

# CHAPTER 8 - BUSINESS REGULATIONS

## Article 8-1 BUSINESS LICENSE FEE

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### Section 8-1-1 Definitions

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

- A. Average number of employees: Means the average number of persons employed in the applicant's business, for the three (3) month period ending on the last day of the calendar quarter preceding the date of an application for a business license.
- B. Administrator: Means the City Manager, or designee, charged with the administration of this Chapter.
- C. Business: Includes professions, trades and occupations and each and every kind of calling whether or not carried on for profit.
- D. Gross receipts: Means the total of amounts actually received or receivable from sales and the total amounts actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise. Included in "gross receipts" are all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the

cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Excluded from "gross receipts" are the following:

1. Cash discounts allowed and actually taken on sales.
  2. Credit allowed on property accepted as part of the purchase price and which property may later be sold.
  3. Any tax required by law to be included in or added to the purchase price and collected from the customer or purchaser.
  4. Such part of the sales price of property returned by purchasers upon rescission of the contract of sale as if refunded either in cash or by credit.
  5. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the Administrator with the names and addresses of the others and the amounts paid to them.
  6. Receipts of refundable deposits, except that refundable deposits forfeited and taken into the business as income shall not be excluded.
- E. Person: Includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, business, or common law trusts, societies, and individuals transacting and carrying on any business in the City, other than as an employee.
- F. Sale: Means the transfer, in any manner or by any means whatsoever, of title to property for a consideration; the serving, supplying or furnishing for a consideration of any property; a transaction whereby any service is rendered for consideration and a transaction whereby the possession of property is transferred and the seller retains the title as security for the payment of the price shall likewise be deemed a sale. The foregoing definitions shall not be deemed to exclude any transaction which is or which, in effect, results in a sale within the contemplation of law.
- G. Sworn Statement: Means an affidavit sworn to before a person authorized to take oaths, or a declaration or certification made under penalty of perjury.

### **Section 8-1-2 Purpose and Effect of Article; Cumulative Remedies**

- A. This Article is enacted solely to raise revenue for municipal purposes, and is not intended for regulation.
- B. Persons required to pay a license fee for transacting and carrying on any

business under this Article shall not be relieved from the payment of any license tax for the privilege of doing such business required under any other ordinance of the City and such persons shall remain subject to all other revenue and regulatory ordinances of the City.

- C. All remedies prescribed under this Article shall be cumulative and supplemental and the use of one (1) or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Article.

### **Section 8-1-3 Effect of Article on Past Actions**

- A. Neither the adoption of this Article nor its superseding of any portion of any other ordinance of the City shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to the effective date hereof, nor be construed as a waiver of any license or any penal provision applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed, or deposited and all rights and obligations thereunto appertaining shall continue in full force and effect.
- B. Where a license for revenue purposes has been issued to any person by the City and the tax paid for the business for which the license has been issued under the provisions of any ordinance theretofore enacted and the term of such license has not expired, then the license fee prescribed for said business by this Article shall not be payable until the expiration of the term of such license.

### **Section 8-1-4 Violations - Penalty**

Any person violating any of the provisions of this Article shall be guilty of civil violation punishable as provided in Section 1-5-1(A), each day a violation continues shall be a separate offense.

### **Section 8-1-5 Exemptions Generally**

- A. Nothing in this Article shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the constitution or applicable statutes of the United States or of the State from payment of such fees as are herein prescribed. The following are exempt from payment of the fee levied by this Article:
  - 1. Churches, fraternal organizations, schools, childcare providers and organizations created expressly for charitable purposes.
  - 2. Governmental agencies and those businesses working exclusively under grant funds from the Federal, State, Tribal or Local Governments.
- B. Any person claiming an exemption pursuant to this Section shall file a sworn

Statement with the Administrator stating the facts upon which exemption is claimed, and in the absence of such Statement substantiating the claim, such person shall be liable for the payment of the fees imposed by this Article. The Administrator shall, upon proper showing contained in the sworn Statement, file the sworn Statement in lieu of issuing a license to such person claiming exemption under this Section without payment to the City of the license fee required by this Article. The Administrator, after giving notice and a reasonable opportunity for hearing to a person claiming exemption under this Section, may revoke their exempt status upon information that the licensee is not entitled to the exemption as provided herein and collect such license fees as would be owing had no exemption been claimed.

#### **Section 8-1-6 Powers and Duties of Administrator**

- A. It is the duty of the Administrator to enforce the provisions of this Article.
- B. The Administrator in the exercise of the duties may examine or cause to be examined all places of business in the City to ascertain whether the provisions of this Article have been complied with. The Administrator, his/her assistants, and any police officer, shall have the power and authority, upon obtaining an inspection warrant therefore or as otherwise authorized by law, to enter free of charge, and at any reasonable time, any place of business required to be licensed herein, and demand an exhibition of its license. Any person having such license theretofore issued, in his/her possession or under his/her control, who willfully fails to exhibit the same on demand, is guilty of a civil violation punishable as provided in Section 1-5-1(A), and the Administrator or his/her assistants shall cause a complaint to be filed against any person found to be violating any provision of this Article.

#### **Section 8-1-7 Imposition of License Fee; Evidence of doing Business**

- A. There is imposed upon the businesses, trades, professions, callings and occupations specified in this Article license fees in the amounts hereinafter prescribed. No person shall transact or carry on any business, trade, profession, calling or occupation in the City without first having procured a license from the City to do so and paying the fee hereinafter prescribed or without complying with the applicable provisions of this Article.
- B. This Section shall not be construed to require any person to obtain a license prior to doing business within the City if such requirement conflicts with applicable statutes of the United States or of the State. Persons not so required to obtain a license prior to doing business within the City nevertheless shall be liable for payment of the fee imposed by this Article.
- C. When any person shall by use of signs, circulars, cards, telephone book or newspapers, advertise, hold out, or represent that he/she is in business in the

City, or when any person holds an active license or permit issued by a governmental agency indicating that he/she is in business in the City, and such person fails to deny by a sworn Statement given to the Administrator that he/she is not conducting a business in the City, after being requested to do so by the Administrator, then these facts shall be considered prima facie evidence that he/she is conducting a business in the City.

**Section 8-1-8 Amount of License Fee / Time of Payment**

A. All businesses, occupations, professions, trades or callings listed hereunder shall pay a license fee in an amount established by the council from time to time. Such fee is an annual fee unless otherwise specified.

1. Retail or wholesale sales business, not otherwise listed in this section, including but not limited to, antique sales, hardware stores, grocery stores, auto sales, auto parts sales, restaurants, gasoline service stations, furniture and department store sales, clothing, drug, sporting goods, variety or notion store.

