

## **Title 5**

### **BUSINESS LICENSES AND REGULATIONS**

#### **Chapters:**

- 5.02 Business Licenses**
- 5.04 Amusement Devices**
- 5.08 Games of Chance**
- 5.12 *Repealed***
- 5.16 Gambling**
- 5.32 Adult Entertainment**



**Chapter 5.02****BUSINESS LICENSES**

## Sections:

- 5.02.010 Short title.
- 5.02.020 Scope.
- 5.02.030 Definitions.
- 5.02.040 Requirement generally.
- 5.02.045 Exemptions.
- 5.02.050 Regulations applicability to special sales.
- 5.02.060 Responsibility for regulation compliance by nonresidents.
- 5.02.070 Separate licenses for branch establishments.
- 5.02.080 Joint licenses.
- 5.02.090 License officer duties.
- 5.02.100 Application – Required – Form.
- 5.02.110 Application – Fee accompanying.
- 5.02.120 Issuance delay – Fee payment receipt.
- 5.02.130 Duplicate license – Fee.
- 5.02.135 Application – Denial or revocation.
- 5.02.140 Application – Disapproval action.
- 5.02.150 Business license – Fees.
- 5.02.155 Posting.
- 5.02.160 Renewal.
- 5.02.170 Fee – Nonpayment action – Monetary penalty.
- 5.02.180 Revocation of license.
- 5.02.190 Fee – Collection by civil action.
- 5.02.200 Criminal penalty.

**5.02.010 Short title.**

The ordinance codified in this chapter shall be known and may be cited as the “general licensing ordinance of the city.” (Ord. 675 § 1, 1978).

**5.02.020 Scope.**

It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with the existing provisions of other laws or ordinances, except those specifically repealed by the ordinance codified in this chapter. Where this chapter imposes a greater restriction upon persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract

or deed, the provisions of this chapter shall control. (Ord. 675 § 2, 1978).

**5.02.030 Definitions.**

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this section:

A. “Business” includes all kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, intended to generate revenue or conducted for private profit or benefit, either directly or indirectly, within the city’s jurisdiction, except when said vocation, occupation or otherwise is an undertaking primarily involving the use of land in the city for agricultural purposes. Transient merchants, peddlers and street peddlers are businesses for the purposes of this chapter.

B. “City license officer” is the city clerk.

C. “License” or “licensee,” as used generally in this chapter, includes respectively the words “permit” or “permittee,” or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this chapter or other law or ordinance.

D. “Peddler” means any person who sells, attempts to sell, or solicits the sale or purchase of goods, wares or merchandise, or services, by going from place to place or from house to house, whether he or she carries with him or her for delivery such property or whether he or she merely solicits orders for future delivery or performance.

E. “Person” includes individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations, or any officer, agent, employee, factor or any kind of personal representative thereof, in any capacity, acting either for himself, or any other person, under either personal appointment or pursuant to law.

F. “Premises” includes all lands, structures and places, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

G. “Street peddler” means any person who sells, attempts to sell, or solicits the sale or purchase of goods, wares or merchandise, or ser-

## 5.02.040

vices from a location on any street, alley, sidewalk or other public thoroughfare, whether he or she carries with him or her for such delivery such property or whether he or she merely solicits for future delivery or performance.

H. "Transient merchant" means any person, firm or corporation who engages in, does or transacts any temporary business at wholesale or retail for the sale of goods, wares or merchandise, or services, and who for such purpose shall use or occupy any building, vehicle, booth or other structure, either temporary or permanent, for the exhibition and/or sale of such property or services. (Ord. 1338 § 1, 1997; Ord. 675 § 3, 1978).

### 5.02.040 Requirement generally.

A. Every business shall obtain from the city license officer a general business license for the current calendar year or unexpired portion thereof before commencing business. The license shall be nontransferable.

B. It shall be unlawful for any person to conduct any business, either directly or indirectly, for which a license is required by any law or ordinance of the city, without first procuring and keeping said license in effect at all times as required by this chapter or other law or ordinance of this city. (Ord. 1338 § 2, 1997; Ord. 675 § 4, 1978).

### 5.02.045 Exemptions.

The license requirements of this chapter shall not apply to religious, charitable or benevolent societies or organizations. (Ord. 1354 § 1, 1997; Ord. 1338 § 3, 1997).

### 5.02.050 Regulations applicability to special sales.

This chapter shall apply to all business in the nature of special sales for which a license is required by any law or ordinance of the city, and it is unlawful for any person, either directly or indirectly, to conduct any such sale except in conformity with the provisions of this chapter. (Ord. 675 § 5, 1978).

### 5.02.060 Responsibility for regulation compliance by nonresidents.

The agents or other representatives of nonresidents who are doing business in the city shall be personally responsible for the compliance of their principals and the businesses they represent with this chapter. (Ord. 675 § 6, 1978).

### 5.02.070 Separate licenses for branch establishments.

A. A license shall be obtained in the manner prescribed in this chapter for each branch establishment or location, as if each such branch establishment or location were a separate business; provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments.

B. Each rental real property shall be deemed a branch establishment or separate place of business for the purpose of this chapter, when there is a representative of the owner or the owner's agent on the premises who is authorized to transact business for such owner or owner's agent or there is a regular employee of the owner or of the owner's agent working on the premises. (Ord. 675 § 7, 1978).

### 5.02.080 Joint licenses.

A person engaged in two or more businesses at the same location shall not be required to obtain separate licenses for conducting each of such businesses but, when eligible, shall be issued one license which shall specify on its face all such businesses. (Ord. 675 § 8, 1978).

### 5.02.090 License officer duties.

The city license officer shall collect all license fees and shall issue licenses in the name of the city to all persons qualified under the provisions of this chapter and shall:

A. Adopt all forms and prescribe the information to be given therein as to character and other relevant matter for all necessary papers;

B. Submit all applications, in a proper case, to interested city officials for their endorsements thereon as to compliance by the appli-

cant with all city regulations which they have the duty of enforcing;

C. Notify any applicant of the acceptance or rejection of his application and shall, upon his refusal of any license or permit, at the applicant's request, state in writing the reasons therefor and deliver them to the applicant. (Ord. 675 § 9, 1978).

#### **5.02.100 Application – Required – Form.**

Every person required to procure a license under the provisions of any ordinance or law of the city shall submit an application for such license to the city license officer. The application shall be a written statement upon a form provided by the city license officer and which the city license officer finds to be reasonably necessary to the fair administration of this chapter. (Ord. 675 § 10, 1978).

#### **5.02.110 Application – Fee accompanying.**

The application for license shall be accompanied by the full amount of the fee chargeable for such license. (Ord. 675 § 11, 1978).

#### **5.02.120 Issuance delay – Fee payment receipt.**

Whenever a license cannot be issued at the time the application for the same is made, the city license officer shall issue a receipt to the applicant for the money paid in advance, subject to the following conditions: Such receipt shall not be construed as the approval of the city license officer for the issuance of a license, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter. (Ord. 675 § 12, 1978).

