which the city is a member of each joint exercise of powers agency, including but not limited to any and all ordinances, resolutions, regulations, and official actions taken pursuant to the "Implementation Agreement Authorizing the Sunline Services Group to Regulate Taxicabs," as amended from time to time, to which the city is a party of that implementation agreement. All passenger carriers described in subsection A of this section and subject to this chapter shall, in addition to all other requirements, comply with the franchise, license, permit, and contract requirements established by Sunline Transit Agency and Sunline Services Group.

C. In the event that the city takes official action to no longer be a member of the Sunline Transit Agency or Sunline Services Group, or the city takes official action to no longer be a party to the Implementation Agreement Authorizing the Sunline Services Group to Regulate Taxicabs, then all passenger carriers described in subsection A of this section and subject to this chapter shall remain subject to and governed by all ordinances, resolutions, regulations, and other official actions then in place by Sunline Transit Agency and Sunline Services Group, except that the city shall be the governing agency with jurisdiction over the passenger carriers. The city manager shall have the authority to enact any and all regulations that would allow for the city to continue to regulate all passenger carriers as described in this subsection until such time as the city enacts an ordinance or ordinances amending this chapter or other provisions of the code in furtherance of regulating passenger carriers.

5.40.010 Franchise or license required—Rates.

~~A. Requirement—Exceptions. No person shall engage in the business of transporting passengers in a vehicle or vehicles over the streets of the city, where the passengers' trips originate from points within the city, whether any such vehicle used is a taxicab, bus, ambulance, limousine, automobile for hire, or other public transportation vehicle, unless the person operating the business or engaging therein is acting pursuant to a franchise, license, permit or contract to do so from the city council. This section shall also apply to any business carrying passengers from a principal point or points of origin outside the city but which regularly carries the passengers over the city streets as a major portion of the journey or journeys.~~

~~This section shall not, however, be deemed applicable to any business of renting automobiles or other vehicles without drivers, nor to any passenger carrier operated by a public agency or entity or to any passenger carrier operating pursuant to express and specific permission granted by superior authorized agency such as the State Public Utilities Commission or the Interstate Commerce Commission.~~

~~B. Qualifications—Conditions. Before granting any license, permit, franchise, or contract to conduct a passenger-carrying business upon the streets of the city, the city council shall find and determine that the applicant is of good moral character and financially responsible, has and will carry adequate insurance to protect the public, and will use and continue to use vehicles safe and adequate for the intended purposes. The council may grant any entitlement for a fixed term or on an indefinite time basis, and subject to conditions and requirements deemed necessary or desirable in the public interest. The conditions and requirements attached to any such entitlement shall be subject to periodic review, modification, addition or deletion at such times as the council may prescribe in the entitlement or at the time of any periodic review, or at any time the council finds and determines the action to be necessary in the public interest after a change in circumstances.~~

~~C. Revocation or Suspension. Any such license, permit, franchise, or contract to conduct a passenger-carrying business shall be subject to revocation or suspension by the city council after the holder thereof has been afforded opportunity for a due-process hearing, where the holder is found to have failed to maintain its operations up to standards prescribed in this chapter or as conditions or requirements contained in or attached to the license, permit, franchise or contract.~~

~~D. Fares, Charges and Prices. In any such franchise, license, permit or contract, or in the conditions or requirements attached thereto pursuant to subsections A and B of this section, the holder thereof may, in the discretion of the city council, be required during operations thereunder to have and maintain on file with the city manager an approved tariff or schedule of fares, listing any and all fares, charges, fees, prices, costs and the like which are to be charged to members of the public during the course of business. No such tariff or schedule or later revision thereto shall be deemed effective unless and until it has been approved by the city council upon appropriate determination that it is fair, reasonable and equitable to both the public and to the business operator. In the event the council has not required the filing of a tariff or schedule as stated in this section, then the holder of the franchise, license, permit or contract is prohibited from charging within the city any fare, charge, fee, price, cost, or the like, which exceeds the same then currently charged by the holder to patrons or customers in any area surrounding or near to the city; or in the event the holder does not service any such~~

~~area outside the city, then no charge shall be made in excess of the same or similar charges as are prevailing and levied by other businesses of the same or similar nature which do so service the areas surrounding or near to the city.~~

~~E. City Fees. Any person seeking any entitlement or taking any other action prescribed or provided for by or within this section shall pay any applicable fee which may have been prescribed by resolution of the city council, to defray the expense of investigation and processing. (Ord. 10 § 1, 1982)~~

5.40.020 Interference with drivers.

No driver of any taxicab, automobile for hire or motorbus shall permit more persons to ride in the driver's compartment thereof than can be seated in the regular seats in the compartment, or permit any person to sit on or stand at any place in or on the taxicab, automobile for hire or motorbus where the person obstructs the driver's view of traffic ahead or to either side. (Ord. 10 § 1, 1982)

5.40.030 Exclusive right to vehicle.

~~When a taxicab or automobile for hire is engaged, the occupants shall have the exclusive right to the full and complete use of the passenger compartment, and no owner or driver of the taxicab shall solicit or carry additional passengers therein. (Ord. 10 § 1, 1982)~~

5.40.03040 Refusal to pay fare.

It is unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in this chapter, after having hired them. (Ord. 10 § 1, 1982)

5.40.04050 Charging of improper fare.

It is unlawful to charge, collect or receive any other or different compensation for the use of the taxicab or automobile for hire than that specified in the tariff or schedule of fares on file and at the time in effect. (Ord. 10 § 1, 1982)

Chapter 5.44 SECONDHAND DEALERS, PAWNBROKERS, AND LOAN BROKERS

Delete this chapter. Move it into 5.72 (Misc. Business Regs) and refer to compliance with state law.

5.44.010 Reports required.

~~Every secondhand dealer, pawnbroker, loan broker, and every proprietor, keeper or owner of any office or other place of business where money is loaned on personal property for compensation, shall daily make out and deliver to the chief of police every day before the hour of twelve midnight, on a blank form approved by or prescribed by the Chief of the State of California Bureau of Criminal Identification and Investigation, and provided by the person rendering the report, a full, true and complete report of all property and other valuable goods, wares, merchandise or things received on deposit or purchased during the preceding twenty-four consecutive hours (subject to the exception or exceptions set forth in Financial Code Section 21208), further setting forth the hour of the day when each item was received on deposit, in pawn or purchase, and a description of the person or persons by whom left in pledge, or deposited or from whom purchased, and also their true names and residence addresses as nearly as they are known to the person rendering the report. The report shall be written in the English language in a clear and legible manner. In addition to the operator of businesses mentioned in this section who are generally required to file daily reports, any other business operator who is engaged primarily in retail selling of new merchandise, who occasionally receives in trade valuable goods, wares, merchandise or other property not regularly registered with the state (such as are motor vehicles), shall pursuant to this section be required to make reports as prescribed in this section, of all secondhand items so received; provided, that daily reports from such business operator will not be required where the receipt or purchase of the secondhand items is not a daily occurrence. (Ord. 10 § 1, 1982)~~

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5.44.020 Property holding period.

~~All the property and other valuable goods, wares, merchandise and things received on deposit or purchase as prescribed in Section 5.44.010 shall be kept intact in its original state by every person receiving the same as stated, for a period of thirty calendar days from the purchase, receipt or acquisition of them (unless sooner expressly released by the chief of police or his authorized representative), and any such item shall be exhibited to the chief of police or his representative, or to any other peace officer, upon demand. (Ord. 10 § 1, 1982)~~

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5.44.030 Disposition of reports.

~~The chief of police upon receipt of any report required pursuant to Section 5.44.010 shall file it in the police department records, and the report shall not be open for inspection by the general public, but only to police department personnel of the city, to authorized law enforcement agents from the area where the selling or pledging person resides, to any other duly authorized peace officers examining them in the course of official duty, and to such other persons as a~~

~~court of competent jurisdiction may order. One copy of the report will be forwarded by the chief of police to the Chief of the State of California Bureau of Criminal Identification and Investigation. (Ord. 10 § 1, 1982)~~

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5.44.040 Duty to identify seller or pledgor.

~~Every buyer of secondhand goods, pawnbroker, loan broker, or proprietor, keeper or owner of any office or other place of business where money is loaned on personal property for compensation, his agents and employees, shall require the person or persons by whom the property is left in pledge, stored, deposited, or from whom purchased, to display identification, and to the best of his ability to require him to sign his true name and give his correct address for purposes of the report required by Section 5.44.010. (Ord. 10 § 1, 1982)~~

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5.44.050 Giving of false information unlawful.

~~No person shall sign a fictitious name or fictitious address in connection with any information obtained pursuant to the requirements of this chapter, nor shall any person in any manner enter or cause to be entered any other fictitious information, values or identification in such respect. (Ord. 10 § 1, 1982)~~

Chapter 5.48 PEDDLERS—SOLICITORS

5.48.010 Definitions.

A. “Peddler” means and includes any person who travels or goes from place to place and peddles, hawks, vends or sells any goods, wares, merchandise, ~~or~~ medicines or services carried or caused to be carried or conveyed by the person peddling, hawking, vending or selling them.