Service industry or business including, but not limited to, plumbing service, pest control, travel agent, real estate, financial institutions, barbers, beauty shop, full year and part year photographers, cleaning or repair service, and locksmith and part year bookkeepers and fee preparers.

Gross Sales Per Year:

Less than \$50,000

\$50,000 or more, but less than \$100,000

\$100,000 or more

2. Liquor Sales:

Bars and Establishments (drinks sold in individual portions)

Liquor Store licensed for On-sale  
Retailer's License to sell all  
spirituous liquors by individual  
portions and in the original containers

Liquor Store licenses for On-sale  
Retailer's License to sell wine and  
beer by individual portions and in the  
original containers or Off-sale Retailer's

License to sell all spirituous liquors

Businesses included in Subsection "A" where primary business is other than liquor sales shall be licensed pursuant to Subsection "A" and shall not be required to obtain a license for liquor sales.

3. Private Practice of Professions:  
Accountants

Chiropractors and Chiropodists

Dentists

Doctors

Optometrists

Mortician

Veterinarians

Attorneys

4. Pawn Brokers

5. Gun Sales or Trade

6. Transient Peddlers or Door-To-Door Sales:

7. Swap Meet:

Each vendor or stand located within the Swap Meet for each week or any part of the week said stand or vendor offers goods for sale shall pay a license fee as established by the council from time to time.

8. Operations including telephone, telegraph, electrical, natural gas and water utility service, or similar businesses using lines within, over, or upon the streets or alleyways of the City shall pay a quarterly license fee of 3% of the total business done within the preceding quarter with a minimum license fee of \$500.00 per quarter. All such fees shall be paid within forty-five (45) days of the end of each quarter and a statement of earnings shall be filed on such forms as the Administrator shall require.

9. Television cable service shall pay a quarterly license fee of three (3%) percent of the total business done within the preceding quarter. The minimum license fee shall be \$500.00 per quarter. All such fees shall be paid within forty-five (45) days of the end of each quarter and a statement of earnings shall be filed on such forms as the Administrator shall require.

10. All other businesses or trades not included in subsection (1) through (9) above, including wholesale delivery shall pay a fee for each year or part thereof as established by resolution of the council from time to time, unless the administrator classifies the business pursuant to section 8-1-8 (A), in such case the fee shall be as set for that classification.
  11. At the time the license fee is paid, all businesses required to be licensed pursuant to subsection (1) of this section, shall file a statement under oath of the volume of business conducted within the City in the preceding year.
- B. Unless otherwise specifically provided, all license fees payable pursuant to the provisions of this article shall be paid in advance on an annual basis. The fees shall be due and payable on January 1 of each year and are delinquent after January 31. License fees covering new operations commenced after January 1, shall not be prorated. Recovery of back fees owed shall be limited to a maximum of the current license fee due plus the fee due for ten (10) prior years with penalties as provided in this article.
- C. All fees due and payable pursuant to paragraph 8 and 9 of this section shall be timely made. The administration shall impose a penalty for any fee not timely made in the amount as determined by the council from time to time.

#### **Section 8-1-9 Application for First License**

- A. Upon a person making application for the first license to be issued hereunder or for a newly established business, such person shall furnish to the Administrator a sworn Statement, upon a form provided by the Administrator, setting forth the following information:
1. The exact nature or kind of business for which a license is requested.
  2. The place where such business is to be carried on and the places of residence of the owners of same.
  3. In the event that application is made for the issuance of a license to a person doing business under a fictitious name, the names and places of residences of those owning said business.
  4. In the event that the application is made for the issuance of a license to a corporation or a partnership, the names and places of residences of the officers or partners thereof.
  5. In all cases where the amount of license fee to be paid is measured by gross receipts, such information as may be required and as may be necessary to determine the amount of the fee to be paid by the applicant.

6. Any further information which the Administrator may require to enable him/her to issue the type of license applied for.
  7. Proof of citizenship as required by State statutes.
- B. New businesses whose fee is determined by paragraph (A) (1) of this Section shall pay the minimum license fee in the first period of operation.
- C. The Administrator shall not issue to any such person another license for the same or any other business, until such person shall have furnished to him/her the sworn Statement and paid the license fee as herein required.

### **Section 8-1-10 False Statements in Applications**

It is unlawful to knowingly or intentionally misrepresent to any officer or employee of the City any material fact in procuring a license under this Article.

### **Section 8-1-11 Contents of License**

- A. Every person required to have a license under the provisions of this Article shall make application as prescribed for same to the Administrator, and upon the payment of the prescribed fee the Administrator shall issue to such person a license which shall contain the following information:
1. The business licensed.
  2. The place where such business is to be acted and carried on.
  3. The date of the expiration of such license.
  4. Such other information as may be necessary for the enforcement of this Article.

### **Section 8-1-12 Posting and Display of Licenses**

- A. Any licensee transacting and carrying on business at a fixed place of business in the City shall keep the license posted in a conspicuous place upon the premises where such business is carried on.
- B. Any licensee transacting and carrying on business but not operating at a fixed place of business in the City shall keep the license upon his/her person at all times while transacting and carrying on the business for which it is issued.

### **Section 8-1-13 License Nontransferable; Branch Locations**

- A. No license issued pursuant to this Article shall be transferable, provided, that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may upon application therefore authorize the transacting and carrying on of such business under the license at



some other location to which the business is or is to be moved; provided further that transfer, whether by sale or otherwise, to another person under such circumstances that the real or ultimate ownership after the transfer is substantially similar to the ownership existing before the transfer, shall not be prohibited by this Subsection. For the purpose of this Subsection, stockholders, bondholders, partnerships or other persons holding an interest in a corporation or other entity herein defined to be a person are regarded as having the real or ultimate ownership of such corporation or other entity.

- B. A separate license shall be obtained for each branch establishment or location of the business transacted and carried on and for each separate type of business at the same location, and each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in such license; provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this Article shall not be deemed to be separate places of business or branch establishment and provided further that any person conducting two (2) or more businesses at the same location and under the same management, or at different locations, but which businesses use a single set or integrated set of books and records, may, at his/her option, pay only one (1) fee.

#### **Section 8-1-14 Renewal and Duplicate Licenses**

- A. In all cases, the applicant for the renewal of a license under this Article shall submit to the Administrator for his/her guidance in ascertaining the amount of the license fee to be paid by the applicant, a sworn statement, upon a form to be provided by the Administrator, setting forth such information concerning the applicant's business during the preceding year as may be required by the Administrator to enable him/her to ascertain the amount of the fee to be paid by said applicant pursuant to the provisions of this Article.
- B. A duplicate license may be issued by the Administrator to replace any license previously issued upon request of the licensee.