#### **5.02.130 Duplicate license – Fee.**

A duplicate license or a special permit shall be issued by the license officer to replace any license previously issued which has been lost, stolen, defaced or destroyed, without any wilful conduct on the part of the licensee, upon the filing by the licensee of an affidavit attesting to such fact. There shall be a fee for such license as established by city resolution. (Ord. 1375 § 10, 1998; Ord. 675 § 13, 1978).

#### **5.02.135 Application – Denial or revocation.**

The city license officer may deny an application for a business license, or revoke a business license previously issued, upon the following grounds:

A. The making of a false statement of material fact in the application for a business license or in any data or information required to be submitted with such application; or

B. With respect to businesses in which the applicant or licensee, or any agent or employee of the applicant or licensee, may enter private residences or transport members of the public, any conviction of the applicant or licensee of a felony or misdemeanor involving an intent to defraud, or any conviction of any agents or employees of a felony or misdemeanor involving an intent to defraud committed while acting within the scope of their employment. (Ord. 1338 § 4, 1997).

#### **5.02.140 Application – Disapproval action.**

The license officer shall, upon disapproving any application submitted under the provisions of this chapter, refund all fees paid in advance to the applicant, provided the applicant is not otherwise indebted to the city.

When the issuance of a license is denied and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued to him pursuant to a judgment ordering the same. (Ord. 675 § 14, 1978).

#### **5.02.150 Business license – Fees.**

A. **Businesses Located Inside City Limits.** Every business within the corporate limits of the city, having a place of business or headquarters located within the corporate limits of the city, shall pay a fee as established by city resolution for the privilege of engaging in business in the city. The annual license fees provided for in this section shall be paid in full, irrespective of the date the license is issued.

B. **Short Term Employment Within City.** Businesses without a place of business or headquarters located within the corporate limits of this city, whose employees are normally

## 5.02.155

situated outside the city, but who work within the city for one day or more, such as contractor's employees, shall pay an annual license fee as established by city resolution.

C. Transient merchants, peddlers and street peddlers shall pay an annual license fee as established by city resolution.

D. The license fee imposed in this chapter shall be in addition to all other fees and taxes imposed by the city.

E. The license fee imposed by this chapter shall be waived for businesses participating in city-sponsored community events. This fee waiver shall only apply to business conducted as a part of the city-sponsored community event and shall not constitute a waiver for any other purpose. (Ord. 1456 § 1, 2000; Ord. 1375 § 11, 1998; Ord. 1338 § 5, 1997; Ord. 1279 § 1, 1995; Ord. 675 § 15, 1978).

### 5.02.155 Posting.

A. Every business shall keep and post the license issued it pursuant to this chapter on the premises of the business.

B. Every transient merchant, peddler or street peddler shall have in his or her possession at all times, while conducting business as such, the license issued pursuant to this chapter. No soliciting or peddling is permitted between the hours of 5:00 p.m. and 8:00 a.m. (Ord. 1338 § 6, 1997).

### 5.02.160 Renewal.

All licenses shall be renewable, and the annual license fee shall be due on January 1st of each year. The city license officer is authorized, but not required, to mail to businesses forms for application for license renewal. Failure of the business to receive any such form shall not excuse the business from applying for and securing the license, and paying of the license fee due. (Ord. 1279 § 2, 1995; Ord. 675 § 16, 1978).

### 5.02.170 Fee – Nonpayment action – Monetary penalty.

Failure to obtain a license, or failure to pay the license fee within 30 days after the day on which it is due, shall render the business subject to a penalty of 50 percent of the amount of

the license fee for the first month of delinquency and an additional penalty of 10 percent for each succeeding month of delinquency; provided, that the total penalty shall not exceed the amount of the license fee. (Ord. 1279 § 3, 1995; Ord. 675 § 17, 1978).

### 5.02.180 Revocation of license.

A. The city license officer may revoke any license issued pursuant to this chapter to any business or other person who is in default in payment of any license fee due under this chapter, or who shall fail to comply with any of the provisions of this chapter. Notice of such revocation shall be mailed by certified mail to the license holder, at the address stated in the license or license renewal application, by the city license officer or designee at least 15 days prior to the revocation date. The notice shall state that the license shall be revoked unless the license holder files a written appeal with the city license officer on or before the revocation date. Unless an appeal is received by the city license officer by the revocation date, on and after the revocation date any business that continues to engage in business shall be deemed to be operating without a license and shall be subject to any and all penalties provided in this chapter.

B. If an appeal is received by the licensing officer by the revocation date, the city council shall, as soon as practical, fix a time and place for hearing the appeal. Notice of the hearing shall be given to the appellant by certified mail at least 10 days prior to the hearing date. (Ord. 1279 § 4, 1995; Ord. 675 § 18, 1978).

### 5.02.190 Fee – Collection by civil action.

Any license fee due and unpaid and delinquent under this chapter, and all penalties thereon, may be collected by civil action, which remedy shall be in addition to any and all other existing remedies and penalties. (Ord. 675 § 19, 1978).

### 5.02.200 Criminal penalty.

Any business enterprise violating or failing to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the council pursuant to this chapter,

upon conviction thereof, shall be punished by a fine not to exceed \$500.00 or by imprisonment in jail for a term not exceeding 90 days, or by both such fine and imprisonment. Any business enterprise which engages in any business required to be licensed hereunder without having a business license shall be guilty of a separate violation of this chapter for each day during which the business is so engaged. (Ord. 1279 § 5, 1995; Ord. 1167 § 3, 1992; Ord. 675 § 20, 1978).

## Chapter 5.04

### AMUSEMENT DEVICES<sup>1</sup>

#### Sections:

- 5.04.010 Purpose.
- 5.04.020 Definitions.
- 5.04.030 License required.
- 5.04.040 Application for license – Nontransferable.
- 5.04.050 Amusement devices – Fees.
- 5.04.060 Amusement devices prohibited near schools – Exceptions.
- 5.04.070 Enforcement – Duties of police.
- 5.04.080 Revoking license.
- 5.04.090 Violation – Penalty.
- 5.04.100 Maximum devices allowable.

#### 5.04.010 Purpose.

This chapter is deemed expedient to maintain peace, good government and welfare of the city, and its trade, commerce and manufactures, and as a proper exercise of the police power of the city. (Ord. 382 § 1, 1964).

#### 5.04.020 Definitions.

A. “Amusement device” means any and all machines or devices wherein a person deposits any coin, token or slug or pays in coin or money for the privilege of operating such amusement device without any prospect of reward in money, merchandise or any form of payoff, prize or award, and for the sole purpose of entertainment only.

B. “Operator” as used herein means any person, firm, corporation, partnership or association who sets up for operation by another or leases or distributes for the purpose of operation by another, any device as herein defined, whether such setting up for operation, leasing or distributing be for a fixed charge or rental, or on the basis of a division of the income as derived from such device or otherwise.

---

1. For statutory provisions authorizing third-class cities to license, for purposes of regulation and revenue, all and every kind of business authorized by law, see RCW 35.24.290; for provisions regarding gambling, see Chapter 9.47 RCW.

## 5.04.030

C. "Proprietor" means any person, firm, corporation, partnership, association or club who, as the owner, lessee, or proprietor, has under his or its control any establishment, place or premises in or at which such device is placed or kept for use or play, or on exhibition for the purposes of use or play. (Ord. 382 § 2, 1964).