B. “Solicitor” means and includes any person who travels or goes from place to place selling, offering to sell or contracting to sell, for future delivery, at wholesale or retail, any goods, wares, ~~or~~ merchandise or services within the city, except in those instances where the solicitations are made to established businesses for stock-in-trade, resale, fixtures or other business needs.

C. “Peddler” or “solicitor” also includes persons engaged in the above described activities at any outdoor location not in conjunction with an established place of business on the same premises within a building, or not as a part of the established place of business in a building. (Ord. 10 § 1, 1982)

5.48.020 Peddling or soliciting—Permit required.

It is unlawful for any person to act as, or carry on the business of, a peddler or solicitor at any place or places within the city, unless and until a permit so to do has been issued by the city manager and is in full force and effect. (Ord. 10 § 1, 1982)

5.48.030 Application to peddle or solicit—Additional information.

Applicants for permits to commence, manage, engage in, maintain, conduct or carry on the business described in Section 5.48.010, as peddler or solicitor, must furnish to the city manager the following additional information:

A. Name—Description. Name and description of applicant;

B. Address. Permanent home address and full local address of applicant;

C. Kind of Business. A brief description of the nature of the business and the goods to be sold;

D. Employer—Credentials. If employed, the name and address of the employer, together with credentials establishing the exact relationship;

E. Duration of Permit. The length of time for which the right to do business is desired;

F. Source of Stock. The place where the goods or property proposed to be sold or orders taken for the sale thereof, are manufactured or produced, where the goods or products are located at the time the application is filed, and the proposed method of delivery;

G. Photographs. Two photographs of applicant and two photographs of any vehicle used in the peddling or solicitation, taken within sixty days immediately prior to the date of filing application; Kind of Photograph. Pictures of applicant shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;

H. Fingerprints—Character References. The fingerprints of the applicant and the names of at least two reliable property owners of the county who will certify as to the applicant's good character and business respectability; or, in lieu of the names of references, such other available evidence as to the good character and business respectability of the applicant as will enable an investigator to properly evaluate the character and business responsibility;

I. Criminal Record. A statement as to whether or not applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than Vehicle Code violations, the nature of each offense and the punishment or penalty assessed therefor. (Ord. 10 § 1, 1982)

5.48.040 Fee for investigation.

At the time of filing with the city manager any application for a peddler's or solicitor's permit, the applicant shall, in order to qualify the application for filing, pay a fee in such amount as may have been prescribed by resolution of the city council, to defray the expense of investigation and processing. (Ord. 10 § 1, 1982)

5.48.050 Investigation of application.

Upon receipt of the original application, the city manager shall cause such investigation of applicant's business and moral character to be made as [s/he](#) deems necessary for the protection of the public good. (Ord. 10 § 1, 1982)

5.48.060 Denial of permit—Notice.

If, as a result of the investigation, applicant's character or business responsibility is found to be unsatisfactory, the city manager shall endorse on the application his/[her](#) disapproval and his/[her](#) reasons for it and shall notify applicant [pursuant to section 1.01.300 of this code](#) that his/[her](#) application is disapproved and that no permit will be issued. (Ord. 10 § 1, 1982)

5.48.070 Appeal—Right to appeal.

Any person aggrieved by the action of the city manager in the denial of a permit shall have the right of appeal to the city council [pursuant to sections 2.04.100 through 2.04.130](#).

~~A. Statement of Grounds. The appeal shall be taken by filing with the city clerk, within fourteen days after notice of the action complained of has been mailed to the person's last address, a written statement setting forth fully the grounds for appeal.~~

~~B. Setting for Hearing—Notice. Unless an adjustment of the matter is then made by the city manager satisfactory to the appellant, the city clerk shall set a time and place for a city council hearing on the appeal; and notice of hearing shall be given the applicant by mailing the notice, postage prepaid, to his last known address at least five days prior to the date set for hearing.~~

~~C. Finality of Decision. The decision and order of the council on the appeal shall be final and conclusive. (Ord. 10 § 1, 1982)~~

5.48.080 Approval of application—Issuance of permit.

If as a result of investigation, the character and business responsibility of applicant are found to be satisfactory, the city manager shall approve ~~endorse on~~ the application ~~his approval~~, execute a permit addressed to applicant for carrying on the business applied for, and deliver the permit to the applicant ~~his permit~~. (Ord. 10 § 1, 1982)

5.48.090 Photographs.

To each such permit there shall be attached photographs of permittee and of any vehicle used in the business, the photographs to be identical with those filed by permittee with his/her application pursuant to Section 5.48.030G. (Ord. 10 § 1, 1982)

5.48.100 Business license required.

A city business license shall be obtained by every person in accordance with chapter 3.28 of this code before any person shall engage in peddling or soliciting in the city.

Chapter 5.52 PRIVATE PATROLS

Delete this chapter. Move it into 5.72 (Misc. Business Regs) and refer to compliance with state law.

5.52.010 Definitions.

~~“Private patrol” means any person carrying on the business of night watchman, night watch service, private policemen, homeowners’ associations private security or gate guards or any other occupation, the purpose of which is to afford additional police or fire protection to the public for hire or reward; provided, however, that nothing contained in this chapter shall be deemed or construed to apply to private police protection incident to the transportation for hire within the city of moneys, checks, and other written instruments of persons, associations, firms and corporations, or to escorts of funeral processions. (Ord. 10 § 1, 1982)~~

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5.52.020 Permit required.

~~No person, either as owner, manager, employee, or otherwise, shall manage, conduct, carry on or assist in the management, conducting or carrying on of the business of private patrol unless under and by authority of a written permit from the city manager. Such permits to manage, conduct, or carry on any such occupation shall be issued upon the written application of any person for him/herself or on behalf of any corporation or association of person, which application shall prescribe the boundaries of the district over which the applicant desires to operate. The city manager must first satisfy him/herself that the management, conducting or carrying on of the private patrol will comport with the public welfare, and for this purpose may consider any facts or evidence bearing on the moral fitness and reputation of those who will be in charge of the private patrol, and any other facts or evidence tending to enlighten the city manager in this respect. Persons aggrieved by the action of the city manager may appeal to the city council. (Ord. 10 § 1, 1982)~~

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5.52.030 Suspension, and revocation of permit and appeal.

~~When any permit has been issued under the terms of this chapter, it may be revoked at any time thereafter by the city manager when satisfied that the management, conducting or carrying on of the patrol does not or will not comport with the public welfare for any reason, or that the private patrol has been conducted in an illegal or improper manner. The city manager may make rules governing the management, conducting or carrying on of the private patrols and may revoke or suspend permits issued for the management or carrying on of any such occupation when the manager or person or persons in charge thereof violates or permits any infractions of any such rules, or any law of the state, or any provision of this code; provided, however, that the city manager shall give notice of the revocation and the reasons for the revocation in writing, and the permittee shall be furnished with a copy of the reasons for the revocation and shall be allowed a reasonable time for answering them in writing, and in such manner the permittee may demand a hearing before the city council. Upon the hearing being so demanded, unless an adjustment of the matter is then made by the~~

city manager satisfactory to the appellant, the city clerk shall schedule a prompt city council hearing, and upon the hearing the council may order the permit restored or may affirm the previous order of revocation. (Ord. 10 § 1, 1982)

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The city manager shall conduct an appeal hearing in accordance with Sections 2.08.180 through 2.08.220 of this code, when requested by any person aggrieved by an administrative decision made pursuant to this chapter.

5.52.040 Fingerprinting required.

~~Before issuing any permit to an owner or employee under the terms of this chapter, the city manager shall require the applicant to be fingerprinted and photographed and a record of the applicant shall be obtained from the Bureau of Criminal Identification and Investigation of the state Department of Justice, and from such other reporting agencies as the city manager, in his discretion, deems appropriate. After reviewing the record, the city manager shall issue the permit unless he concludes, pursuant to Section 5.52.020, that the application should be denied, and in the case of an employee applicant, unless he concludes that the granting of a permit would be detrimental to the public interest. The applicant shall be required to pay a fingerprint processing fee in such amount as is prescribed by resolution of the council, or in the absence of such resolution, in an amount which will reimburse the direct charges of the agency or agencies rendering the record required in this section to be obtained plus an overhead factor in an amount not exceeding one-third of the direct charges, to cover police department processing. An employee applicant who is denied a permit shall have the right of an appeal pursuant to section 2.08180 through 2.08.230 of this code.~~ (Ord. 10 § 1, 1982)

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5.52.050 Obedience to regulations required.

~~It shall be the responsibility of the owner or owners of a private patrol operating within the city limits to abide by and conform to all regulations contained in Sections 5.52.060 through 5.52.180. Any violations of these regulations will subject the offender to punishment as described in Sections 1.01.200 through 1.01.230; and, in addition, violations of these regulations shall be grounds for revocation of the permit. The city manager is expressly authorized to promulgate rules for personal conduct. Violation of any such rule shall be cause for revocation of the permit.~~ (Ord. 10 § 1, 1982)

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5.52.060 Identification cards.