#### **Section 8-1-15 Statements and Records; Failure to File**

- A. No Statements shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the City from collecting by appropriate action such sum as is actually due and payable under this Article. Such Statement and each of the several items therein contained shall be subject to audit and verification by the Administrator, his/her deputies or authorized employees of the City, who are authorized to examine, audit and inspect such books and records of any licensee or applicant for license, as may be necessary in their judgment to verify or ascertain the amount of the license fee due.
- B. All persons subject to the provisions of this Article shall keep complete records of

business transactions, including sales, receipts, purchases, number of employees, and other expenditures, and shall retain all such records for examination by the Administrator. Such records shall be maintained for a period of at least three (3) years. No person required to keep records under this Section shall refuse to allow authorized representatives of the Administrator to examine said records at reasonable times and places.

- C. If any person fails to file any required Statement within the time prescribed, or if after demand therefore made by the Administrator he/she fails to file a corrected Statement, or if any person subject to the fee imposed by this Article fails to apply for a license, the Administrator may determine the amount of license fee due from such person by means of such information as he/she may be able to obtain. If the Administrator is not satisfied with the information supplied in Statements or applications filed, he/she may determine the amount of any license fee due by means of any information he/she may be able to obtain.
- D. If such determination is made, the Administrator shall give notice of the amount so assessed by depositing it in the United States Post Office, postage prepaid, addressed to the person or business so assessed at his/her last known address. Such person may, within fifteen (15) days after the mailing or serving of such notice, make application in writing to the Administrator for a hearing on the amount of the license fee. If such application is made, the Administrator shall cause the matter to be set for hearing within thirty (30) days. The Administrator shall give at least ten (10) days notice to such person of the time and place of hearing in the manner prescribed above for serving notices of assessment. The Administrator shall consider all evidence produced, and shall make findings thereon, which shall be final. Notice of such finding shall be served upon the applicant in the manner prescribed above for serving notices of assessment.

### **Section 8-1-16 Confidentiality of Information**

- A. Information required or obtained under the provisions of this Article shall not be disclosed in any manner, except in accordance with law, including the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a license, or pay a license fee, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth in any Statement or application, or to permit any Statement of application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person.
- B. Nothing in this Section shall be construed to prevent:
  - 1. The disclosure to, or the examination of records and equipment by another City official, employee or agent for collection of fees for the sole purpose of administering or enforcing any provisions of this Article, or

collecting fees imposed under this Article.

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

**Section 8-1-17 Delinquent Fee Penalties; Collection; Fee a Debt**

- A. For failure to pay a license fee required by this Article when due, the Administrator shall add a penalty, in an amount as provided by resolution of the Council from time to time, on the last day of each month after the due date thereof.
- B. No license shall be issued, nor one which has been suspended or revoked shall

be reinstated or reissued to any person, who at the time of applying therefore, is indebted to the City for any delinquent license fees or utility fees.

- C. The amount of any license fee and penalty imposed by the provisions of this Article shall be deemed a debt to the City. An action may be commenced in the name of the City in any court of competent jurisdiction, for the amount of any delinquent license fee and penalties and interest. Persons intending to discontinue a business shall report same to the Administrator on a verified form provided for such purpose. Persons failing to file such forms shall be liable for all deficiencies and penalties.

### **Section 8-1-18 Refund of Overpayments**

No refund of an overpayment of fees imposed by this Article shall be allowed in whole or in part unless a claim for refund is filed with the Administrator within a period of three (3) years from the last day of the calendar month following the period for which the overpayment was made, and all such claims for refund of the amount of the overpayment shall be filed with the Administrator on forms furnished and in the manner prescribed by him/her. Upon the filing of such a claim, and when he/she determines that an overpayment has been made, the Administrator may refund the amount overpaid.

### **Section 8-1-19 Appeal from Decisions of the Administrator**

- A. Any person aggrieved by any decision of the Administrator with respect to the amount assessed as a fee or who believes that any of his/her activities are not subject to the license fee required by this Article shall pay the amount of such assessment or fee claimed due before the delinquent date and shall at that time give notice, in writing, to the Administrator that all or part of such payment is made under protest and shall in the notice give the grounds and reasons for such protest and that a certain part thereof or that the total sum is protested.
- B. Within fifteen (15) days after receipt of such protest, the Administrator shall reply, in writing, to the last known mailing address of the taxpayer stating whether the fee applied is to be changed as requested and giving reasons for the decision.
- C. If the taxpayer is dissatisfied he/she may take appropriate action in any court of competent jurisdiction within the State to recover payment made under protest. Court action shall be taken within sixty (60) days after the Administrator has mailed his/her reply as required. Failure to take court action within the required sixty (60) day period shall make the protest null and void.
- D. If court action has been taken by the taxpayer all subsequent payments due shall be paid on or before the due date. However, if each fee form is plainly marked "paid under protest" such subsequent payment shall be treated as part of the original protest until such time as court remedies have been exhausted or the court action has been withdrawn by the taxpayer.

## **Article 8-2 PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS**

Section 8-2-1	Purpose of this Article
Section 8-2-2	License Required
Section 8-2-3	Definitions
Section 8-2-4	Application and Application Fee
Section 8-2-5	Fees
Section 8-2-6	License to be Posted
Section 8-2-7	Unlawful Acts
Section 8-2-8	Duty of Police Officers to Enforce
Section 8-2-9	Violations - Penalty

### **Section 8-2-1 Purpose of this Article**

The purposes of this Article shall be to protect the health, safety, and welfare of residents of the City by means of investigation and regulation of peddlers, solicitors, canvassers, and transient merchants.

### **Section 8-2-2 License Required**

It shall be unlawful for any peddler, solicitor, canvasser, transient merchant, itinerant merchant, or itinerant vendor as the same is herein defined to engage in such business within the corporate limits of the City without first obtaining a license therefore in compliance with the provisions of this Article; provided, however, that the provisions of this Article shall not apply to persons soliciting for newspaper subscriptions, to the producers of agricultural products as defined in A.R.S. §3-561 or to any member of the family or agents or persons in the service of the producer when the agricultural products are sold or disposed of on behalf of and for the benefit of the producer, nor to any bona fide, tax-exempt, not-for-profit organization.