### 5.04.030 License required.

It is unlawful to permit to be operated or used, or to possess with the intent that the same may be operated or used, or to keep in any place where people gather, within the corporate limits of the city, any amusement device without having a valid, unrevoked license issued under the provisions of this chapter, which license shall be designated "amusement game license." (Ord. 382 § 3, 1964).

### 5.04.040 Application for license – Nontransferable.

Application for license hereunder shall be filed in writing with the city clerk, on a form to be provided by the city, and shall specify:

A. The name and address of the applicant, and, if a firm, corporation, partnership or association, the principal officers thereof and their addresses;

B. The address of the premises where the licensed device or devices are to be operated, together with the character of the business as carried on at such place;

C. The trade name and general description of the device or devices to be licensed, the name of the manufacturer and the serial number, and, if the applicant is a proprietor, the number of devices to be licensed;

D. The name and address of the operator of the device or devices, if other than the proprietor.

The proper license fee shall accompany such application. Application for license hereunder shall be first referred by the city clerk to the mayor and council, who shall make or cause to be made such investigation as they deem necessary. If the application is approved by the mayor and council, the license shall be issued by the clerk, and the clerk shall remit the fee to the city treasurer. If the license is

denied the fee shall be returned to the applicant. Each amusement device licensed for operation under the provisions of this chapter shall have affixed thereto in a conspicuous place a sticker or label, legibly setting forth the name and address of the licensee, the license number and the period for which such license is issued, together with the words "City of Pacific." Such license shall be nonassignable and nontransferable, and in the case of a proprietor shall apply only to the premises for which such license is issued. (Ord. 382 § 4, 1964).

### 5.04.050 Amusement devices – Fees.

There shall be a license fee for amusement devices as established by city resolution. (Ord. 1375 § 12, 1998; Ord. 616 § 1, 1976; Ord. 382 § 5, 1964).

### 5.04.060 Amusement devices prohibited near schools – Exceptions.

No amusement license shall be issued for, nor shall any amusement device be used or operated, in any building or place within 500 feet of the grounds or building of any school except kiddy rides, hobby horses, and nickelodeons. (Ord. 382 § 6, 1964).

### 5.04.070 Enforcement – Duties of police.

The police department shall be charged with the enforcement of this chapter and shall make periodic checks on all amusement devices, and shall keep an inventory at all times of the number of amusement devices and machines in the city and shall submit to the city clerk once annually such an inventory in writing to be placed in the records of the city clerk. (Ord. 382 § 7, 1964).

### 5.04.080 Revoking license.

If the city council shall find that any licensee has violated any provision of this chapter or any other ordinance or statute relating to the operation of the amusement devices, the city council may revoke the license issued to such holder and remove the license sticker or label from such amusement device operated by the holder; but such revocation or failure to revoke for violation of the provisions of this chapter



shall not relieve the licensee from liability to punishment under penalties provided in PMC 5.04.090. (Ord. 382 § 8, 1964).

**5.04.090 Violation – Penalty.**

Unless another penalty is expressly provided by law, every person convicted of a violation of any provision of this chapter shall be punished by a fine of not more than \$1,000 or by imprisonment in the city jail for not more than 90 days, or by both such fine and imprisonment. (Ord. 1167 § 4, 1992; Ord. 382 § 9, 1964).

**5.04.100 Maximum devices allowable.**

No person or operator is authorized to maintain or utilize more than eight amusement devices per each individual license applied for and granted. (Ord. 857 § 1, 1982).

**Chapter 5.08**

**GAMES OF CHANCE<sup>1</sup>**

Sections:

- 5.08.010 Games of chance license – Fee.
- 5.08.020 License issuance.
- 5.08.030 License revocation.

**5.08.010 Games of chance license – Fee.**

There shall be a fee for operating any game of chance within the city limits as established by city resolution. (Ord. 1375 § 13, 1998; Ord. 127-B § 1, 1940).

**5.08.020 License issuance.**

The treasurer’s receipt for the license fee shall be presented to the clerk who will then issue the license. (Ord. 1375 § 14, 1998; Ord. 127-B § 2, 1940).

**5.08.030 License revocation.**

If PMC 5.08.010 or 5.08.020 are violated the license will be revoked. (Ord. 127-B § 3, 1940).

---

1. For statutory provisions regarding gambling, see Chapter 9.47 RCW.

**Chapter 5.12**

**TRANSIENT MERCHANTS**

(Repealed by Ord. 1338)

**Chapter 5.16**

**GAMBLING<sup>1</sup>**

Sections:

- 5.16.005 Definitions.
- 5.16.010 Tax levied.
- 5.16.020 License required.
- 5.16.030 Administration and collection.
- 5.16.040 Declaration of intent.
- 5.16.050 Payment – Method – Delinquency.
- 5.16.060 Payment – Failure – Refusal.
- 5.16.070 Collection agreement with county.
- 5.16.080 Financial records.

**5.16.005 Definitions.**

For the purposes of this chapter, the words and terms used herein shall have the same meaning as each has under Chapter 9.46 RCW, and under the rules of the Washington State Gambling Commission, WAC Title 230, as said definitions presently exist or are hereafter amended, unless otherwise specifically provided or the context in which they are used in this chapter clearly indicates that they are given some other meaning. (Ord. 1462 § 1, 2000).

**5.16.010 Tax levied.**

A. In accordance with Chapter 9.46 RCW, there is hereby levied upon all persons, associations and organizations who have been duly licensed by the Washington State Gambling Commission to conduct or operate:

- 1. Any bingo games and raffles, a tax rate of five percent of the gross receipts received therefrom less the amount awarded as cash or merchandise prizes, if not prohibited in PMC 5.16.020;
- 2. Any punchboards or pull tabs, a tax rate of five percent of the gross receipts from such punchboards or pull tabs, if not prohibited in PMC 5.16.020;
- 3. Social card games, a tax rate of 20 percent, if not prohibited in PMC 5.16.020;

---

1. For statutory provisions governing gambling, see Chapter 9.47 RCW.

4. Any public cardroom operated as a commercial stimulant, a tax of 20 percent; and

5. Amusement games, a tax rate of two percent of the gross receipts, less the amount awarded as prizes.

B. Provided, however, that the following exemptions shall apply to the tax levied in subsection A of this section:

1. No tax shall be imposed on bingo or amusement games when such activities or any combination thereof are conducted by a bona fide charitable or nonprofit organization which organization has no paid operating or management personnel and has gross receipts from bingo or amusement games, or a combination thereof, not exceeding \$5,000 per year, less the amount awarded as cash or merchandise prizes.

2. No tax shall be imposed on the first \$10,000 of gross receipts less the amount awarded as cash or merchandise prizes from raffles conducted by a bona fide charitable or nonprofit organization. (Ord. 1462 § 2, 2000; Ord. 1299 § 1, 1996; Ord. 543 § 1, 1975).

#### **5.16.020 License required.**

The conduct or operation of bingo, raffles and amusement games, punchboards and pull tabs, social card games in nonprofit organizations, cardrooms as a commercial stimulant is prohibited unless licensed and regulated as provided in this chapter. (Ord. 543 § 2, 1975).