~~The owner or owners of a private patrol shall make arrangements with the chief of police of the city to have their personnel fingerprinted and photographed. An identification card will be issued, signed by the chief of police. This identification card shall be carried by private patrolmen at all times while on duty. Identification shall be shown upon demand by any member of the police department. A private patrolman who is found to be without an identification card will not be allowed to complete his tour of duty until properly identified by the owner or owners of the private patrol for whom he is employed. A written report covering the incident shall be made by both the officer of the police department who discovers the violation and the owner of the private patrol. The written report shall be submitted to the chief of police.~~ (Ord. 10 § 1, 1982)

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5.52.070 Compliance with identification regulations required.

~~The regulations regarding fingerprinting and photographing shall be complied with by the owner or owners of a private patrol as well as by all personnel employed by them. All future employees of a private patrol shall be fingerprinted and photographed. (Ord. 10 § 1, 1982)~~

5.52.080 Qualifications—Forms.

~~All future employees of private patrols shall present to the chief of police a letter from the owner or owners of the private patrol covering their qualifications for the job of private patrolman. Also, blank forms which are obtainable at headquarters of the police department shall be filled out. These blank forms shall be filled out for all future employees of private patrols. (Ord. 10 § 1, 1982)~~

5.52.090 Break-in period.

~~During the break-in or trial period for a new employee, a private patrol shall require that the employee, at all times when on duty, shall be in the company of the owner or duly authorized agent of the owner of the private patrol. (Ord. 10 § 1, 1982)~~

5.52.100 Uniforms.

~~Members of private patrols shall restrict the color of their uniforms to grey, blue or black. All badges, cap shields and shoulder patches worn by private patrolmen shall be approved by the chief of police. All insignia placed on automobiles operated by private patrols shall be approved by the chief of police, and include the word "PRIVATE" in not less than four-inch capital letters. (Ord. 10 § 1, 1982)~~

5.52.110 Vehicles.

~~Panel trucks which can be mistaken for a police patrol wagon shall not be used by private patrols. (Ord. 10 § 1, 1982)~~

5.52.120 Citizenship requirement.

~~No person shall be appointed a special police officer or employed as a private patrolman who is not a citizen of the United States. (Ord. 10 § 1, 1982)~~

5.52.130 Termination of patrolman's employment—Notification of chief of police.

~~The owner or owners of a private patrol shall notify the chief of police in writing when a private patrolman leaves their employment; and the identification card shall be turned in to the chief of police at the termination of his employment by the owner. (Ord. 10 § 1, 1982)~~

5.52.140 Firearm proficiency.

~~All members and employees of a private patrol shall report to the chief of police, if he so directs, with the weapon used while on duty, together with ten rounds of ammunition, with which they will demonstrate their ability and familiarity with the weapon. This test will be conducted by the police department at a time designated by the chief of police. Inability to properly handle a firearm will be sufficient cause for rejection of a permit to be a private patrolman. (Ord. 10 § 1, 1982)~~

5.52.150 Weapons.

~~Only double action revolvers shall be carried by private patrolmen. The use of automatic weapons shall not be allowed. (Ord. 10 § 1, 1982)~~

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5.52.160 Territory covered—Report to chief of police.

~~The owner or owners of private patrols shall furnish the chief of police with information in writing regarding the territory covered by their respective patrols and the hours that coverage is to be maintained. (Ord. 10 § 1, 1982)~~

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5.52.170 Vehicle radios.

~~All motor vehicles operated pursuant to the provisions of this chapter shall be equipped with two-way radios. (Ord. 10 § 1, 1982)~~

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5.52.180 Watch clocks.

~~Watchman service shall be provided with a system of watch clocks. (Ord. 10 § 1, 1982)~~

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Chapter 5.60 LIQUIDATION-TYPE SALES

5.60.010 Definitions.

For the purpose of this chapter only, the following words and terms shall be deemed to mean and be construed as follows:

A. "Advertise," "advertisement," "advertising," "publish," and "publication," mean any and all means, whether oral, written, lettered or printed, used for conveying to the public notice of the conduct of a sale as defined in this section, or notice of intention to conduct the sale, including but not limited to oral or written announcements by proclamation or outcry, newspaper advertisement, magazine advertisement, handbill, written or printed notice, printed display, billboard display, poster, [e-mail, twitter, internet and other electronic media, television](#) and radio announcement.

B. "Inspector" means an inspector or investigator appointed by the city manager, or means any city police officer.

C. "Permit" means a permit issued pursuant to this chapter.

D. "Permittee" means a person to whom a permit has been issued pursuant to this chapter.

E. "Sale" means any sale of, or any offer to sell, to the public, or any group thereof, goods, wares or merchandise on order, in transit or in stock, in connection with a declared purpose as set forth by advertising that the sale is anticipatory to or to avoid the termination, liquidation, revision, windup, discontinuance, removal, dissolution or abandonment of the business or that portion of the business conducted at any location:

1. Stopping of Business. All sales advertised in any manner calculated to convey to the public the belief that upon the disposal of the goods to be placed on sale, the business or that portion thereof being conducted at any location will cease, be removed, be interrupted, discontinued or changed; and

2. Names Used for Sales. All sales advertised to be "adjuster's sale," "assignee's sale," "bankrupt sale," "benefit of administrator's sale," "benefit of creditors sale," "benefit of trustee's sale," "building coming down sale," "closing sale," "closing out sale," "creditor's committee sale," "creditors' sale," "damaged goods sale," "end sale," "execution sale," "final days sale," "fire sale," "forced out sale," "forced out of business sale," "insolvent sale," "insurance salvage sale," "last days sale," "lease expires sale," "lease expiring sale," "liquidation sale," "loss of lease sale," "mortgage sale," "outselling sale," "receiver's sale," "removal sale," "recognition sale," "salvage sale," "selling out sale," "smoke sale," "smoke and water sale," "trustee's sale," "quitting business sale," "wholesale closing out sale," "we quit sale," "we give up sale," "fixtures for sale," or advertised by any other expression or characterization closely similar to any of the foregoing and calculated to convey the same meaning; and

3. Business Failure. All sales advertised in a manner calculated to indicate that the goods, wares or merchandise to be sold, or any part thereof, have been involved in any

business failure or have been derived from a business which has failed, been closed, discontinued or liquidated; and

4. Vacation of Premises. All sales accompanied by notice or advertising indicating that the premises are available for purchase or lease or are otherwise to be vacated; and

5. Business Emergency or Failure. All sales accompanied by advertising indicating a business emergency or failure affecting the seller or any previous holder of the goods to be disposed of. (Ord. 10 § 1, 1982)

5.60.020 Permit required.

No person, firm or corporation shall hereafter publish or conduct any sale of the type defined in this chapter without first having obtained a permit from the city manager in the manner provided in this chapter. (Ord. 10 § 1, 1982)

5.60.030 Agreement to abide by regulations.

Each permit issued under the provisions of this chapter shall have printed, written or stamped on the face thereof the following:

“—This permit is granted by the City Manager of the City of La Quinta and accepted by the permittee upon the condition that the said permittee comply with and abide by all the provisions of Chapter 5.60 of the La Quinta Municipal Code.” (Ord. 10 § 1, 1982)

5.60.040 Signing of agreement—Witnessing.

At the time of the delivery of the permit, the statement must be signed by the permittee in the presence of an employee of the city who shall sign as a witness. (Ord. 10 § 1, 1982)

5.60.050 Condition of permit.

Any permit issued under the provisions of this chapter shall authorize the one type of sale named in the application, at the place named therein, for a period of not more than sixty calendar days, and shall permit the sale of goods only which are set out in the application, all of which goods throughout the duration of the sale must be definitely separated from any other goods displayed at or within the store or place of business; and all advertising signs or notices referred to, or calling attention to the sale, must be confined to the display or displays of goods involved in the sale. (Ord. 10 § 1, 1982)

5.60.060 Application for sale permit.

No permit to conduct a sale as defined in this chapter shall be granted except upon written application to the city manager, filed and verified before a person authorized to administer oaths, by the person who intends to conduct the sale, and each application shall set forth and contain the following information:

A. Location. Description by street location and kind of building, of the location at which the sale is to be held;

B. Occupancy—Tenancy. The nature of the occupancy, whether by ownership, lease or sublease, and if by lease or sublease, the effective date of the termination of the tenancy;

C. Advertising. A copy of all advertisements proposed to be used in connection with the sale, and a statement of the means or methods of advertising to be used in advertising the sale;

D. Reason for Sale. The facts in regard to the insurance, bankruptcy, insolvency, assignment, mortgage, foreclosure, administration, receivership, trusteeship, removal, executorship removal, or other cause advertised to be the reason for the proposed sale;

E. Inventory. An inventory or statement, in such form and in such detail as the city manager may require, setting forth the amount and description of goods, wares or merchandise to be sold at the sale and, when required by the city manager, the date of acquisition of the goods, wares or merchandise and the persons from whom obtained, and the place from which the goods were last taken. (Ord. 10 § 1, 1982)

5.60.070 Detailed description of goods.

The city manager may require that all goods, wares and merchandise listed upon the inventory or statement shall be so described in detail by manufacturer's name and lot number, the individual number of articles so numbered, colors, sizes and otherwise, that the identity of the goods with the goods listed on the inventory can be readily determined. (Ord. 10 § 1, 1982)