### **Section 8-2-3 Definitions**

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

- A. Peddler: Any person who, either personally or through agents or employees or by transporting either persons or property, whether a resident of the City or not, travels by foot, motor vehicle, or any other type of conveyance from place to place, from house to house, or from street to street carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products, or provisions who offers and exposes the same for sale or who makes sales and delivers Articles to purchasers or who, without traveling from place to place, shall sell or offer the same for sale from a motor vehicle, railroad car, or other vehicle or conveyance or from a fixed location on foot, and further provided that one who solicits orders and as a separate transaction makes delivery to purchasers as a part of the scheme or design to evade the

provisions of this Chapter shall be deemed a peddler subject to the provisions herein contained. The definition set forth above shall not be construed to include participants in authorized farmers markets where the fruits, vegetables and such other farm products have been grown by the participant.

- B. Solicitor or Canvasser: Any individual, whether resident of the City or not, traveling either by foot, motor vehicle, or any other type of conveyance from place to place, from house to house, or from street to street taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether he is collecting advance payments on such sales or not, provided that such definition shall include any person who, for himself or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop, or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.
  
- C. Transient Merchant, Itinerant Merchant, Itinerant Vendor: Any person, whether owner or otherwise, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares, and merchandise within said City and who, in furtherance of such purpose, hires, leases, uses, or occupies any building, structure, motor vehicle, tent, space, railroad boxcar, or boat or public room in a hotel, lodging house, apartment, shop, or any street or any other place within the City for the exhibition and sale of such goods, wares, and merchandise, either privately or at public auction, provided that such definition shall not be construed to include any person, firm, or corporation who, while occupying such temporary location, does not sell from stock but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this Article merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any such local dealer, trader, merchant, or auctioneer.

#### **Section 8-2-4 Application and Application Fee**

Applicants for a license under this Article must file with the Administrator, as defined in Article 8-1, a sworn application in writing on a form to be furnished by the City which shall contain, but not necessarily be limited to, the following information:

- A. Name and description of the business entity.
- B. Address (legal and local).
- C. A brief description of the nature of the business and the goods to be sold.

### **Section 8-2-5 Fees**

The license fee for any peddler, solicitor, canvasser, transient merchant shall be as set as provided in Article 8-1 of this Chapter.

### **Section 8-2-6 License to be Posted**

The license issued to the licensee hereunder by the Administrator shall be posted in a conspicuous place if the licensee is using a vehicle or building in his business and otherwise must be kept by the person and exhibited at any time upon request.

### **Section 8-2-7 Unlawful Acts**

It shall be unlawful for any peddler, solicitor, canvasser, or transient merchant in the course of business to ring the doorbell or knock at any building where on a sign bearing the words "No Peddlers or Solicitors" or similar wording is exposed to public view.

### **Section 8-2-8 Duty of Police Officers to Enforce**

It shall be the duty of any police officer of the City to enforce this Article. The Chief of Police shall report to the Administrator all violations of this Article.

### **Section 8-2-9 Violations - Penalty**

Any person found guilty of violating any of the provisions of this Article 8-2 shall be guilty of a civil violation punishable as provided in Section 1-5-1(A). Each day a violation continues shall be a separate offense.

## **Article 8-3 SPECIAL EVENT PERMITS**

Section 8-3-1	Permit Required; Definition
Section 8-3-2	Time and Location Restriction
Section 8-3-3	Application Requirements
Section 8-3-4	Special Event Plot Plan
Section 8-3-5	Permit Approval or Denial
Section 8-3-6	Standard Conditions of Approval
Section 8-3-7	Appeal

### **Section 8-3-1 Permit Required; Definition**

It is unlawful for any person to conduct or sponsor a special event within the City limits without first obtaining a special event permit pursuant to the requirements of this Article. Special event means, public events that utilize or affect public streets or property that are likely to, or may, have an impact on surrounding properties, law enforcement, traffic, City streets, City staffing, public safety or daily municipal operations, including but not limited to, rodeos, parades, marches, circuses and carnivals, sports events, music festivals, pageants street closures, restricted or special parking events, shows, show promoters and show vendors, temporary swap meets, art shows, festivals, religious revivals, political rallies, vehicle shows and displays, reenactments, entertainments, public assemblies, demonstrations, public spectator attractions, large organized group use of recreational or other City facilities, together with all other similar temporary activities. A special event may take place inside a temporary or permanent structure or outside. Special events, for purposes of this Article, do not include the routine reservation of City buildings or facilities which have only minimal impact on surrounding properties, streets, law enforcement, City staffing, public safety or daily municipal operations, nor to events sponsored by another governmental entity acting within its jurisdiction.

### **Section 8-3-2 Time and Location Restriction**

A special event permit shall be limited to the specific time and location restrictions shown on the permit.

### **Section 8-3-3 Application Requirements**

Any person applying for a special event permit shall submit an application to the City Manager not less than thirty (30) days prior to the special event unless such time period is waived by the City Manager.

- A. Applications for special event permits shall be made on forms approved by the Council and in the manner prescribed by the City Manager.
- B. The special event permit application shall include the following information and such other information as the City Manager deems reasonably necessary:



1. Name of person, business or organization together with a brief description of the nature and type of business entity. If the business or organization is a corporation or limited liability company, the State where formed and the statutory agent's name and address. Proof of nonprofit status is required where claimed
2. Name, date of birth of the applicant and relationship to the person, business or organization.
3. Complete street and mailing address and contact phone number of such person, business or organization. List of officers/owners/managers of the business or organization, together with their addresses and phone numbers where requested by the City Manager.
4. A brief description of the nature and type of the event including the date, time location and whether alcohol will be sold or consumed.
5. A list of any City services being requested.
6. A copy of the Arizona Transaction Privilege Tax documentation (if applicable).
7. If the business specified in this Article is subject to a certificate of health or sanitary examination, the applicant shall produce such certificate or permit from the Gila County Health Department, as provided for in Arizona Revised Statutes, Title 36, Chapter 1, Article 2 and applicable Gila County ordinances, as amended. In addition, where applicable, proof of any license or permit required by any other governmental entity with jurisdiction over the premises and/or activities.

#### **Section 8-3-4 Special Event Plot Plan**

In addition to the requirements in Section 8-3-3, applicants for a special event permit shall be required to submit four (4) copies of a plot plan, indicating the following:

- A. Exact site location and layout of the event.
- B. Location and number of booth spaces, stalls or vending areas.
- C. Location of temporary structures and temporary utilities necessary for operation.
- D. Location and provision of toilets, trash receptacles, and other sanitary services.
- E. Ingress and egress.
- F. Fire and emergency vehicle access.