#### **5.16.030 Administration and collection.**

The administration and collection of the tax imposed by this chapter shall be by the city treasurer and pursuant to the rules and regulations of the Washington State Gambling Commission. The city treasurer shall adopt and publish such rules and regulations as may be reasonably necessary to enable the collection of the tax imposed herein. (Ord. 543 § 3, 1975).

#### **5.16.040 Declaration of intent.**

For the purpose of identifying who shall be subject to the tax imposed by this chapter, any person, association or organization intending to conduct or operate any gambling activity authorized by Chapter 9.46 RCW, shall, prior to commencement of any such activity, file with the chief of police a sworn declaration of

intent to conduct or operate such activity, together with a copy of the license issued in accordance with Chapter 9.46 RCW. The chief of police shall thereafter file such documents with the city clerk within 30 days of receipt.

Thereafter, for any period covered by such state license or any renewal thereof, any person, association or organization shall, on or before the fifteenth day of the month following the end of the quarterly period in which the tax accrued, file with the city treasurer a sworn statement, on a form to be provided and prescribed by the city clerk for the purpose of ascertaining the tax due for the preceding quarterly period. (Ord. 543 § 4, 1975).

#### **5.16.050 Payment – Method – Delinquency.**

The tax imposed by this chapter shall be due and payable in quarterly installments, and remittance therefor shall accompany each return and be made on or before the fifteenth day of the month next succeeding the quarterly period in which the tax accrued.

For each payment due, if such payment is not made by the due date thereof, there shall be added a penalty as follows:

A. If paid on or before the final day of the month next succeeding the quarterly period in which the tax accrued, 10 percent with a minimum penalty of \$5.00;

B. If paid prior to the fifteenth day of the second month next succeeding the quarterly period in which the tax accrued, 15 percent with a minimum penalty of \$10.00;

C. Failure to make payment by the fifteenth day of the second month next succeeding the quarterly period in which the tax accrued shall be deemed to be both a criminal and civil violation of this section. (Ord. 543 § 5, 1975).

#### **5.16.060 Payment – Failure – Refusal.**

Any person who shall fail or refuse to pay the tax as required in this chapter, or who shall wilfully disobey any rule or regulation promulgated by the city council hereunder, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than 90 days or by a fine of not more than \$500.00 or both. Any such fine shall be in

## 5.16.070

addition to the tax required. Officers, directors and managers of any organization conducting gambling activities shall be jointly and severally liable for the payment of the tax and for the payment of any fine imposed under this chapter. (Ord. 543 § 6, 1975).

### 5.16.070 Collection agreement with county.

The mayor and city clerk are hereby authorized to enter into any contract or agreements with King County for the collection and distribution of the tax imposed by this chapter. The mayor and city clerk are further authorized to enter into any contracts or agreements with King County for law enforcement services with respect to gambling operations. (Ord. 543 § 7, 1975).

### 5.16.080 Financial records.

It shall be the responsibility of all officers, directors and managers of any organization conducting any gambling activities subject to taxation under this chapter to make available at all reasonable times such financial records as the mayor, his authorized representative or law enforcement representative of the city may require in order to determine full compliance with this chapter. (Ord. 543 § 8, 1975).

## Chapter 5.32

### ADULT ENTERTAINMENT<sup>1</sup>

#### Sections:

- 5.32.010 Definitions.
- 5.32.020 License required.
- 5.32.030 License fees and duration.
- 5.32.040 License application.
- 5.32.050 Processing of license applications.
- 5.32.060 Denial of application for license.
- 5.32.070 License renewal.
- 5.32.080 Other license requirements.
- 5.32.090 Appeal.
- 5.32.100 Standards of conduct and operation – Exotic dance studios.
- 5.32.110 Standards of conduct and operation – Adult arcades, adult motion picture theaters and other adult entertainment businesses providing on-site entertainment.
- 5.32.120 Standards of conduct and operation – Adult bookstores, novelty stores, video stores and other businesses whether or not qualifying as adult entertainment businesses.
- 5.32.130 Standards of conduct and operations – Adult arcades.
- 5.32.140 License suspension and revocation.
- 5.32.150 Violation – Penalty – Misdemeanor.
- 5.32.160 Severability.

#### 5.32.010 Definitions.

A. “Adult entertainment” means:

1. Any dance, show, display, exhibition, pantomime, modeling or any like performance of any type which involves a person who is unclothed or in such costume, attire or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or

---

1. Prior legislation: Ords. 659 and 1167.

human male genitals in a discernibly turgid state, even if completely covered; or

2. Any dance, amusement, show, display, exhibition, pantomime, modeling or any like performance of any type where such performance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:

a. Human genitals in a state of sexual stimulation or arousal;

b. Acts of human masturbation, sexual intercourse or sodomy; or

c. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or

3. Any dance, amusement, show, display, exhibition, pantomime, modeling or any like performance of any type which is intended to sexually stimulate any member of the public and which is conducted on a regular basis or as a substantial part of the premises activity. This includes, but is not limited to, any such performance performed for, arranged with or engaged in with fewer than all members of the public on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance and which is commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.

B. "Adult entertainment business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult motion picture theater, and exotic dance studio, more specifically defined as follows:

1. "Adult arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, like projectors, computer generated or enhanced pornography, panoram, peep show, or other image producing machines, for personal viewing, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which provides materials for individual viewing by patrons on the premises of the business which are characterized by the depiction or description of nudity or specified sexual activities.

2. "Adult bookstore, adult novelty store or adult video store" means a commercial establishment whose stock-in-trade, which is made available to the public for any form of consideration, is substantially or significantly comprised of books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other photographic reproductions or visual representations, which are characterized by the depiction or description of nudity or specified sexual activities. It shall be a rebuttable presumption that 20 percent of a business' stock-in-trade is considered substantial or significant.

3. "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions characterized by the depiction or description of nudity or specified sexual activities are regularly shown for any form of consideration.

4. "Exotic dance studio" means a night club, bar, restaurant or similar commercial establishment to which any member of the public is invited or admitted and where an entertainer provides live adult entertainment performances to any member of the public.

C. "Applicant" means the individual or entity seeking an adult entertainment business license.

D. "Applicant control persons" means all partners, corporate officers and directors and any other individuals in the applicant's business organization who hold a significant interest in the adult entertainment business, based on responsibility for management of the adult entertainment business.

E. "Clerk" means such city employees or agents as the mayor shall designate to administer this chapter, or any designee thereof.

F. "Conviction" means an adjudication of conviction of guilt and occurs at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing or disposition, post-trial or post-fact finding motions and appeals. "Conviction" also means bail forfeiture.

## 5.32.020

G. "Employee" means any and all persons, including, but not limited to, managers, entertainers, and independent contractors, who work in or at or render any services directly related to the operation of any adult entertainment business offering adult entertainment, whether or not such person is compensated by the operator of such business.

H. "Entertainer" means any and all persons who provide live adult entertainment in an adult entertainment business, whether or not the person is an employee of the operator of the adult entertainment business, and whether or not the person is compensated by the operator of the business.

I. "Manager" means any person who manages, directs, administers or is in charge of the affairs and/or conduct or operation of any activity involving adult entertainment business. This term shall include assistant managers.