5.60.080 Filing fee.

No application for any permit pursuant to the provisions of this chapter shall be accepted by or on behalf of the city manager unless the application is accompanied by a filing fee in such amount as has been prescribed by resolution of the city council to defray the expense of investigation and processing, no part of which fee shall be refunded whether the application is granted or denied. (Ord. 10 § 1, 1982)

5.60.090 Investigation of applicant.

Upon the filing of the application with the city manager, the city manager may make or cause to be made an examination, audit, or investigation of the applicant and his/[her](#) affairs, in relation to the proposed sale. (Ord. 10 § 1, 1982)

5.60.100 Issuance or refusal of permit.

If the city manager finds that the statements in the application are true, that the inventory is complete, that the advertising set forth is not false, fraudulent, deceptive or misleading in any respect, and that the methods to be used by the applicant in conducting the sale are not such as, in the opinion of the city manager, will work a fraud upon the purchasers, the city manager shall issue to the applicant a permit to conduct the sale in accordance with the provisions of this chapter; otherwise the city manager shall deny the application and refuse the permit. (Ord. 10 § 1, 1982)

5.60.110 Insufficiency of information.

The city manager may refuse a permit because of the insufficiency of the information set forth in the application. (Ord. 10 § 1, 1982)

5.60.120 Amended application.

In case of refusal, the city manager shall grant the applicant permission to file an amended application. (Ord. 10 § 1, 1982)

5.60.130 Hearing before denial.

No application shall be denied unless an opportunity for hearing has been given the applicant before the city manager ~~and upon a ten-day notice in writing mailed to the applicant at the business address for the conduct of the sale, as set forth in the application of the applicant. (Ord. 10 § 1, 1982)~~ pursuant to ~~Secitons~~[Sections 2.08.180 through 2.08.230 of this code.](#)

5.60.140 Renewal of permit—Application—Fee.

The city manager may, upon verified application therefor, renew the permit for a period of not to exceed thirty days, upon the payment of a renewal fee in such amount as has been prescribed by resolution of the city council, to defray the expense of investigation and processing. (Ord. 10 § 1, 1982)

5.60.150 Form of application for renewal.

The verified application for renewal shall set forth a complete list of goods listed in the original application and remaining unsold, and shall not contain any goods, wares or merchandise not named in the original application. (Ord. 10 § 1, 1982)

5.60.160 Investigation—Renewal.

Upon receipt of the application for renewal, the city manager shall cause an investigation to be made within five [business](#) days from the date of filing with the city manager the application for renewal, and if satisfied of the truth of the statements therein contained, the city manager shall grant the renewal, which shall be endorsed and signed as provided for the original permit. (Ord. 10 § 1, 1982)

5.60.170 Second renewal.

The city manager may renew any original permit in the manner provided in this chapter, not to exceed two times, upon payment of a fee for each such renewal, in such amount as has been prescribed by resolution of the city council, to defray the expense of investigation and processing. (Ord. 10 § 1, 1982)

5.60.180 Limit upon duration of sales.

The city manager shall not issue permits or renewals which will allow the conduct of any sale or sales of any kind or kinds named in Section 5.60.010 at any one location for more than one hundred twenty calendar days in any one twelve-month period. (Ord. 10 § 1, 1982)

5.60.190 Power to revoke—Grounds.

The city manager shall have the power to revoke at any time any permit granted in accordance with this chapter whenever any such sale or special sale is being conducted in violation of any of the provisions of this chapter or in such manner as to deceive or defraud the public, or if:

A. Further Grounds—Misstatement in Application. The holder of any such permit has made any material misstatement in the application for the permit;

B. Fraud in Conduct of Sale. [S/He](#) has been guilty of any fraudulent practice, or practices, in the conduct of the sale authorized by the permit;

C. Omissions in Inventory. [S/He](#) has failed to include in the inventory required by the provisions of this chapter the goods, wares or merchandise required to be contained in the inventory;

D. Addition of Goods. [S/He](#) has added, caused to be added, or permitted to be added any goods, wares or merchandise not described in the original inventory; or

E. Improper Advertising. [S/He](#) has violated any of the provisions of this chapter or of the laws pertaining to advertising. (Ord. 10 § 1, 1982)

5.60.200 Complaint prerequisite to revocation.

No permit shall be revoked for any cause enumerated in Section 5.60.190 until a written complaint has first been filed with the city manager, setting forth in ordinary and concise language the charge made against the permittee. (Ord. 10 § 1, 1982)

5.60.210 Verification—Form of complaint.

The complaint shall be verified by the oath of the person making the charge, the verification to be made in the form prescribed by the Code of Civil Procedure of the state for verified pleadings in civil actions. (Ord. 10 § 1, 1982)

5.60.220 Service of complaint—Notice of hearing.

Service of the complaint and notice of hearing shall be in the manner provided in Section [1.01.300 of this code](#)~~5.60.130~~. (Ord. 10 § 1, 1982)

5.60.230 Scope of permit—Unlawful changes.

Any permit issued pursuant to the provisions of this chapter shall be valid only for the advertising, representation and sale of the particular goods, wares or merchandise described in the original application therefor, and at the particular time, and particular place stated therein, and by the particular applicant; and any renewal, replenishment or substitution of such goods, wares or merchandise, or change of the time or place for the sale, or change of person conducting the sale, is unlawful and shall render the permit void. (Ord. 10 § 1, 1982)

5.60.240 Ordering goods for sale.

No person in contemplation of conducting any such sale or special sale, or during the continuance of such a sale, shall order any goods, wares or merchandise for the purpose of selling them at the sale. (Ord. 10 § 1, 1982)

5.60.250 Presumption from purchase near time of sale.

Any unusual purchase, or additions to the stock of such goods, wares or merchandise, within sixty days before the filing of the application for a permit to conduct such a sale shall be presumptive evidence that the purchase or additions were made in contemplation of the sale for the purpose of selling them at the sale. (Ord. 10 § 1, 1982)

5.60.260 Separate offenses.

Each sale of goods, wares or merchandise as were not inventoried and described in the original application shall constitute a separate offense under this chapter. (Ord. 10 § 1, 1982)

5.60.270 Rules governing sales and advertising.

The city manager may provide such rules and regulations for the conduct and advertisement of the sale or special sale as, in his/[her](#) opinion, will serve to prevent deception and to protect the public. (Ord. 10 § 1, 1982)

5.60.280 Loss of identity.

Any removal of any goods, wares or merchandise inventoried and described in the original application form from the place of sale mentioned in the application shall cause the goods to lose their identity as the stock of any of the sales defined in this chapter; and no permit thereafter will be issued for the conducting of a sale of any such goods, wares or merchandise in such manner as to identify them with the store, store name, store owner or location referred to in the original application. (Ord. 10 § 1, 1982)

5.60.290 Posting of permit.

Upon, coincident and throughout the duration of any sale, as defined in this chapter, the permit issued by the city manager shall be prominently displayed near the entrance to the premises. (Ord. 10 § 1, 1982)

5.60.300 Copies of application and stock list.

A duplicate original of the application and stock list pursuant to which the permit was issued shall at all times be available to the city manager, or to his/[her](#) inspector and investigators, to examine all merchandise in the premises for comparison with the stock list. (Ord. 10 § 1, 1982)

5.60.310 Records of permittee.

Suitable books and records shall be kept by the permittee and shall at all times be available to the inspector and investigators. (Ord. 10 § 1, 1982)

5.60.320 Daily revision of stock list.

At the close of business each day the permittee's copy of the stock list attached to the application shall be revised and those items disposed of during the day shall be so marked thereon. (Ord. 10 § 1, 1982)

5.60.330 Exemptions.

The provisions of this chapter shall not apply to or affect the following persons:

A. Judicial Sales. Persons acting pursuant to an order or process of a court of competent jurisdiction;

B. Official Sales. Persons acting in accordance with their powers and duties as public officers such as sheriffs and marshals;

C. Auctions. Duly licensed auctioneers, selling at auction;

D. Publisher of Advertising. Any publisher of a newspaper, magazine or other publication, who publishes any such advertisement in good faith, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this chapter have not been complied with;

E. Season, Clearance Sales. End of season sales and clearance sales not included within Section 5.60.010E. (Ord. 10 § 1, 1982)

5.60.340 Appeals.

Any person aggrieved by any decision of the city manager with respect to denial or issuance of any permit, conditions attached thereto, or any other administrative action taken pursuant to the terms of this chapter, may appeal to the city council pursuant to Section 2.04.100 through 2.04.130 of this code. ~~by filing a written notice of appeal with the city clerk specifying the grounds of appeal. Unless an adjustment of the matter is then made by the city manager satisfactory to the appellant, the city clerk shall thereupon fix an early time and place of hearing on the appeal. Notice thereof shall be given the appellant and other persons who in the city clerk's opinion appear to be interested persons of record, of the time and place of hearing, by serving the notice personally or by depositing it in the United States mail addressed to all such persons at their last known addresses, respectively. The city council shall, after hearing, have authority to determine all questions raised on the appeal, and to take any action consistent with the terms of this chapter, or which could legally have been taken by the city manager in the matter. (Ord. 10 § 1, 1982)~~

NOTE: The provisions of this Chapter will be incorporated into Title 9 as requiring a TUP, when Title 9 is revised. This Chapter will then be deleted.