- G. Parking areas.
- H. Signage.
- I. Lighting.
- J. Describe the security and traffic control measures to be taken for the special event.

### **Section 8-3-5 Permit Approval or Denial**

Upon receipt of an application, the City Manager, shall conduct the necessary investigation for the protection of public health, safety, welfare and overall public good. The permit application and the required plot plan shall be referred to the Fire, Police and Public Works Departments, and any other Department as determined by the Manager. The Police Department may conduct a criminal history check on the applicant(s) for all special events. After receipt of the information required by this Section, Sections 8-3-3 and 8-3-4, the Manager shall conduct a staff coordinating meeting with the Police, Fire, Public Works and any other Department or personnel deemed by the Manager necessary or desirable, in order to determine whether to issue or deny the permit together with any conditions of approval. The Manager may, but shall not be so required, invite the applicant to attend the staff coordinating committee meeting. The decision on the permit together with any conditions of approval shall be reported to the applicant in writing as soon as practicable. If the decision is to deny the permit, the reason(s) for said denial shall be set forth in writing. The decision shall also be reported to the Council at the same time. The decision of the City Manager shall be final except as provided in Section 8-3-7. The City Clerk shall keep a record of all permits issued or denied for a period of one year after the date of the application.

### **Section 8-3-6 Standard Conditions of Approval**

Standard conditions of approval for special events shall include compliance with applicable law, payment of applicable fees, assumption of responsibility for injuries and damages arising out of the special event, indemnification of the City, and the provision of a certificate of insurance in the amount as approved from time to time by the Council, and where deemed appropriate by the City Manager, the notification of affected property owners. These standard conditions shall not be construed to prohibit additional conditions necessary for the public health, safety or welfare. . Where security is necessary or required, City of Globe Police shall be utilized for same, unless adequate security cannot be provided by Globe Police Department.

### **Section 8-3-7 Appeal**

The decision of the City Manager may be appealed to the Council within five (5) working days by an aggrieved party by filing with the City Clerk the basis for such appeal in

writing. The appeal shall be scheduled for the next available Council meeting. The applicant shall have the burden of persuasion on the appeal. The decision of the Council may be appealed within thirty (30) days of the date of the decision of the Council. to the Gila County Superior Court in accordance with Arizona law.

## **Article 8-4 PUBLIC USE OF SIDEWALKS AND STREETS**

Section 8-4-1 Interference with Public Use of Sidewalks and Streets

Section 8-4-2 Violations - Penalty

### **Section 8-4-1 Interference with Public Use of Sidewalks and Streets**

- A. Each owner, manager or operator of a business authorized pursuant to this Chapter shall maintain the operations, activities and sales of said business so as to not to interfere with pedestrian use of the sidewalks or the public use of the streets. No personal property, including merchandise offered for sale or displayed by the business for any purpose shall be placed or remain upon the sidewalks or streets, except as provided herein.
- B. If the owner, manager or operator of a business desires to place or display any personal property of the business operation, including merchandise being displayed for sale, such as a sidewalk sale upon the sidewalks of the City, said owner, manager or operator shall first make application, in writing, with the Administrator, for authorization (permit) for said placement or display. As part of the written application, the owner, manager or operator shall provide a plan of operation which will insure compliance with all provisions of the Americans with Disabilities Act and avoid interference with use of any sidewalk and, in all cases, no application shall be approved except where compliance with the following requirements are met:
1. No personal property, including merchandise offered for sale of the business shall be placed or remain upon a sidewalk between the hours of 10:00 p.m. and 8:00 a.m.
  2. No personal property, including merchandise offered for sale, shall be placed or displayed upon a sidewalk a distance of more than forty-two (42) inches from the outside wall or window of the business and, at all times, there shall remain an open passageway for use by pedestrians having a width of not less than forty (40) inches, as measured from the inside edge of the curb.
  3. If any property, merchandise or wares of the business, including tables and merchandise offered for sale, shall remain upon the sidewalk between the hours of 10:00 p.m. and 8:00 a.m., the Administrator, including City Police, are authorized to seize and remove said personal property. The owner, manager or operator shall be notified the next business day and shall be solely responsible for the full cost incurred for said removal, including the hourly rate, with benefits, of the person or persons required to remove said property.
  4. The approval or rejection of the application of the Administrator shall be in writing within ten (10) business days of receipt of the application and, if

approved, shall set a term of not more than ninety (90) days for the permit and clearly State any restrictions in addition to those set forth in this Article.

- C. Upon special application, the Mayor and Council may, but shall not be so required, authorize a license agreement for the use of a sidewalk, street or alley to be utilized for a commercial purpose on a case-by-case basis provided that compliance with applicable laws for the protection of the public health safety and welfare are met. The authorization for such use shall be in the form of a written license agreement including all specific and applicable details prior to such use.
- D. It shall be unlawful for any business, owner, manager or operator, to conduct any sidewalk or street sale or to allow any personal property of the business to be placed, remain or displayed upon the sidewalks and/or streets of the City without a permit or license agreement as provided in this Section.
- E. In addition to any other penalties authorized by this Section, the Administrator shall revoke the business license of any owner, Manager or operator of a business found to be in violation of this Section on three (3) or more occasions. Upon revocation, no new license may be issued to said owner, operator or Manager to conduct any business within the City for a period of twelve (12) months.

#### **Section 8-4-2 Violation, Penalty**

Any person convicted of a violation of any provision of this Article 8-4 shall be guilty of a civil violation punishable as provided in Section 1-5-1(A). Each day a violation continues shall be considered a separate offense.

## **Article 8-5 LICENSING OF SEXUALLY ORIENTED BUSINESSES**

- Section 8-5-1 Purpose and Intent
- Section 8-5-2 Definitions
- Section 8-5-3 License requirements
- Section 8-5-4 Employee license
- Section 8-5-5 Issuance and Renewal of License
- Section 8-5-6. Fees
- Section 8-5-7 Inspection
- Section 8-5-8 Expiration of License
- Section 8-5-9 Suspension
- Section 8-5-10 Revocation
- Section 8-5-11 Transfer of license
- Section 8-5-12 Injunction

### **Section 8-5-1 Purpose and Intent**

It is the purpose and intent of this Article to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City of Globe and to establish reasonable and uniform regulations to reduce or eliminate the adverse secondary effects from such sexually oriented businesses. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of the Article to condone or legitimize the distribution of obscene material.