J. "Member of the public" means any customer, patron, club member, or person, other than an employee as defined in this section, who is invited or admitted to an adult entertainment business.

K. "Nude or nudity" means:

1. Less than completely and opaquely covered or in such attire, costume or clothing as to expose to view male genitals, female genitals, pubic region, buttocks, anus, or any portion of the female breast below the top of the areola;

2. Wearing any device or covering exposed to view which simulates the appearance of male genitals, female genitals, pubic region, buttocks, anus, or any portion of the female breast below the top of the areola.

L. "On-site entertainment" means adult entertainment which is provided on the premises of an adult entertainment business, whether or not provided for a fee or other consideration. This term shall not include the sale or rental of adult books, magazines, novelties and videos.

M. "Operator" means any person operating, conducting or maintaining an adult entertainment business.

N. "Panoram or peep show" means any device which, upon insertion of a coin or by

any other means, exhibits or displays a picture or view by film, video or any other means.

O. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized.

P. "Specified sexual activities" means any of the following:

1. The caressing, touching, fondling or other intentional or erotic touching of, pubic region, buttocks, anus, male genitals or female breasts of oneself or of one person by another; or

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, flagellation, sodomy, bestiality, or any sexual acts which are prohibited by law; or

3. Masturbation, actual or simulated; or

4. Human genitals in a state of sexual stimulation, arousal or tumescence or visual state of sexual stimulation, arousal or tumescence, even if completely and opaquely covered; or

5. Excretory functions as a part of or in connection with any of the activities set forth in this subsection. (Ord. 1381 § 1, 1998).

### 5.32.020 License required.

A. It shall be unlawful for any person to conduct, maintain or operate an adult entertainment business unless such person is the holder of a valid and subsisting license from the city to do so, obtained in the manner provided in this chapter.

B. It shall be unlawful for any entertainer, employee or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of an unlicensed adult entertainment business.

C. It shall be unlawful for any entertainer to perform adult entertainment in an adult entertainment business unless such person is the holder of a valid and subsisting license from the city to do so, obtained in the manner provided in this chapter.

D. It shall be unlawful for any manager to work in an adult entertainment business providing on-site adult entertainment unless such person is the holder of a valid and subsisting

license from the city to do so, obtained in the manner provided in this chapter.

E. Any violation of the provisions of this section shall constitute a misdemeanor as set forth in this chapter. (Ord. 1381 § 1, 1998).

#### **5.32.030 License fees and duration.**

##### **A. Adult Entertainment Businesses.**

1. The annual licensing fee for an exotic dance studio business shall be \$500.00. This amount shall be used for the cost of administration of this chapter.

2. The annual licensing fee for all other adult businesses shall be \$150.00. This amount shall be used for the cost of administration of this chapter.

B. Managers and Entertainers. The annual licensing fee for managers and entertainers shall be \$150.00.

C. Proration. There shall be no proration of the licensing fees described in this section, except that the fee for any such license obtained after June 30th shall be one-half of the fees provided in this section. (Ord. 1381 § 1, 1998).

#### **5.32.040 License application.**

##### **A. Adult Entertainment Business.**

1. All applications for an adult entertainment business license shall be submitted to the clerk in the name of the person or entity proposing to offer adult entertainment, and shall be signed by such person and certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the city, which shall require the following information:

a. The names, aliases or previous names, driver's license numbers (if any), social security numbers (if any), business, mailing and residential addresses, and business telephone numbers for the applicant and for each applicant control person.

b. If a partnership, whether the partnership is general or limited; and if a corporation, the date and place of incorporation, evidence that the corporation is in good standing under the laws of Washington, and the name and address of any registered agent for service of process.

c. Whether the applicant or any applicant control person(s) holds any other licenses for other adult entertainment businesses, from this city or from another city, county or state, and if so, the names and addresses of every other licensed adult entertainment business.

d. A summary of the business history of the applicant and applicant control persons in owning or operating adult entertainment businesses, including names, addresses and dates of operation for such businesses, and whether any adult entertainment licenses have been revoked or suspended, and the reasons therefor.

e. Any and all criminal convictions or forfeitures of the applicant, and all applicant control persons, other than parking offenses or minor traffic infractions, occurring within five years immediately preceding the date of the application, including the dates of conviction, nature of the crimes, the names and locations of courts, and dispositions.

f. A description of the business, occupation or employment histories of the applicant and all applicant control persons for the three years immediately preceding the date of the application.

g. Authorization for the city, its agents and employees to seek information to confirm any statements set forth in the application.

h. The location and doing-business-as name of the proposed adult entertainment business, including a legal description and street address of the property, and the names, addresses and telephone numbers of each owner and lessee of the property.

i. Two two-by-two inch color photographs of the applicant and applicant control persons, taken within six months of the date of application and showing only the full face.

j. A complete set of fingerprints for the applicant and each applicant control person, which shall be taken by city police department employees.

k. If the application is for an exotic dancing studio, a scale drawing or diagram showing the configuration of the premises for the proposed exotic dancing studio, including a statement of the total floor space occupied by

## 5.32.040

the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, management's offices and stations, restrooms and service areas shall be clearly marked on the drawing. An application for a license for an exotic dance studio shall include building plans which demonstrate conformance with PMC 5.32.100(D).

1. Subsections i, j and k of this section apply to adult bookstores, adult novelty stores or adult video stores that do not provide on-site entertainment.

2. An application shall be deemed to be complete upon the applicant's provision of all information required above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The clerk may request other information or clarification in addition to the information provided in a complete application where it is necessary to determine compliance with this chapter.

3. A nonrefundable application fee of \$150.00 must be submitted with the completed application to defray the costs of processing the application.

4. Each applicant shall verify, under penalty of perjury, that the information contained in the application is true.

5. If, subsequent to the issuance of an adult entertainment license, any person or entity acquires a significant interest or responsibility for the management or operation of the licensed premises or the licensed business, notice shall be provided in writing to the clerk no later than 21 days following such acquisition. The notice shall include the information required from the original applicant and applicant control person.

**B. Adult Entertainment Business Manager and Entertainer Licenses.**

1. No person shall work as a manager, assistant manager or entertainer at an exotic dance studio without a manager or entertainer license from the city. Each application for such a license shall be signed by the applicant and certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the city, and shall require the following information:

a. The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by city police department employees, social security number, and any stage names or nicknames used in entertaining.

b. The name and address of each adult entertainment business at which the applicant intends to work.

c. Documentation that the applicant has attained the age of at least 18 years. Acceptable proofs of age include a motor vehicle license issued by any state bearing the applicant's photograph and date of birth; a state-issued identification card bearing the applicant's photograph and date of birth; an official passport issued by the United States of America; an immigration card issued by the United States of America; or any other identification that the city determines to be acceptable.

d. A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions.

e. A description of the applicant's principal activities or services to be rendered.

f. Two two-by-two inch color photographs of the applicant, taken within six months of the date of the application and showing only the full face of the applicant.

g. Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application.

2. An application shall be deemed to be complete upon the applicant's provision of all information required above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The clerk may request other information or clarification in addition to the information provided in a complete application in order to determine compliance with this chapter.