Chapter 5.72 MISCELLANEOUS BUSINESSES REGULATED

5.72.010 Compliance with state law regarding locksmith businesses.

Every person, defined as every individual, firm, partnership, association, limited liability company, corporation, and any other type of entity recognized by law, shall be subject to and comply with Articles 1 through 9 (commencing with Section 6980) of Chapter 8.5 of Division 3 of the Business and Professions Code of the State of California, as amended from time to time.

5.72.020 Compliance with state law regarding private patrols.

Every person, defined as every individual, firm, partnership, association, limited liability company, corporation, and any other type of entity recognized by law, shall be subject to and comply with Articles 1 through 8 (commencing with Section 7580) of Chapter 11.5 of Division 3 of the Business and Professions Code of the State of California, as amended from time to time.

5.72.030 Compliance with state law regarding drug paraphernalia.

Every person, defined as every individual, firm, partnership, association, limited liability company, corporation, and any other type of entity recognized by law, shall be subject to and comply with Article 4 (commencing with Section 11364) of Chapter 6 of Division 10 of the Health and Safety Code of the State of California, as amended from time to time.

5.72.040 Compliance with state code regarding secondhand dealers, pawnbrokers, and loan brokers.

Every person, defined as every individual, firm, partnership, association, limited liability company, corporation, and any other type of entity recognized by law, shall be subject to and comply with Articles 1 through 7 (commencing with Section 21500) of Chapter 9 of Division 8 of the Business and Professions Code of the State of California as amended from time to time.

5.72.050 Violation of Municipal code.

In addition to noncompliance or violation of state law, any failure to comply or violation of the state law identified in Sections 5.72.010, 5.72.020, 5.72.030, 5.72.040 shall be a violation of this code and, in addition to any other rights and remedies available to the city, shall be a public nuisance subject to remedial action in accordance with applicable law.

5.72.010 Police permit required before conducting locksmith business.

No person shall conduct or carry on the business of locksmith, or a key or lock repair shop or business, without having applied for and been granted a permit therefor by the chief of police. Such permits shall be issued in cases where, after investigation the chief of police determines that the applicant and proposed participants in the business or business activity are of good moral character, and that the issuance of the permits

will not prejudice the public peace, safety, morals or welfare. (Ord. 284 § 1 (Exh. B), 1996)

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5.72.020 Revocation of permits.

~~The city manager council shall have the power to revoke any permit issued pursuant to Section 5.72.010 after a hearing conducted with due notice pursuant to Section 1.01.300 and in accordance with the appeal process provided in Sections 2.08.180 through 2.08.230 of this code, with the legal principles of due process, and as a result of which hearing the council finds and determines that factual grounds exist, irrespective of when they first arose, which would justify denial of issuance of a permit in the first instance, under the criteria prescribed in the section under which the permit was issued. (Ord. 284 § 1 (Exh. B), 1996)~~

Chapter 5.80 SEXUALLY ORIENTED BUSINESSES

5.80.010 Purpose.

The purpose of this chapter is to regulate sexually oriented businesses which, because of their very nature, are believed to have many of the recognized significant secondary effects on the community which include, but are not limited to: depreciated property values and increased vacancies in residential and commercial areas in the vicinity of the sexually oriented businesses; higher crime rates, noise, debris or vandalism in the vicinity of sexually oriented businesses; and blighting conditions such as low-level maintenance of commercial premises and parking lots which thereby have a deleterious effect upon adjacent areas. Reasonable and uniform regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the neighborhoods in the vicinity of the sexually oriented businesses. It is neither the intent, nor effect of this chapter to impose limitations or restrictions on the content of any communicative material. Similarly, it is neither the intent, nor effect of this chapter to restrict or deny access by adults to sexually oriented materials or merchandise protected by the First Amendment, or to deny access by the distributors of sexually oriented business to their intended market.

Nothing in this chapter is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any city ordinance or any statute of the state of California regarding public nuisances, unlawful exposure, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof. (Ord. 270 § 2, 1995)

5.80.020 Definitions.

As used in this chapter:

“Employee” means a person over eighteen years of age who renders any service, or performs in connection with the operation of a sexually oriented business, either on site or off site, irrespective of whether said person is paid a salary, wage, or other compensation by the operator of the business or patrons.

“Escort” means a person who, for any form of consideration, agrees or offers to act as a companion, guide or date for another person, for sexual purpose, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

“Escort agency” means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

“Establishment” 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, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;

3. The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business or to an existing non-sexually oriented business;

4. The relocation of any such sexually oriented business; or

5. The substantial enlargement of any such sexually oriented business by an increase of the floor area occupied by the business of more than fifteen percent.

“Live art class” means any premises on which all of the following occur: there is conducted a program of instruction involving the drawing, photographing or sculpting of live models exposing specified anatomical parts; instruction is offered in a series of at least two classes; the instruction is offered indoors; an instructor is present in the classroom while any participants are present; and preregistration is required at least twenty-four hours in advance of participation in the class.

“Operator” means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

“Permittee” means the person to whom a permit has been issued pursuant to this chapter.

“Sexually oriented arcade” means any business establishment or concern, where, for any form of consideration including, but is not limited to cash in the form of paper bills, coins or slugs, which are operated manually or electronically controlled still, motion picture or video machines, projectors, or other image-producing devices are maintained to display images to an individual in individual viewing areas when those images are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts.

“Sexually oriented bookstore,” “sexually oriented novelty store” and “sexually oriented video store” mean any establishment, which as a regular and substantial course of conduct, displays and/or distributes sexually oriented merchandise, books, periodicals, magazines, photographs, drawings, sculptures, motion pictures, videos, slides, films, or other written, oral or visual representations which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts. (See “sexually oriented business” for definition of regular and substantial portion of its business.) The term “sexually oriented bookstore” shall be deemed to be inclusive of the terms “sexually oriented novelty store” and “sexually oriented video store.”

Sexually Oriented Business. 1. “Sexually oriented business” means any business establishment or concern which as a regular and substantial course of conduct performs as a sexually oriented bookstore, sexually oriented theater, sexually oriented arcade, sexually oriented cabaret, escort, escort agency, stripper, sexually oriented model studio or sexually oriented hotel/motel; any business establishment or concern which as a regular and substantial course of conduct sells or distributes sexually oriented merchandise or sexually oriented material; or any other business establishment or

concern which as a regular and substantial course of conducts offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical parts. "Sexually oriented business" does not include those uses or activities, the regulation of which is preempted by state law. "Sexually oriented business" shall also include any business establishment or concern which, as a regular and substantial course of conduct provides or allows sexually oriented entertainers, models, actors, actresses or employees to appear in any place in attire which does not opaquely cover specified anatomical parts. For the purposes of this section, a business establishment or concern has established the provision of products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical parts as a regular and substantial course of conduct when one or more of the following conditions exist:

a. The area devoted to sexually oriented merchandise and/or sexually oriented material exceeds more than thirty-three percent of the total display or floor space area open to the public;

b. The business establishment or concern obtains a significant or substantial portion of its revenues from the sale, rental or lease of entertainment, material or merchandise characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts or advertises the availability of the same;

c. The regular and substantial course of conduct of the business consists of or involves the sale, trade, display, advertisement or presentation of services, products or entertainment which are characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts;

d. An establishment may have other significant and substantial 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 a sexually oriented [businessbookstore](#). Such other business purposes will not serve to exempt such establishments from being categorized as a sexually oriented bookstore, so long as one of its significant or substantial business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

2. The definition of "sexually oriented business" 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.

"Sexually oriented cabaret" means a nightclub, bar, lounge, restaurant or similar establishment or concern which features as a regular and substantial course of conduct, any type of live entertainment, films, motion pictures, videos, slides, other photographic reproductions, or other oral, written or visual representations which are characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts.

“Sexually oriented entertainer” means a person who for any form of consideration or gratuity performs or appears in performances which are characterized by the emphasis on specified anatomical areas or specified sexual activities.

“Sexually oriented hotel/motel” means a motel, hotel or similar commercial establishment which (1) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, 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, [social media or other electronic means](#); or (2) offers a sleeping room for rent for a period of time less than ten hours; or (3) allows a tenant or occupant to sub-rent or let others use the sleeping room for a time period of less than ten hours.

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

“Sexually oriented merchandise” means sexually oriented implements and paraphernalia, such as, but not limited to: dildos, auto sucks, sexually oriented vibrators, edible underwear, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity.

“Sexually oriented model studio” means any premises where there is furnished, provided or procured a figure model or models who pose in any manner which is characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts where such model(s) is being observed or viewed by any person for the purpose of being sketched, painted, drawn, sculptured, photographed, filmed or videotaped for a fee, or any other thing of value, as a consideration, compensation, or gratuity for the right or opportunity to so observe the model or remain on the premises. Sexually oriented model studio shall not include any live art class or any studio or classroom which is operated by any public agency, or any private educational institution authorized to issue and confer a diploma or degree under Section 94300 et seq. of the Education Code.

“Sexually oriented theater” means a business establishment or concern which regularly features live entertainment, motion pictures, videos, slide photographs, or other pictures or visual reproductions which are distinguished or characterized by their emphasis on

matter depicting, describing or relating to specified sexual activities or specified anatomical parts.