### **Section 8-5-2 Definitions**

In this Article, unless the context otherwise requires:

- A. Employee means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated as employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
- B. Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

- C. Person means an individual, corporation, association, or other legal entity.
- D. Specified criminal activity means any of the following offenses:
1. Prostitution or promotion of prostitution, dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; sexual abuse; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal Code of other States and countries;
  2. for which:
    - a. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date; if the conviction is a misdemeanor offense; or
    - b. less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or
    - c. less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.
  3. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or person residing with the applicant.
- E. Transfer of ownership or control 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 device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

- A. Definitions included. All definitions listed in the Zoning Code relating to sexually oriented businesses are applicable to this Article.

### **Section 8-5-3 License requirements**

- A. It is unlawful:
1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this Article.
  2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the City pursuant to this Article.
  3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this Article.
- B. An application for a license must be made on a form provided by the City.
- C. All applicants must be qualified according to the provisions of this Article. The application may request and the applicant shall provide such information (including fingerprints) as to enable the City to determine whether the applicant meets the qualifications established in this Article.
- D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under this Article and each applicant shall be considered a licensee if a license is granted.
- E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
1. If the applicant is:
    - a. an individual, the individual shall State his/her legal name and any aliases and submit proof that he/she is 18 years of age;
    - b. a partnership, the partnership shall State its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
    - c. a corporation, the corporation shall State its complete name, the



date of its incorporation, evidence that the corporation is in good standing under the laws of its State of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

- d. a limited liability company, the company shall State its complete name, and the names of all members who own a twenty-percent or greater interest in the capital or profits of the limited liability company. If the management of the limited liability company is vested in a Manager or Managers, the company shall also State the name of each person who is a Manager of the limited liability company.
2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must State the sexually oriented business's fictitious name and submit the required registration documents.
  3. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this Article, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
  4. Whether the applicant, or a person residing with the applicant, has had a previous license under this Article or other similar sexually oriented business ordinances from another City or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this Article whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
  5. Whether the applicant or a person residing with the applicant holds any other licenses under this Article or other similar sexually oriented business ordinance from another City or county and, if so, the names and locations of such other licensed businesses.
  6. The single classification of license for which the applicant is filing.
  7. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if

any.

8. The applicant's mailing address and residential address.
9. A recent photograph of the applicant(s).
10. The applicant's Driver's License Number, Social Security Number, and/or his/her State or federally issued Tax Identification Number.
11. 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 (6) inches.
12. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 200 feet of the property to be certified and also depicting the property lines of any established use listed in Section 68(D)(2) of the Zoning Code Article pertaining to sexually oriented business within one thousand (1,000) feet of the property to be certified. For purposes of this paragraph, a use shall be considered existing or established if it is in existence at the time an application is submitted.

#### **Section 8-5-4 Employee License**

- A. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the City the following information:
  1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
  2. Age, date, and place of birth;
  3. Height, weight, hair and eye color;
  4. Present residence address and telephone number;
  5. Present business address and telephone number;
  6. Date, issuing State and number of driver's permit or other identification card information;
  7. Social Security number; and

9. Proof that the individual is at least eighteen (18) years of age.
- B. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:
1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.
  2. A Statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, City, State, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, State the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
  3. A Statement whether the applicant has been convicted of a specified criminal activity as defined in this Article and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.
- C. Upon the filing of an application for a sexually oriented business employee license, the City shall issue a temporary license to said applicant. The application shall then be referred to the appropriate City departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the City shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
1. The applicant has failed to provide information reasonable necessary for issuance of the license or has falsely answered a question or request for information on the application form;
  2. The applicant is under the age of eighteen (18) years;
  3. The applicant has been convicted of a "specified criminal activity" as defined in this Article;
  4. The sexually oriented business employee license is to be used for

employment in a business prohibited by local or State law, statute, rule or regulation, or prohibited by a particular provision of this Article;

5. The applicant has been denied a license by the City to operate a sexually oriented business within the preceding 12 months or has had a sexually oriented business operating license revoked by the City; or
6. The applicant has had a sexually oriented business employee license revoked by the City within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this Section shall be subject to appeal as set forth herein.

### **Section 8-5-5 Issuance and Renewal of License**

- A. Within 30 days after receipt of a completed sexually oriented business application, the City shall approve or deny the issuance of a license to an applicant. The City shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
  1. An applicant is under eighteen (18) years of age.
  2. An applicant or a person with whom applicant is residing is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
  3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
  4. An applicant or a person with whom the applicant is residing has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
  5. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this Article.
  6. The premises to be used for the sexually oriented business have not been approved by the Health Department, Fire Department, and the Building Official as being in compliance with applicable laws and ordinances.
  7. The license fee required by this Article has not been paid.

8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Article.
- B. The license, if granted shall State on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
- C. The Health Department, Fire Department, and the Building Official shall complete their certifications that the premises is in compliance or not in compliance with the requirements of this Article within twenty (20) days of receipt of the application by the City.
- D. A sexually oriented business license shall issue for only one classification set forth in Section 68(C) of the Zoning Code Article on sexually oriented businesses.
- E. A license granted pursuant to this Article shall be subject to annual renewal upon the written application of the applicant and a finding by the City that the applicant has not been convicted of any specified criminal activity as defined in this Article or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth herein.

#### **Section 8-5-6. Fees**

- A. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee as determined by the Council from time to time, however, in no event shall such fee be less than \$500 without amendment hereof.
- B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the City an annual non-refundable license fee in the amount provided by Resolution of the Council from time to time of prior to license issuance or renewal.
- C. Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual non-refundable application, investigation, and license fee as determined by resolution of the Council from time to time, but in no event shall such fee be less than \$250 without amendment hereof.

### **Section 8-5-7 Inspection**

- A. An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other City departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
- B. A person who operates a sexually oriented business or his agent or employee commits a civil violation punishable as provided in Section 1-5-1(A) of this Code, if he refuses to permit such lawful inspection of the premises at any time it is open for business.

### **Section 8-5-8 Expiration of License**

- A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.
- B. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.

### **Section 8-5-9 Suspension**

- A. The City shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has committed any of the following:
  - 1. violated or is not in compliance with any provision of this Article;
  - 2. refused to allow an inspection of the sexually oriented business premises as authorized by this Article;
  - 3. has violated applicable provisions of the Globe City Code.
  - 4. been on the premises of the sexually-oriented business while in an intoxicated condition or has committed disorderly conduct as defined in A.R.S. §13-2904, as amended, while on the premises of the business, or knowingly has permitted an employee to be on the business premises while the employee was in an intoxicated condition;

5. knowingly permitted gambling by any person on the premises of the sexually oriented business.