3. A nonrefundable application fee of \$100.00 shall be submitted with the completed application to defray the costs of processing the application.



4. Each applicant shall verify, under penalty of perjury, that the information contained in the application is true. (Ord. 1381 § 1, 1998).

### **5.32.050 Processing of license applications.**

#### **A. Adult Entertainment Business Licenses.**

1. Upon receipt of a complete adult entertainment business license application and fee as set forth in PMC 5.32.040, the clerk shall provide copies of the application to the police, fire, and public works departments for their investigation and review to determine compliance of the proposed adult entertainment business with the laws and regulations which each department administers. Each department shall, within 30 days of the date of such application, inspect the application and premises and make a written report to the clerk as to whether such application and premises comply with the laws administered by that department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the premises is not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. Any exotic dance studio license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises has been inspected and determined to be in substantial conformance with the drawings submitted with the application. A department shall recommend denial of a license under this subsection if it finds that the applicant or proposed adult business is not in conformance with the requirements of this chapter or other law in effect in the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

2. An adult entertainment business license shall be issued by the clerk within 30 days of the date of filing a complete license application and fee, unless the clerk determines that the applicant has failed to meet any of the requirements of this chapter, failed to provide any information required under this subsection, or made a false, misleading or

fraudulent statement of material fact on the application for a license. The clerk shall grant an extension of time in which to provide any information required for a complete license application upon the request of the applicant. If the clerk finds that the applicant has failed to meet any of the requirements for issuance of an adult entertainment business license, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable law.

3. If the clerk fails to issue or deny the license within 30 days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable laws, to operate the business for which the license was sought until notification by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional 20 days.

#### **B. Adult Entertainment Business Manager or Entertainer Licenses.**

1. A copy of the application for an adult entertainment business manager or entertainer license shall be provided to the police and any other applicable department for its review, investigation and recommendation.

2. An adult business manager or entertainer license shall be issued by the clerk within 14 days from the date the complete application and fee are received unless the clerk determines that the applicant has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statements in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws.

3. An applicant for an adult entertainment business manager or entertainer license shall be issued a temporary license upon receipt of a complete license application and fee. The temporary license will automatically expire on the fourteenth day following the filing of the complete application and fee, unless

## 5.32.060

the clerk has failed to approve or deny the license application, in which case the temporary license shall be valid until the clerk approves or denies the application, or until the final determination of any appeal from a denial of the application. In no event may the clerk extend the application review time for more than an additional 20 days.

4. Every adult entertainer shall provide his or her license to the manager on duty on the adult entertainment business premises prior to his or her performance. The manager shall retain the licenses of adult entertainers and make the licenses readily available for inspection by the city at any time during business hours of the adult entertainment business. (Ord. 1381 § 1, 1998).

### 5.32.060 Denial of application for license.

A. Adult Entertainment Business License. The clerk shall deny an application for an adult entertainment business if:

1. The applicant is under 18 years of age.

2. The applicant is overdue on its payment to the city of taxes, fees, fines, or penalties assessed against it in relation to an adult entertainment business.

3. The applicant or an applicant control person has been convicted of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) in the five years immediately preceding the license application.

4. The applicant has failed to provide information required by the license application or has made, with the intent to mislead, a materially false representation in the application for a license under this chapter.

5. The applicant has failed to comply with any provision or requirement of this chapter.

6. The applicant has had an interest in any license granted under this chapter revoked within six months from the date of application.

B. Adult Entertainment Business Manager or Entertainer License. The clerk shall deny an application for an adult entertainment business manager or entertainer license if:

1. The applicant is under 18 years of age.

2. The applicant has been convicted of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) in the five years immediately preceding the license application.

3. The applicant has failed to provide information required by the license application or has made with the intent to mislead, a materially false representation in the application for a license under this chapter.

4. The applicant has failed to comply with any provision or requirement of this chapter. (Ord. 1381 § 1, 1998).

### 5.32.070 License renewal.

A. The licenses described in this chapter shall expire annually on December 31st. Applications for renewal of licenses must be made to the clerk no later than 30 days prior to the expiration of adult entertainment business, manager and entertainer licenses. A renewal license shall be issued in the same manner and upon payment of the same fees as the original application under this chapter. All applicants shall present their current license for verification of identity, and upon issuance of the renewed license, shall surrender the expiring license to the clerk. There shall be assessed and collected by the clerk an additional charge of 25 percent of the license fee on an application not made on or before the date provided herein.

B. The clerk shall renew a license upon application if it complies with all provisions of the chapter as now enacted or as the same may hereafter be amended, unless the clerk is aware of facts that would disqualify the applicant from being issued the license for which renewal is sought. (Ord. 1381 § 1, 1998).

### 5.32.080 Other license requirements.

A. Duty to Supplement.

1. Applicants for a license under this chapter shall have a continuing duty to supplement promptly required application informa-

tion if the information changes from what is stated on the application.

2. If any person or entity acquires an interest in the licensed premises or the licensed business subsequent to the issuance of an adult entertainment business license for places offering adult entertainment, an agent of the licensed adult entertainment business shall immediately notify the city clerk in writing of the acquisition. The notice shall include the information required to be provided for the original adult entertainment business. The failure to supplement the application on file with the clerk regarding such change in ownership interest within 30 days of the date of such change shall be grounds for suspension or revocation of a license.

3. Any new or additional applicants or applicant control persons must be qualified according to the provisions of this section and the premises must be inspected and found to be in compliance with health, fire, and building codes of the city.

4. The fact that an applicant or applicant control person possesses other types of state or city permits and/or licenses does not exempt the applicant or applicant control person from the requirement of obtaining an adult entertainment business license.

**B. License Nontransferable.** No license or permit issued pursuant to this chapter shall be assignable or transferable. For purposes of this chapter, “assignable” or “transferable” shall mean and include any of the following:

1. The sale, lease or sublease of the business; or

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 the ownership or control of the business, except for transfer by bequest or other operation of law.

**C. Name and Place of Business.** No person granted a license pursuant to this chapter shall operate an adult entertainment business under a name not specified in the license, nor shall he or she conduct business under any designation or location not specified in the license.

**D. Posting and Display of License.**

1. The adult entertainment business license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date and the address of the licensed adult entertainment business. The license shall be posted in a conspicuous place at or near the entrance of the licensed premises so that it can be easily read at any time the business is open.

2. The license of the adult entertainment business manager on duty shall be prominently posted during business hours.

3. Entertainer licenses need not be posted, but must be available on the premises when the entertainer is on the premises for immediate inspection by any city official or law enforcement agency having jurisdiction. Managers’ and entertainers’ licenses must be endorsed by the clerk for the business premises for which the manager is managing and the entertainer is entertaining.

4. Photocopies and other forms of reproduction shall not be acceptable as proof of issuance of any license required under this chapter.

**F. Violation.** Any violation of the provisions of this section is a misdemeanor as set forth in this chapter. (Ord. 1381 § 1, 1998).