“Specified anatomical parts” means:

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

“Specified criminal acts” mean acts which are sexual crimes against children, sexual abuse, rape, crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering, or distribution or sale of illegal drugs.

“Specified sexual activities” means:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory function in the context of a sexual relationship, any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or
 2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
 3. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or
 4. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
 5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
 6. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or
 7. Human excretion, urination, menstruation, vaginal or anal irrigation;
- or
8. Striptease; the removal of clothing to the point where specified anatomical parts are not opaquely covered or are minimally covered with devices commonly referred to as pasties and G strings, or equivalent clothing.

“Transfer” of a sexually oriented 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, 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. 270 § 2, 1995)

5.80.025 Permit required.

Prior to the establishment or transfer of a sexually oriented business, the owner of the business shall obtain both a sexually oriented business permit and a business license from the city. It is unlawful for any person, association, partnership or corporation to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises within the city, the business of a sexually oriented business, or be engaged as a sexually oriented entertainer, as defined in this chapter, without possessing a permit issued pursuant to the provisions of this chapter for each and every separate office or place of business conducted by the above. The permit fee required by this chapter shall be in addition to any other license, permit or fee required under any of the provisions of this code.

Neither the filing of an application for the permit, nor payment of any other license, permit or fee required under any other provision of this code, shall authorize the engaging in, conducting or carrying on of a sexually oriented business, or as a sexually oriented entertainer. (Ord. 270 § 2, 1995)

5.80.030 Application requirements.

The property owner, or authorized agent of the property owner, is eligible to request a sexually oriented business permit. The application fee for any sexually oriented business permit shall be eight hundred thirty-five dollars and is nonrefundable and shall be used to defray the cost of investigation, processing and hearing as set forth herein. The application fee for a sexually oriented entertainer permit shall be one hundred dollars. The fees set forth herein shall be in effect until the city council shall by resolution fix some other rate based upon a cost factor.

All permits shall expire one year from the date of issuance. Applications for renewal of a permit shall be made thirty days prior to the expiration date. The renewal application fee for a sexually oriented business permit shall be one hundred dollars. The renewal application fee for a sexually oriented entertainer shall be twenty-five dollars. Said renewal application fees are nonrefundable and shall be used to defray the cost of investigation and processing the renewal applications. The fees set forth herein shall be in effect until the city council shall by resolution fix some other rate based upon a cost factor.

The following information is required at the time a sexually oriented business permit is submitted to the planning department:

A. A completed sexually oriented business permit application specifying the single type of sexually oriented business permitted and signed by the property owner or authorized representative;

B. The nonrefundable deposit or fee as set forth by ordinance or resolution of the city council.

C. Any person, association, partnership or corporation desiring to obtain a business license tax certificate and a permit for a sexually oriented business shall make an application, under oath, to the city manager upon a form provided by the city manager.

If the applicant is a corporation, the requirement to provide the application information applies to each of the officers, directors and/or stockholders owning not less than ten percent of the stock of the corporation. If the applicant is a partnership, this requirement applies to each of the partners, including limited partners. The application shall contain the following showing:

1. The name, including any aliases, current permanent residential address, e-mail address, and telephone number of the applicant;

2. The business name, proposed business address of the sexually oriented business, website address and its telephone number;

a. If the applicant is a corporation, the name shall be exactly as set forth in its articles of incorporation and it shall provide a copy of its articles of incorporation. The applicant shall show the name and residence address of each of the officers, directors and each stockholder owning ten percent, or greater, of the stock of the corporation and the address of the corporation itself, if different than the address of the sexually oriented business. The application shall show that the corporation is in good standing under the laws of California,

b. If the applicant is a partnership, the application shall provide a copy of the partnership agreement and show the name and residence address of each of the partners including limited partners and the address of the partnership itself, if different than the address of the sexually oriented business;

3. The name and permanent address of the owner of the property upon which the applicant intends to locate the sexually oriented business. If the property owner is a corporation, the name shall be exactly as set forth in its articles of incorporation and the applicant shall show the name and residence address of each of the officers, directors and stockholders owning ten percent or greater of the stock of the corporation. If the property owner is a partnership, the application shall show the name and residence address of each of its partners, including limited partners;

4. In the event the applicant is not the owner of record of the real property upon which the sexually oriented business is or will be located, the application must be accompanied by a notarized statement from the owner of record of the real property acknowledging that a sexually oriented business is or will be located on the property. In addition, the applicant must furnish a copy of the lease or rental agreement pertaining to the premises in which the sexually oriented business will be located;

5. The dayste, hours and location where the sexually oriented business is proposed to be conducted, and the admission fee, if any, to be charged;

6. The name(s) of person(s) having the management or supervision of the applicant's business;

7. Whether or not the applicant has been convicted of a specified criminal act within the last three years, the nature of such offense, the date of conviction, place convicted and the sentence received therefor;

8. Whether or not the applicant has ever had any similar license or permit issued by an such agency revoked or suspended, or has had any professional or vocational license or permit revoked or suspended, and the reasons therefor, and the business activity or occupation subsequent to such action of suspension or revocation. ~~If the applicant is a corporation, this requirement applies to each of the officers, directors and/or stockholders owning not less than ten percent of the stock of the corporation. If~~

~~the applicant is a partnership, this requirement applies to each of the partners, including limited partners;~~

9. Driver's license or other acceptable identification and social security number of the applicant. ~~If the applicant is a corporation, this requirement applies to each of the officers, directors and/or stockholders owning not less than ten percent of the stock of the corporation. If the applicant is a partnership, this requirement applies to each of the partners, including limited partners;~~

10. Acceptable written proof that the applicant is at least eighteen years of age. ~~If the applicant is a corporation, this requirement applies to each of the officers, directors and/or stockholders owning ten percent or greater of the stock of the corporation. If the applicant is a partnership, this requirement applies to each of the partners, including limited partners;~~

11. The height, weight, color of eyes, color of hair and date of birth of the applicant. ~~If the applicant is a corporation, this requirement applies to each of the officers, directors and/or stockholders owning ten percent or greater of the stock of the corporation. If the applicant is a partnership, this requirement applies to each of the partners, including limited partners;~~

12. The business, occupation or employment history of the applicant for the last five-year period immediately preceding the date of the filing of the application. ~~If the applicant is a corporation, this requirement applies to each of the officers, directors and/or stockholders owning ten percent or greater of the stock of the corporation. If the applicant is a partnership, this requirement applies to each of the partners, including limited partners;~~

13. Each residence and business address of the applicant for the five-year period immediately preceding the date of the filing of the application. ~~If the applicant is a corporation, this requirement applies to each of the officers, directors and/or stockholders owning ten percent or greater of the stock of the corporation. If the applicant is a partnership, this requirement applies to each of the partners, including limited partners;~~

14. One front-faced portrait photograph of the applicant at least two inches by two inches in size shall be taken by the city police. ~~If the applicant is a partnership, one front-faced portrait photograph at least two inches by two inches in size of each partner, including limited partners in the partnership, shall be taken by the city police;~~

15. A detailed description of the proposed entertainment, including type of entertainment, number of persons engaged in the entertainment and any further information about the entertainment or entertainers, as the city manager may deem necessary;

16. The name and address of any other sexually oriented business owned or operated by any person whose name is required to be given in subsection C of this section;

17. A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant. ~~If the applicant is a corporation, this requirement applies to each of the officers, directors and/or stockholders owning not less than ten percent of the stock of the corporation. If the applicant is a partnership, this requirement applies to each of the partners, including limited partners;~~

18. Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit;

19. Such other identification and information necessary to discover the truth of the matters required to be set forth in the application;

20. Applicant must furnish for any person whose name is required to be given in subsection (C)(6) of this section the information requested by subsections (C)(1), (9)—(14), (16), (18) and (19) of this section;

21. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it 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 inches;

22. A current certificate and straight-line drawing prepared within thirty days prior to application by a California registered land surveyor depicting the property lines and the structures containing any established existing uses regulated by this chapter within one thousand five hundred feet of the property to be certified; the property lines of any established religious institution/synagogue, school, public park, recreation area, public building, family-oriented restaurant, business involving an on-premises sale of liquor or alcoholic beverages, or area zoned R-1, R-2, PR, PC, PI or C-1 within one thousand five hundred feet of the property. For the purpose of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

D. The holder of the permit for a sexually oriented business shall notify the city's code compliance department of each change in any of the data required to be furnished by this section within ten days after such change occurs. (Ord. 270 § 2, 1995)

5.80.050 Investigation and application.

A. Upon receipt of an application properly filed with the city and upon payment of the nonrefundable application fee, the city or its designee shall immediately stamp the application as received subject to the provisions of Section 5.80.030. The person receiving the application shall immediately thereafter send photocopies of the application to the Riverside County sheriff's department and any other city agencies responsible for enforcement of health, fire, and building codes and laws. Each department or agency shall promptly conduct an investigation of the applicant, application and the proposed sexually oriented business in accordance with its responsibilities under law and as set forth in this chapter. The investigation shall be completed within twenty days of receipt of the application by the city or its designee. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and, in the event it disapproves, state the reasons therefor. The sheriff's department shall only be required to check local and state summary criminal history information, including NCIC, and certify whether disqualifying criminal history has been discovered. The sheriff's department shall not be required to approve or disapprove applications. For this purpose, the sheriff's department is specifically authorized by the city council

pursuant to California Penal Code Sections 11105 and 13300 to obtain such information as relates to disqualifying criminal convictions for licensing purposes, as specified in Section 120.05(C)(1)(j) and to disclose so much of the information obtained to the city's designee as directly relates to such disqualifying criminal history, for such appropriate action as is required based upon such specific criminal conduct applicable to the subject applicant. No information shall be relayed relating to a criminal arrest not resulting in conviction, or to a criminal arrest for which pretrial or post-trial diversion has been ordered.