**Section 8-5-10 Revocation**

- A. The City shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding twelve (12) months.
- B. The City shall revoke a license if it determines any of the following:
  1. a licensee gave false or misleading information in the material submitted during the application process;
  2. a licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
  3. a licensee has knowingly allowed prostitution on the premises;
  4. a licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
  5. except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises;
  6. a licensee is delinquent in payment to the City, County, or State for any taxes or fees past due; or
  7. on two (2) or more occasions within a twelve (12) month period, a person or persons while in or on the licensed premises committed an offense listed herein for which a conviction has been obtained, and the person or persons were Manager or employees of the sexually-oriented business at the time the offenses were committed. The license denial, suspension, or revocation shall be stayed automatically pending judicial review of such administrative action.
- C. When the City revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.
- D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent

jurisdiction. The administrative action shall be promptly reviewed by the court.

**Section 8-5-11 Transfer of License**

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

**Section 8-5-12 Injunction**

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of any part of this Article is subject to suit for injunction as well as prosecution for a civil violation punishable as provided in Section 1-5-1(A) of this Code. Each day a sexually oriented business operates in violation of any part of this Article is a separate offense or violation.



## **ARTICLE 8-6 LICENSING OF MEDICAL MARIJUANA-RELATED FACILITIES**

Section 8-6-1	Purpose and Intent
Section 8-6-2	Definitions
Section 8-6-3	License Requirements
Section 8-6-4	Issuance and Renewal of License
Section 8-6-5	Fees
Section 8-6-6	Inspection
Section 8-6-7	Expiration of License
Section 8-6-8	Suspension
Section 8-6-9	Revocation
Section 8-6-10	Transfer of License
Section 8-6-11	Injunction
Section 8-6-12	Severability

### **Section 8-6-1 Purpose and Intent**

It is the purpose and intent of this article to regulate medical marijuana-related facilities in order to promote the health, safety, and general welfare of the citizens of the City of Globe and to establish reasonable and uniform business regulations.

### **Section 8-6-2 Definitions**

In this article, unless the context otherwise requires:

(1) Employee means a person who performs any service on the premises of a medical marijuana related facility on a full-time, part-time, volunteer or contract basis, whether or not the person is denominated as employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employees shall be registered medical marijuana dispensary agents as defined by Arizona Revised Statutes prior to the performance of the above referenced services. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of non-medical marijuana related goods to the premises.

(2) Licensee means a person in whose name a license to operate a medical marijuana related facility has been issued, as well as the individual listed as an applicant on the application for a license. A Licensee shall be a registered medical marijuana agent as defined by Arizona Revised Statutes prior to the opening of the medical marijuana related facility for operation.

(3) Medical marijuana means all parts of the genus cannabis whether growing or not, and the seed of such plants, that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

(4) A medical marijuana cultivation facility shall mean a building, structure or premises used for the cultivation or storage of medical marijuana which may be physically separate or off-site from a medical marijuana dispensary or a medical marijuana manufacturing facility. Medical marijuana cultivation means the process by which a person grows a marijuana plant.

(5) Medical marijuana dispensary means a non-profit entity as defined in Arizona Revised Statutes, that, for purposes of these regulations, sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.

(6) Medical marijuana-related facility includes any building, structure or premises used for the cultivation, storage, or dispersal of medical marijuana. A medical marijuana-related facility shall include a medical marijuana cultivation facility, a medical marijuana dispensary and a medical marijuana manufacturing facility.

(7) Medical marijuana manufacturing facility means a facility that produces medical marijuana by the means of cooking, blending, or incorporation into consumable goods.

(8) Medical marijuana qualifying patient means a person who has been diagnosed by a qualifying medical practitioner as having a debilitating medical condition as defined in Arizona Revised Statutes, Title 36, Chapter 28.1.

(9) Person means an individual, proprietorship, corporation, association or other legal entity.

(10) Specified criminal activity means any of the offenses listed in Arizona Revised Statutes, Title 36, Chapter 28.1 as an "excluded felony offense."

(11) Transfer of ownership or control of a medical marijuana-related facility means and includes any of the following:

(a) the sale, lease, or sublease of the business;

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

(c) the establishment of a trust, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(12) Definitions included. All definitions listed in Chapter 14 of this Code and Arizona Revised Statutes relating to medical marijuana-related facilities are applicable to this article.

### **Section 8-6-3 License Requirements**

(1) It is unlawful:

(a) For any person to operate a medical marijuana-related facility without a valid medical marijuana-related facility business license issued by the City pursuant to this article.

(b) For any person who operates a medical marijuana-related facility to employ a person to work for the medical marijuana-related facility who is not registered as a medical marijuana agent as that term is defined by the Arizona Revised Statutes.

(2) An application for a license must be made on a form or through a procedure provided by the City.

(3) All applicants must be qualified according to the provisions of this article prior to issuance of a medical marijuana-related facility business license. The application may request and the applicant shall provide such information and proof that the applicant meets the qualifications established by this article and state law.

(4) If a person who wishes to operate a medical marijuana-related facility is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a medical marijuana-related facility is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under this article and each applicant shall be considered a licensee if a license is granted.

(5) The completed application for a medical marijuana-related facility license shall contain the following information and shall be accompanied by the following documents:

(a) If the applicant is:

1) an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is twenty-one (21) years of age;

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

3) a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the law of the state of incorporation and authorized to do business in the

State of Arizona., the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

4) a limited liability company, the company shall state its complete name, and the names of all members who own a twenty (20) percent or greater interest in the capital or profits of the limited liability company. If the management of the limited liability company is vested in a manager or managers, the company shall also state the name of each person who is a manager of the limited liability company.

(b) If the applicant intends to operate the medical marijuana-related facility under a name other than that of the applicant, he or she must state the medical marijuana-related facility's name and submit the required registration documents.

(c) Whether the applicant has had a previous license under this article or other similar medical marijuana-related facility's ordinances from another city or county denied, suspended or revoked in the State of Arizona, including the name and location of the medical marijuana-related facility for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this article whose license has previously been denied, suspended or revoked in the State of Arizona, including the name and location of the medical marijuana-related facility for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(d) Whether the applicant holds any other licenses under this article or other similar medical marijuana-related facility ordinance from another city or county and, if so, the names and locations of such other licensed businesses.

(e) The classification of medical marijuana related facility license for which the applicant is filing.

(f) The location of the proposed medical marijuana-related facility, including a legal description of the property, street address, and telephone number(s), if any.

(g) The applicant's mailing address and residential address.

(h) A recent photograph of the applicant(s).

