

CHAPTER VI

BUSINESS LICENSES

6-1 Definitions. As used in this chapter.

a. "*Average Number of Employees*" shall mean the average number of persons employed daily in a business for one year and shall be determined by ascertaining the total number of hours of service performed by all the applicant's employees in the City during the previous year, and dividing the total number of hours of service thus obtained by the number of hours of service constituting a year's work of one full-time employee according to the custom or laws governing such employment. In computing the average number of persons employed fractions of numbers shall be excluded.

b. "*Business*" shall include professions, trades, and occupations and all and every kind of calling whether or not carried on for profit.

c. "*Cafes, Restaurants*" shall include drive-in cafes, night-clubs, taverns, or any similar place of business preparing and serving food, beverages, or refreshments for consumption on the premises.

d. "*City*" shall mean the City of Ridgecrest, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged, or re-incorporated form.

e. "*Concession*" shall mean any one separate show, attraction, exhibition, riding device, apparatus or arrangement for test of strength or skill, game of skill or chance, and also any cafe or restaurant provided that all soft drinks and food product services may be grouped together as one restaurant concession at any one carnival, animal show, or exhibition.

f. "*Contractor*" shall mean any person who is required to be licensed as a contractor by the State of California, whether in fact licensed or not, or any person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad excavation or other structure, project, develop-

ment or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. "Contractor" includes specialty contractor, and further includes any person who contracts to hire out trucks, tractors, excavating, or other equipment in connection with a construction project, whether at rates by the hour or day or for a contract amount.

g. "*Employee*" shall include any person engaged or participating in the operation or conduct of any business, whether as owner, relative of the owner, partner, agent, manager, solicitor, salesman, or in any other capacity.

h. "*Established Place of Business*" shall mean a permanent store, office, market or other place of business within the corporate limits of the City where business is regularly transacted from month to month in such manner as a business of like nature is generally conducted, and where the circumstances indicate a bona-fide intention to become an established, fixed, and continuous part of the regular and legitimate business life of the City and not temporarily conducting business on the public streets or highways or in any hotel, motel, or other residential accommodation or from a vacant lot, parking lot, or portion of a building already occupied by another established business with no intent to move to more permanent quarters within the City.

i. "*Itinerant Merchant*" shall mean and include any person, whether first person or agent, who shall engage in a temporary and transient business in the City selling goods, wares, merchandise, and who, for the purpose of carrying on such business, shall sell door-to-door from a vehicle or on foot or shall lease or use a vacant lot, parking lot, or space in a structure already occupied by another established business for the exhibition or sale of such goods, wares, merchandise; provided, however, that this shall not apply to commercial travelers or selling agents who sell their goods to merchants, dealers, or traders where same is to become a part of said merchant, dealer, or trader's stock in trade in his established place of business in the City.

j. "*Junk Dealer*" shall mean any person who engages in the business of buying, selling, or otherwise dealing in or acquiring, old bottles, scraps, pieces of metal, rags, old rope, or any old or used article not to be used in its former state or condition.

k. "*Outdoor Advertising Structure*" shall mean the same as billboards and shall include any sign, whether painted on a building or free-standing, which is advertising merchandise or services of a business not located on the same site as the sign. Church directional signs, service club identification and meeting place signs, temporary signs advertising the sale or rental of properties (not exceeding six square feet in area), temporary contractor's identification signs on the site of a construction project, or other non-profit organization community service signs shall not be considered outdoor advertising structures for the purpose of this ordinance.

l. "*Person*" shall include all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts, business, or common law trusts, societies, and individuals transacting and carrying on any business in the City.

m. "*Regularly Engaged in the Business of Renting*" shall mean any person who owns and holds out for lease or rent property or accommodations, including any commercial parcels or structures, or four or more residential accommodations, including single-family dwellings, trailer court spaces, mobile-homes, house trailers, hotels, inns, tourist homes or houses, motels, studio hotels, bachelor hotels, lodging houses, rooming houses, apartment houses, including duplexes, triplexes, courts, etc., dormitories, public or private clubs.

n. "*Sale*" shall include 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) 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.

o. "*Solicitor*" shall mean any person asking for orders for the sale of merchandise or services directly to a potential consumer, by sample or otherwise, for himself or another person, and includes telephone solicitors.

p. "*Sworn Statement*" shall mean an affidavit sworn to before a person authorized to take oaths, or a declaration or certification made under penalty of perjury.

q. *"Transient Photographer"* means any person engaged in picture taking or portrait photography for sale of pictures or portraits and not having an established place of business in the City. (Ord. No. 111, §1; Ord. No. 114, §1)

6-2 Revenue Measure.

This chapter is enacted solely to raise revenue for municipal purposes, and is not intended for regulation. (Ord. No. 111, §2)

6-3 Effect On Other Ordinances.