B. A department or agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the city. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the city or its designee. (Ord. 270 § 2, 1995)

5.80.060 Findings—Requirements.

The city ~~planning director~~ shall issue a sexually oriented business permit within the later of forty days of receipt of a completed application or ten days from receipt of the complete investigation report in Section 5.80.050 if it finds that:

A. The sexually oriented business shall be located in the city's SOB overlay zone zoning districts.*

* The distance of separation required by subsections B through F of this section shall be made by using a straight line, without regard to intervening structures or objects, from the nearest external structural wall of the proposed sexually oriented business to the nearest property line of the lot upon which is located a residential use, religious institution, park, recreation area, public building, family-oriented restaurant or school. The measurement taken when the proposed use is located on the same lot as an already existing sexually oriented business, shall be the distance between the two shall be measured in a straight line between the nearest external structural walls of each use without regard to intervening structures or objects. No request for subdivision, reparcelization or lot line adjustment shall be approved where the primary purpose is to avoid the intent of these distance requirements.

B. The sexually oriented business shall not be located within seven hundred fifty feet of any residential zone.

C. The sexually oriented business shall not be located within one thousand five hundred feet of a school. "School" means institutions for teaching or caring for minor children, e.g., child care facilities, preschool, day schools, elementary schools, secondary schools, high schools; and institutions of higher learning receiving approved graduates of preparatory school, and offering instructions in art, letters and science, leading to the bachelor's degree or master's degree (e.g., colleges and universities).

D. The sexually oriented business shall not be located within one thousand five hundred feet of any lot upon which there is properly located a public park, recreation

area or public building; nor within one thousand feet of any lot used by a religious institution for religious activities.

E. The sexually oriented business shall not be located within seven hundred fifty feet of any other sexually oriented business including sexually oriented businesses located on the same parcel. In no event may more than one sexually oriented business be located in the same structure.

F. The sexually oriented business shall not be located within seven hundred fifty feet of any business involving on-premises sale of liquor or alcoholic beverages, nor shall it be located within seven hundred fifty feet of a family-oriented restaurant. (A "family-oriented restaurant" means any restaurant which provides specific inducement to encourage attendance by children such as: play equipment, promotional toy items, child's menu separate from regular menu.)

G. The sexually oriented business shall not be located within any structure for which a part is within one hundred feet of the ultimate right-of-way of a major, primary or secondary thoroughfare as defined in the general plan of the city. For the purpose of this chapter, a property fronts on such a road if the property and any portion of the right-of-way for the road have a contiguous boundary.

H. The parking requirements for sexually oriented businesses shall be as follows:

1. Bookstores and retail establishments: One parking space per three hundred square feet of gross floor area;

2. Theaters: One parking space per three seats, if seats are fixed, or one parking space per twenty-four square feet of gross floor area;

3. Cabarets: One parking space per three seats, if seats are fixed, or one parking space per thirty-five square feet of gross floor area;

4. Motion picture arcade: One parking space per individual viewing area plus one parking space per employee;

5. Motel/hotel: One parking space per guest room for first fifty rooms; three-quarters parking space per guest room thereafter.

I. The sexually oriented business shall not be located completely or partially within any mobile structure or pushcart.

J. The sexually oriented business shall not stage any special events, promotions, festivals, concerts or similar events which would increase the demand for parking beyond the approved number of spaces for the particular use.

K. The sexually oriented business shall provide a security system that visually records and monitors all parking lot areas. All indoor areas of the sexually oriented business which are accessible to the public shall be open to public view at all times with the exception of restroom facilities. "Accessible to the public" shall include but not be limited to those areas which are only accessible to members of the public who pay a fee and/or join a private club or organization.

- L. The sexually oriented business complies with the city's sign regulations.
- M. The sexually oriented business complies with the development and design requirements of the zone in which it is to be located.
- N. The sexually oriented business shall not display any sexually oriented material or sexually oriented merchandise which would be visible from any location other than from within the sexually oriented business.
- O. The sexually oriented business shall not allow admittance to any person under the age of eighteen if no liquor is served, or under the age of twenty-one if liquor is served.
- P. With the exclusion of sexually oriented hotels, the sexually oriented business shall not operate between the hours of one a.m. and nine a.m.
- Q. The applicant shall not have been convicted of a crime relating to a specified criminal act for which:
1. Less than two years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for "specified criminal acts";
 2. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense for "specified criminal acts";
 3. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanors for "specified criminal acts" occurring within any twenty-four-month period;
 4. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant;
 5. An applicant who has been convicted of the above may qualify for a sexually oriented business permit only when the time period required above in this section has elapsed.
- R. The sexually oriented business shall provide separate restroom facilities for male and female patrons. The restrooms shall be free from sexually oriented materials and sexually oriented merchandise. Only one person shall be allowed in the restroom at any time, unless otherwise required by law, in which case the sexually oriented business shall employ a restroom attendant of the same sex as the restroom users who shall be present in the restroom during operating hours. The attendant shall prevent any person(s) from engaging in any specified sexual activities within the restroom and shall ensure that no person of the opposite sex is permitted in the restroom.
- S. The interior of the sexually oriented business which has individual viewing areas, shall be configured such that there is unobstructed view using the naked eye, unaided by any other devices, of every public area of the premises, including but not limited to

the interior of all individual viewing areas, from a permanent security station physically demarked in the establishment which is no larger than thirty-two square feet of floor area with no single dimension being greater than eight feet in a public portion of the establishment. No public area, including but not limited to the interior of any individual viewing area, shall be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing into the interior of the individual viewing area from the manager's station. A security guard shall be stationed in the security station at all times the business is in operation or open to the public in order to enforce all rules and regulations. No individual viewing area shall be designed or operated to permit occupancy of more than one person at a time. "Individual viewing area" means any area designed for occupancy of one person for the purpose of viewing live performances, pictures, movies, videos or other presentations.

T. All areas of the sexually oriented business shall be illuminated at a minimum of the following footcandles, minimally maintained and evenly distributed at ground level:

| | |
|---------------------------|---|
| Bookstores | 20 footcandles |
| Retail establishments | 20 footcandles |
| Theater | 5 footcandles (except during performances, at which time the lighting shall be at least 1.25 footcandles) |
| Cabaret | 5 footcandles |
| Motion picture arcade | 10 footcandles in public areas |
| Individual viewing booths | 1.25 footcandles |
| Motion picture theater | 10 footcandles (except during performances at which time the lighting shall be at least 1.25 footcandles) |
| Motel/hotel | 20 footcandles in public areas |

U. At least one security guard in addition to the manager, is required for every fifty patrons at sexually oriented businesses providing live entertainment. The manager may act as the security guard where less than fifty patrons are present.

V. The individual viewing areas of the sexually oriented business shall be operated and maintained with no holes, openings or other means of direct visual or physical access between the interior space of two or more individual viewing areas.

W. A traffic study has been prepared for the sexually oriented business in conformance with industry standards. The applicant shall demonstrate that the project will not result in a reduction in any roadway level of service below that level of service designated on the general plan for that roadway.

X. The sexually oriented business shall comply with the noise element of the general plan, interior and exterior noise standards and any mitigation measures necessary to reduce the project's noise impacts to the city's articulated noise standards.

Y. The sexually oriented business shall comply with all building and construction standards of the Uniform Building Code, Chapter 24 hereof, Title 24 of the California Code of Regulations, and all other federal, state and city-adopted standards for the specific use.

Z. Whenever live entertainment is provided, patrons shall be physically separated from sexually oriented entertainers by a floor to ceiling or, if appropriate, stage floor to ceiling, permanent, solid barrier and a buffer zone of at least three feet. "Live entertainment," for the purposes of this requirement, means any existent display by a human being which is characterized by an emphasis on specified anatomical parts or specified sexual activities. The three-foot buffer zone provision shall not apply to an individual viewing area where the stage is completely separated from the individual viewing area by a floor to ceiling permanent, solid barrier.

AA. No building, premises, structure, or other facility shall be permitted to contain more than one type of sexually oriented business as such types of sexually oriented business are defined in Section 5.80.020. For the purposes of this section, the catchall phrase "sexually oriented business" shall not be considered a single type of sexually oriented business.

BB. No individual viewing area may be occupied by more than one person at any one time.

CC. No patron shall come into direct or indirect physical contact with any sexually oriented entertainer.

DD. All building openings, entries, windows, etc., shall be located, covered or screened in such a manner as to prevent a view into the interior from outside the building.