### **5.32.090 Appeal.**

**A. Denial of License.** Any person aggrieved by the action of the clerk in refusing to issue or renew any license issued under this chapter shall have the right to appeal such action to the board of adjustment, or to such other hearing body as may hereafter be established by the city council for the hearing of license appeals, by filing a notice of appeal with the clerk within 10 days of notice of the refusal to issue or renew. The appeal shall be processed under Chapter 20.12 PMC; except as required otherwise by this section. The board of adjustment or other hearing body shall set a date for hearing such appeal, to take place within 45 days of the date of receipt of the notice of appeal. At such hearing, the appellant and other interested persons may appear and be heard, subject to the rules and regulations of the hearing examiner or other

## 5.32.100

hearing body. The board of adjustment or other hearing body shall render its decision on the appeal within 15 days following the close of the appeal hearing.

B. Appeal to the Superior Court. The decision of the board of adjustment shall be final and conclusive unless, within 10 days of the date of the decision, any person aggrieved by the decision makes application to the King County Superior Court for a writ of certiorari, prohibition or mandamus. (Ord. 1381 § 1, 1998).

### **5.32.100 Standards of conduct and operation – Exotic dance studios.**

A. The following standards of conduct must be adhered to by employees of any exotic dance studio while in any area in which members of the public are allowed to be present.

1. No manager, entertainer or employee shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least 18 inches above the immediate floor level and removed at least eight feet from the nearest member of the public.

2. No manager, entertainer, or employee mingling with members of the public shall be unclothed or in less than opaque and complete attire, costume or clothing as described in this section, nor shall any male employee or entertainer at any time appear with his genitals in a discernibly turgid state, even if completely and opaquely covered, or wear or use any device or covering which simulates the same.

3. No manager, entertainer or employee mingling with members of the public shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva, genitals, anus, any portion of the pubic region, or buttocks.

4. No manager, entertainer or employee shall caress, fondle or erotically touch any member of the public. No manager, entertainer or employee shall encourage or permit any member of the public to caress, fondle or erot-

ically touch any manager, entertainer or employee.

5. No manager, entertainer or employee shall perform actual or simulated acts of sexual conduct as defined in this chapter, or any act which constitutes a violation of Chapter 7.48A RCW, the Washington Moral Nuisances Statute.

6. No manager, entertainer or employee mingling with members of the public shall conduct any dance, performance or exhibition in or about the nonstage area of the exotic dance studio unless that dance, performance or exhibition is performed at a distance of no less than four feet from any member of the public.

7. No tip or gratuity offered to or accepted by an entertainer may be offered or accepted, prior to any performance, dance or exhibition provided by the entertainer. No entertainer performing upon any stage area shall be permitted to accept in any form a gratuity offered directly to the entertainer by any member of the public. Any gratuity offered to any entertainer performing upon any stage area must be placed into a receptacle provided for receipt of gratuities by the exotic dance studio or provided through a manager on duty on the premises. Any gratuity or tip offered to any adult entertainer conducting any performance, dance or exhibition in or about the nonstage area of the exotic dance studio shall be placed into the hand of the entertainer or into a receptacle provided by the entertainer, and not upon the person or into the clothing of the entertainer.

B. At any exotic dance studio, the following are required:

1. Admission must be restricted to persons of the age of 18 years or older. It is unlawful for any owner, operator, manager or other person in charge of an exotic dance studio to permit knowingly or to allow any such person under the minimum age to be in or upon such premises.

2. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks,

genitals and/or anus may be visible outside of the exotic dance studio.

3. No member of the public shall be permitted at any time to enter into any of the non-public portions of the exotic dance studio, which shall include, but are not limited to, the dressing rooms of the entertainers or other rooms provided for the benefit of employees, and the kitchen and storage areas; provided, that persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent required to perform their job duties.

C. The responsibilities of the manager of an exotic dance studio shall include, but are not limited to:

1. A licensed manager shall be on duty on the premises of the exotic dance studio at all times that adult entertainment is being provided or members of the public are present on the premises. The name and license of the manager shall be prominently posted during business hours. The manager shall be responsible for verifying that any person who provides adult entertainment within the premises possesses a current and valid entertainer's license.

2. A manager shall not perform as an entertainer on those days during which he or she acts as a manager on duty of the exotic dance studio.

3. The manager or an assistant manager licensed under this chapter shall maintain visual observation of each member of the public at all times any entertainer is present in the public or performance areas of the exotic dance studio. Where there is more than one performance area, or the performance area is of such size or configuration that one manager or assistant manager is unable to visually observe, at all times, each adult entertainer, each employee, and each member of the public, a manager or assistant manager licensed under this chapter shall be provided for each public or performance area or portion of a public or performance area visually separated from other portions of the exotic dance studio.

4. The manager shall be responsible for and shall assure that the actions of the members of the public, adult entertainers and all other employees shall comply with all requirements of this chapter.

D. Premises – Specifications.

1. Performance Area. The performance area of the exotic dance studio where adult entertainment is provided shall be a stage or platform at least 18 inches in elevation above the level of the patron seating areas, and shall be separated by a distance of at least eight feet from all areas of the premises to which members of the public have access. A continuous railing at least three feet in height and located at least eight feet from all points of the performance area shall separate the performance area and the patron seating areas. The stage and the entire interior portion of cubicles, rooms or stalls wherein adult entertainment is provided must be visible from the common areas of the premises and at least one manager's station. Visibility shall not be blocked or obstructed by doors, curtains, drapes or any other obstruction whatsoever.

2. Lighting. Sufficient lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times. A minimum lighting level of 30 lux horizontal, measured at 30 inches from the floor and on 10-foot centers is established for all areas of the exotic dance studio where members of the public are admitted.

3. Signs. A sign at least two feet by two feet, with letters at least one inch in height shall be conspicuously displayed in the public area(s) of the premises stating the following:

**THIS EXOTIC DANCE STUDIO IS REGULATED BY THE CITY OF PACIFIC. ENTERTAINERS ARE:**

**A. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.**

**B. NOT PERMITTED TO APPEAR SEMI-NUDE OR NUDE, EXCEPT ON STAGE.**

## 5.32.110

C. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES IN ADVANCE OF THEIR PERFORMANCE.

D. NOT PERMITTED TO ACCEPT TIPS DIRECTLY FROM PATRONS WHILE PERFORMING UPON ANY STAGE AREA.

### 4. Recordkeeping Requirements.

a. All papers, records and things required to be kept pursuant to this chapter shall be open to inspection by the clerk during the hours when the licensed premises is open for business, upon two days' written notice. The purpose of such inspections shall be to determine whether the papers, records, and things meet the requirements of this chapter.

b. Each exotic dance studio shall maintain and retain for a period of two years the name, address, and age of each person employed or otherwise retained or allowed to perform on the premises as an adult entertainer, including independent contractors and their employees. This information shall be open to inspection by the clerk during hours of operation of the business upon 24 hours' notice to the licensee.

5. Inspections. In order to insure compliance with this chapter, all areas of licensed exotic dance studios which are open to members of the public shall be open to inspection by city agents and employees during the hours when the premises are open for business. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with the requirements of this chapter. It is expressly declared that unannounced inspections are necessary to insure compliance with this chapter.

E. Sale or Distribution of Intoxicating or Controlled Substance Prohibited. No exotic dance studio shall serve, sell, distribute, or suffer the consumption or possession of any intoxicating liquor or controlled substance upon the exotic dance studio premises.