(i) The applicant's driver's license number, date of birth, and/or his/her state or federally issued tax identification number, where applicable.

(j) 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 shall be professionally prepared and must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(k) A current certificate and straight-line drawing prepared by a registered land surveyor depicting the property lines and the structures.

(l) A copy of all documentation provided to the state as a requirement for state licensing.

(m) Evidence that all conditions of approval as required by a conditional use permit and/or license agreement issued by the City of Globe have been met prior to the opening of the facility to the public or any operations..

(n) A copy of the Arizona Transaction Privilege Tax (TPT) identification Number, where applicable.

(o) Employees, volunteers and officers of the applicant shall undergo a thorough background check to include but not be limited to a driving record, credit check, and criminal record check. This background check will be conducted by the Chief of Police, or designee. Criminal convictions tending to show theft, deceit, violence or illegal drug activity may be grounds to deny the applicant the opportunity to participate in the Medical Marijuana industry within the City of Globe.

#### **Section 8-6-4 Issuance and Renewal of License**

(1) Within thirty (30) days after receipt of a completed medical marijuana related facility business application, the City shall approve or deny the issuance of a license to an applicant. The City shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(a) An applicant is under twenty-one (21) years of age.

(b) An applicant is overdue in payment to the city of taxes, fees, license fees, fines or penalties assessed against or imposed upon him/her in relation to any business.

(c) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

(d) An applicant has been denied a license by the City to operate a medical marijuana-related facility within the preceding twelve (12) months or whose license to operate a medical marijuana-related facility has been revoked within the preceding twelve (12)

months.

(e) An applicant has been convicted of specified criminal activity.

(f) The premises to be used for the medical marijuana-related facility have not been approved by the health department, fire department, police department and building official as being in compliance with applicable laws and ordinances.

(g) The license fee required by this article has not been paid.

(h) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this article.

(2) The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the medical marijuana related facility and the classification for which the license is issued. All licenses shall be posted in a conspicuous place at or near the entrance to the medical marijuana-related facility so that they may be easily read at any time.

(3) The health department, fire department, police department and the building official shall inspect the proposed business location and complete their certifications that the premises is in compliance or not in compliance with the requirements of this article within twenty (20) days of receipt of the application by the city, and periodically thereafter.

(4) A medical marijuana related facility license may be issued for more than one (1) medical marijuana related facility classification as set forth in Section 8-6-2 (6) per address.

(5) A license granted pursuant to this article shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any specified criminal activity as defined in this article or committed any act in violation of this article during the existence of the previous license, that the building in which the facility is located meets all building codes current at the time and that all alarm, security and exiting requirements are met. Failure to meet any criteria required by state or local law shall be grounds to deny the initial license application or any license renewal. The renewal of the license shall be subject to the payment of the fee as set forth herein.

### **Section 8-6-5 Fees**

(1) Every application for a medical marijuana-related facility (whether for a new license or for renewal of an existing license) shall be accompanied by an application and inspection fee as adopted by the City Council.

(2) In addition to the application and investigation fee required above, every medical marijuana-related facility that is granted a license (new or renewal) shall pay to the city a non-refundable license fee as adopted by the City Council.

### **Section 8-6-6 Inspection**

(1) An applicant or licensee shall permit representatives of the police department, health department, fire department, zoning department, or other city departments or agencies to inspect the premises of a medical marijuana-related facility for the purpose of insuring compliance with the law at any time it is occupied or open for business.

(2) A person who operates a medical marijuana-related facility or his agent or employee commits a civil violation punishable as provided in section 1-5-1(a) of this Code, if he or she refuses to permit such lawful inspection of the premises at any time it is open for business. Such refusal shall be grounds for suspension and revocation of a license hereunder.

### **Section 8-6-7 Expiration of License**

(1) Each license shall expire at the end of each calendar year, unless otherwise provided by the City Council, and may be renewed only by making application as provided herein. Application for renewal shall be made at least thirty (30) days before the expiration date.

(2) If the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.

### **Section 8-6-8 Suspension**

(1) The city shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has committed any of the following:

(a) violated or is not in compliance with any provision of this article;

(b) refused to allow an inspection of the medical marijuana-related facility as authorized by this article;

(c) has violated applicable provisions of the Globe City Code.

(d) has violated applicable provisions of the Arizona Revised Statutes.

(e) has provided products unfit for human consumption or in any manner by consumer fraud.

(f) has dispensed marijuana to unauthorized recipients, including but not limited to minors.

(g) the Licensee is in violation of the Arizona Medical Marijuana Act or Regulations adopted pursuant thereto by the Arizona Department of Health Services.

(h) The Licensee has failed to obtain or is in violation of a medical marijuana related facility license agreement , conditional use permit, or this Code.

### **Section 8-6-9 Revocation**

(1) The city shall revoke a license if a cause of suspension occurs and the license has previously been suspended within the preceding twelve (12) months.

(2) The city shall revoke a license if it determines any of the following:

(a) a licensee gave false or misleading information in the material submitted during the application process;

(b) a licensee has knowingly allowed possession, use or sale of illegal controlled substances on the premises;

(c) a licensee knowingly operated the medical marijuana-related facility during a period of time when the licensee's license was suspended;

(d) a licensee is delinquent in payment to the city, county or state for any taxes or fees past due; or

(e) on two (2) or more occasions within a twelve (12) month period, a person or persons while in or on the licensed premises committed an offense listed herein for which a conviction has been obtained, and the person or persons were managers or employees of the medical marijuana-related facility at the time the offenses were committed.

(f) failure to immediately report to law enforcement any criminal activity in or on the premises of a cultivation or dispensary site.

(3) If the city revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a medical marijuana-related facility license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.



(4) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction.

**Section 8-6-10 Transfer of License**

A licensee shall not transfer his/her license to another, nor shall a licensee operate a medical marijuana-related facility under the authority of a license at any place other than the address designated in the application.

**Section 8-6-11 Injunction**

A person who operates or causes to be operated a medical marijuana-related facility without a valid license or in violation of any part of this article is subject to suit for injunction as well as prosecution for a civil violation punishable as provided in section 1-5-1(a) of this Code. Each day a medical marijuana-related facility operates in violation of any part of this article is a separate offense or violation.

**Section 8-6-12 Severability**

If any part of this section is found to be invalid or unconstitutional by any court, such action shall not apply to this section as a whole, but only to that specific part, and it is intended and declared that all parts of said section not expressly declared to be invalid or unconstitutional shall continue in full force and effect notwithstanding so much thereof as may be declared to be invalid or unconstitutional.