EE. Lighting in Parking Lots. Lighting shall be required which conforms to the dark sky ordinance and is designed to illuminate all off-street parking areas serving such use for the purpose of increasing the personal safety of store patrons and reducing the incidence of vandalism and theft.

FF. Amplified Sound. No loudspeakers or sound equipment shall be used by a sexually oriented business for the amplification of sound to a level discernible by the public beyond the wall of the building in which such use is conducted.

GG. The building entrance to the adult use shall be clearly and legibly posted by a notice indicating that minors are precluded from entering the premises. As used in this subsection, "minor" means an individual less than eighteen years of age.

HH. Commercial businesses licensed or operating within the city shall not display or exhibit any material in a manner which exposes to public view photographs or illustrations of specified sexual activities or one or more naked adults in poses which emphasize or direct the viewer's attention to the subject's genitals. As used in this

subsection, “exposes to public view” means exposes to the view of the person outside the building in which the commercial business is located.

II. The permit required by this chapter shall be displayed in a prominent area.

The city ~~planning director~~ shall deny the requested permit in writing if the above findings have not been made and shall state reasons for the denial. (Ord. 270 § 2, 1995)

5.80.070 Permit duration.

A sexually oriented business permit shall be valid for a period of one year from the date of issuance. (Ord. 270 § 2, 1995)

5.80.080 Permit renewal.

A sexually oriented business permit shall be renewed on a year-to-year basis provided that the permittee and the sexually oriented business continues to meet the requirements set forth in this chapter. A request for permit renewal must be filed thirty days in advance of the permit expiration and shall be accompanied by a completed sexually oriented business permit application as required in Section 5.80.050. If said application conforms to the previously approved application and the sexually oriented business has not changed, the permit shall be renewed by the ~~planning director~~ city for another year. Any change or alteration in that nature or operation of the sexually oriented business will require the renewal to be reviewed by the ~~planning director~~ city. (Ord. 270 § 2, 1995)

5.80.090 Permits nontransferable, use-specific.

No sexually oriented business permit may be sold, transferred or assigned by any permittee or by operation of law, to any other person, group, partnership, corporation or any other entity unless the proposed transferee has first submitted a complete application pursuant to Section 5.80.030 as well as a transfer fee equal to one-half of the basic application permit. Any such sale, transfer or assignment or attempted sale, transfer or assignment shall be deemed to constitute a voluntary surrender of the permit and the permit shall be thereafter null and void. Any sexually oriented business permit held by a corporation or partnership is subject to the same rules of transferability as contained above. Any change in the nature or composition of the sexually oriented business from one element of a sexually oriented business to another element of a sexually oriented business shall also render the permit null and void. Any sexually oriented business permit shall only be valid for the exact location specified on the permit. (Ord. 270 § 2, 1995)

5.80.100 Enforcement, suspension and revocation.

A. Inspections. The permittee shall permit officers of the city, the county, and each of their authorized representatives to conduct unscheduled inspections of the premises of the sexually oriented business for the purpose of ensuring compliance with the law at any time the sexually oriented business is open for business or occupied.

B. Suspension of Permit.

1. The ~~planning director~~city, or his/her designee, shall suspend a permit ~~for a period not to exceed thirty days~~ if ~~he/she/it~~ determines that a permittee, or an employee of a permittee, has:

- a. Violated or is not in compliance with any section of this chapter; or
- b. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises; or
- c. Refused to allow an inspection of sexually oriented business premises as authorized by this chapter; or
- d. Knowingly permitted gambling by any person on the sexually oriented business premises; or
- e. Operated the sexually oriented business in violation of a building, fire, health or zoning statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance or regulation violation, the city or its designee shall promptly notify the permittee of the violation and shall allow the permittee a seven-day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven-day period, the city or its designee, shall forthwith suspend the permit and shall notify the permittee of the suspension; or
- f. Engaged in permit transfer contrary to Section 5.80.090. In the event that the city ~~or its designee~~ suspends a permit on the grounds that a permittee engaged in a permit transfer contrary to Section 5.80.090, the city ~~or its designee~~ shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable section of this chapter has been satisfied; or
- g. Operated the sexually oriented business in violation of any of the findings required in Section 5.80.060; or
- h. Been convicted of an act for which initial denial of a license would have been required pursuant to Section 5.80.060(Q).

2. The suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected.

C. Revocation Grounds. The ~~planning director~~city may revoke a sexually oriented business permit when ~~he or she/it~~ discovers that any of the following have occurred:

1. Any of the findings contained in Section 5.80.060 ceases to be satisfied and ~~a permit suspension has occurred~~the permit for that sexually oriented business has been suspended pursuant to subsection B of this section at any time during the twelve months prior to the violation triggering revocation;
2. The application contains incorrect, false or misleading information that tended to enhance the applicant's opportunity for obtaining a permit;
3. The applicant is convicted of any felony or misdemeanor which is classified as a sex or sex related offense, any violation of the city's zoning ordinance, any violation of the city's massage ordinance, or any violation of any other sexually oriented business ordinance of any other city, county or state;
4. Individual viewing areas are being operated with more than one occupant at any one time, or are being maintained with holes, openings or other means of direct visual access between the interior space of two or more individual viewing areas. For the

purpose of this section, "individual viewing area" means a viewing area designed for single occupancy;

5. Any person has been convicted of a sex-related offense as a result of his or her activity on the premises of the sexually oriented business; or

6. Any person or persons has engaged in any specified sexual activities on the premises.

D. Revocation Notice. Upon determining that the grounds for permit revocation exist, the ~~planning director~~city shall furnish written notice of the proposed revocation to the permittee in accordance with Section 1.01.300 of this code. Such notice shall summarize the principal reasons for the proposed revocation, shall state that the permittee may appeal the decision pursuant to Sections 2.08.180 through 2.08.220 of this code. ~~within fifteen calendar days of the posting or the postmarked date on the notice. The notice shall be delivered both by posting the notice at the location of the sexually oriented business and by sending the same, certified mail, return receipt requested and postage prepaid, to the permittee as that name and address appears on the permit. Not later than fifteen calendar days after the latter of the mailing or posting of the notice, the permittee may file an appeal of the planning director's revocation determination with the city clerk. If the appeal is within fifteen calendar days of the mailing or posting of the notice referenced above, an appeal hearing shall be provided before the city manager. The city manager shall hear evidence the permittee wishes to present as to why the planning director's revocation decision was in error.~~ The city manager's decision shall be the city's final decision and shall not be appealable to the city council.

E. Reapplication After Revocation. No person, corporation, partnership or member thereof or any other entity may obtain a sexually oriented business permit for a business once its permit has been revoked. (Ord. 270 § 2, 1995)

5.80.110 Violation—Penalty.

A. Every person, whether acting as an individual owner, employee of the owner, permittee, or operator or employee of the permittee, or whether acting as a mere helper for the owner, permittee, employer or operator, or whether acting as a participant or worker in any way, who operates or conducts or who participates in the operation of any unpermitted sexually oriented business, or who violates any provisions of this chapter shall be guilty of a misdemeanor and shall be fined pursuant to Section 1.01.230~~not more than one thousand dollars for each offense or imprisoned for not more than six months in the county jail for each offense, or both~~. Each day the violation continues shall be regarded as a separate offense for which the full penalty may be imposed.

B. Any establishment operated, conducted or maintained contrary to the provision of this chapter is unlawful and a public nuisance, and the city attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for the abatement, removal and enjoinder thereof in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such

sexually oriented business and restrain and enjoin any person from operating, conducting or maintaining such an establishment contrary to the provisions of this chapter.

C. Any establishment operated in violation of the chapter is a public nuisance, abatable pursuant to Chapter 11.72 of this code.

D. In any action to abate any such public nuisance, the city shall be entitled to recover all enforcement costs, including staff costs and attorney fees. (Ord. 270 § 2, 1995)

5.80.120 Prohibition against nudity.

It is unlawful for any person to appear in a sexually oriented business in such a manner so as to knowingly and intentionally:

A. Expose his or her genitals, pubic hair, natal cleft, perineum, anal region or pubic hair region; or

B. Expose any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum, anal region, nipple and/or areola of the female breast or pubic hair region; or

C. Expose the nipples and/or areola of the female breasts except as necessary while engaging in the breast feeding of an infant under the age of two years old; or

D. Allow any person to engage in any of the activities described in subsections A through C of this section in a sexually oriented business when such person has ownership or managerial control over the sexually oriented business. (Ord. 270 § 2, 1995)

5.80.130 Expansion of legal nonconforming uses.

Notwithstanding any other provisions of this code, no sexually oriented business legally operating prior to the effective date of the ordinance codified in this chapter may be expanded in any manner unless and until the entire sexually oriented business complies in all respects with the provisions of this chapter and/or any other provisions of the code pertaining to the operation of the business. For the purposes of this section, the term "expansion" shall include any physical expansion of the facility in which the sexually oriented business is located or operating and/or the introduction and/or addition of any category of sexually oriented business not legally operating on the property prior to the enactment of the ordinance codified in this chapter as such separate categories of sexually oriented business uses are contained in Section 5.80.020. For the purposes of this section, the catchall phrase "sexually oriented business" shall not be considered a single category of sexually oriented business. (Ord. 270 § 2, 1995)