F. Time of Operation. It is unlawful for any exotic dance studio to be operated or otherwise open to the public between the hours of 2:00 a.m. and 10:00 a.m.

G. Exemptions. This chapter shall not be construed to prohibit:

1. Plays, operas, musicals, or other dramatic works that are not obscene;
2. Classes, seminars and lectures which are held for serious scientific or educational purposes and which are not obscene; or
3. Exhibitions, performances, expressions or dances that are not obscene.

These exemptions shall not apply to the sexual conduct described in RCW 7.48A.010(2)(b).

H. Determination of Obscene. Whether or not activity is obscene shall be judged by consideration of the following factors:

1. Whether the average person, applying contemporary community standards, would find that the activity taken as a whole appeals to a prurient interest in sex;
2. Whether the activity depicts or describes in a patently offensive way, as measured against community standards, sexual conduct as described in RCW 7.48A.010(2)(b); and
3. Whether the activity taken as a whole lacks serious literary, artistic, political or scientific value. (Ord. 1381 § 1, 1998).

## **5.32.110 Standards of conduct and operation – Adult arcades, adult motion picture theaters and other adult entertainment businesses providing on-site entertainment.**

A. A licensee shall not permit any doors to public areas on the premises of an adult arcade, motion picture theater or other adult entertainment business providing on-site entertainment to be locked during business hours.

B. Any room or area on such adult entertainment business premises that is open to members of the public shall be readily accessible at all times for inspection by any law enforcement officer or license inspector.

C. Admission shall be restricted to persons of the age of 18 years or more and it shall be unlawful for any owner, operator, manager or employee of an adult entertainment business to knowingly permit or allow any person under the age of 18 years to be in or upon such premises.

D. No patron shall be unclothed or in such attire, costume or clothing so as to be in a state of nudity or engage in any specified sexual activity and no owner, operator, manager or employee shall knowingly allow such conduct in or upon the premises. (Ord. 1381 § 1, 1998).

**5.32.120 Standards of conduct and operation – Adult bookstores, novelty stores, video stores and other businesses whether or not qualifying as adult entertainment businesses.**

A. Adult bookstores, adult novelty stores, adult video stores and other businesses that sell or otherwise distribute books, magazines, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of nudity or specified sexual activities, whether or not such businesses qualify as an adult entertainment business under this chapter and whether or not less than 20 percent of their stock-in-trade comes from the rental or sale of such items, shall be subject to the following requirements of conduct:

1. All such items as described in this subsection shall be physically segregated and closed off from other portions of the store so that these items are not visible and/or accessible from other portions of the store where non-adult entertainment material, if any, is displayed, sold or rented.

2. No advertising for such items shall be posted or otherwise visible, except where such items are authorized for display.

3. Signs readable at a distance of 20 feet shall be posted at the entrance to the business or area where such items are displayed stating that persons under the age of 18 years are not allowed access to the area where such items are displayed.

4. The manager or attendant shall take responsible steps to monitor the area where such items are displayed to ensure that persons under 18 years of age do not access the age-restricted area.

5. Employees of such businesses shall check identification of persons appearing to be 18 years or under to insure that such items are

not rented or sold to persons under the age of 18 years.

B. The rental or sale of obscene material as defined in PMC 5.32.100(H) to persons under the age of 18 years is prohibited. (Ord. 1381 § 1, 1998).

**5.32.130 Standards of conduct and operations – Adult arcades.**

A. The interior of the show premises of an adult arcade shall be arranged in such a manner as to ensure that patrons are fully visible from the waist down, and all persons viewing such panoram pictures shall be visible from the common areas of such premises.

B. No more than one patron at a time shall be present in a booth, cubicle, room or stall wherein adult entertainment in an adult arcade is provided.

C. A licensee of an adult arcade shall maintain, at a minimum, illumination as required in this chapter for exotic dance studios generally distributed in all parts of the premises at all times when the facility is open or when members of the public are permitted to enter and remain therein. (Ord. 1381 § 1, 1998).

**5.32.140 License suspension and revocation.**

A. The clerk may, upon the recommendation of the chief of police or designee, and as provided in this section, suspend or revoke any license issued under the provisions of this chapter at any time where the same was procured by fraud or false representation of fact; or for the violation of, or failure to comply with the provisions of this chapter or any of the provisions of Chapters 9.14 or 9.16 PMC or any other similar local or state law by the licensee or by any of its servants, agents or employees when the licensee knew or should have known of the violations committed by his servants, agents or employees; or for the conviction of the licensee of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises, or the conviction of any of its servants, agents or employees of any crime or offense involving

## 5.32.150

prostitution, promoting prostitution, transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the exotic dance studio premises, when the licensee knew or should have known of the violations committed by its servants, agents or employees.

B. A license procured by fraud or misrepresentation shall be revoked. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the license shall be suspended for a period of 30 days upon the first such violation, 90 days upon the second violation within a 24-month period, and revoked for a third and subsequent violations within a 24-month period not including periods of suspension.

C. The clerk shall provide at least 10 days' prior written notice to the licensee of the decision to suspend or revoke the license. Such notice shall inform the licensee of the right to appeal the decision to the board of adjustment or other designated hearing body and shall state the effective date of such revocation or suspension and the grounds for revocation or suspension. The licensee may appeal the revocation or suspension by filing a notice of appeal with the clerk before the effective date of the revocation or suspension. The appeal shall be processed under Chapter 20.12 PMC. The board of adjustment or other hearing body shall set a date for hearing such appeal, to take place within 45 days of the date of receipt of the notice of appeal. The board of adjustment or other hearing body shall render its decision within 15 days following the close of the appeal hearing. The decision of the board of adjustment or other hearing body shall be final and conclusive unless, within 10 days of the date of the decision, any person aggrieved by the decision makes application to the King County Superior Court for a writ of certiorari, prohibition or mandamus. The decision of the clerk shall be stayed during the pendency of any appeal, except as provided in this section.

D. Where the Pacific building official or fire marshal or their designees or the applicable county health department find that any condition exists upon the premises of an exotic dance studio which constitutes a threat of

immediate serious injury or damage to persons or property, the official may immediately suspend any license issued under this chapter pending a hearing in accordance with this section. The official shall issue notice setting forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage to persons or property, and informing the licensee of the right to appeal the suspension to the board of adjustment or other designated hearing body under the appeal provisions set forth in subsection C of this section; provided, that a suspension based on threat of immediate serious injury or damage shall not be stayed during the pendency of the appeal. (Ord. 1381 § 1, 1998).

### **5.32.150 Violation – Penalty – Misdemeanor.**

Unless otherwise specified, a violation of any of the provisions of this chapter shall constitute a misdemeanor, and shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment of not more than 90 days, or both. Each and every day during which any violation is committed, continued or permitted shall be deemed a separate offense; provided, that no person shall be deemed guilty of any violation of this chapter if acting in an investigative capacity pursuant to the request or order of the police chief or prosecuting attorney or duly appointed agent thereof. (Ord. 1381 § 1, 1998).

### **5.32.160 Severability.**

If any section, sentence, clause or phrase of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter. Any ordinance or regulation in conflict with this chapter is hereby repealed. (Ord. 1381 § 1, 1998).