Persons required to pay a license tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any other applicable fee required under any other ordinance of the City, and shall remain subject to the regulatory provisions of other ordinances. (Ord. No. 111, §3)

6-4 License and Tax Payment Required.

There are hereby imposed upon the businesses, trades, professions, callings, and occupations specified in this chapter license taxes in the amounts hereinafter prescribed. It shall be unlawful for any person to transact and carry on any business, trade, profession, calling, or occupation in the City without first having procured a license from said City to do so and paying the license tax hereinafter prescribed or without complying with any and all applicable provisions of this chapter.

a. This chapter 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 of California. Persons not so required to obtain a license prior to doing business within the City nevertheless shall be liable for payment of the tax imposed by this chapter.

b. The provisions of this chapter shall not be deemed or construed to require the payment of a license tax to conduct, manage, or carry on any business, occupation, or activity

from any organization or institution which is conducted, managed, or carried on wholly for the benefit of charitable purposes; nor shall any license tax be required for the conducting of any entertainment, concert, exhibition, or lecture on scientific, historical, literary, religious, or moral subjects within the City whenever the receipts of any such entertainment, concert, exhibition, or lecture are to be appropriated to any church, school, or to any religious or benevolent purpose; *nor shall any license tax be required for the conducting of any entertainment, dance, concert, exhibition, or lecture by any religious, charitable, fraternal, educational, military, State, County or municipal organization or association whenever the receipts of any such entertainment, dance, concert, exhibition, or lecture are to be appropriated for the purpose and objects for which such organization or association was formed and from which profit is not derived, either directly or indirectly, by any individual.* (Ord. No. 111, § 4)

6-5 Separate Businesses, Branch Establishments.

A separate license shall be obtained for each separate type of business carried on at the same location and for each branch establishment or location of the business transacted and carried on, 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 chapter shall not be deemed to be separate places of business or branch establishments; and provided further that any person conducting two or more types of business at the same location and under the same management, which businesses are all classified such that the license tax is determined by average number of employees, may, at his option, include all said businesses on one license and pay a license tax based on the average number of employees rate applicable to the principal business at that location. (Ord. No. 111, § 5)

6-6 Evidence of Doing Business.

When any person shall by use of signs, circulars, cards, telephone book, or newspapers, advertise, hold out, or represent that he is in business in the City, or when any person holds an active license or permit issued by a governmental agency indicating that he is in business in the City, and such person fails to state by a sworn statement given to the Director of Finance that he is not conducting a business in the City after being requested to do so by the Director of Finance, then these facts shall be considered prima facie evidence that he is conducting a business in the City. (Ord. No. 111, § 6; Ord. No. 92-02, § 2)

6-7 Constitutional Apportionment.

None of the business taxes provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitution of the United States and the State of California.

In any case where a license tax is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce or be violative of such constitutional clauses, he may apply to the Director of Finance for an adjustment of the tax. Such application may be made before, at, or within six months after payment of the prescribed license tax.

The applicant shall, by sworn statement and supporting testimony, show the method of business, average number of employees, gross volume, or estimated gross volume of business, and such other information as the Director of Finance may deem necessary in order to determine the extent, if any, of such undue burden or violation.

The Director of Finance shall then conduct an investigation, and, after having first obtained the written approval of the City Attorney, shall fix as the license tax for the applicant an amount that is reasonable and nondiscriminatory, or if the license tax has already been paid, shall order a refund of the amount over and above the license tax so fixed.

In fixing the license tax to be charged, the Director of Finance shall have the power to base the license tax upon a percentage of average number of employees or any other measure which will assure that the license tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the license tax as prescribed by this chapter. (Ord. No. 111, § 7; Ord. No. 92-02, § 3)

6-8 Exemptions.

a. The following persons are exempt from the requirements of this chapter:

1. Persons transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State of California for payment of business taxes.

2. The owner of any franchise from the City who pays franchise fees to the City under an obligation imposed by the franchise.

3. Licensed auctioneers other than auctioneers whose permanent place of business is within the City.

b. Any person claiming an exemption under this section shall file a sworn statement with the Director of Finance stating the facts upon which the exemption is claimed. Upon a proper showing, the Director of Finance shall issue an exemption certificate upon one day prior notice to the certificate holder that the certificate holder shall be given the opportunity to have the exemption request reconsidered. The Council shall from time-to-time by resolution establish fees for the issuance of the exemption certificate equal to the administrative cost of processing the exemption application.

(Ord. No. 111, § 8; Ord. No. 87-11, § 1; Ord. No. 92-02, § 4)

6-9 Contents of License.

Every person required to have a license under the provisions of this chapter shall make application as hereinafter prescribed for the same to the Director of Finance of the City, and upon the payment of the prescribed license tax the Director of

Finance shall issue to such person a license which shall contain the following information:

- a. The name of the person to whom the license is issued;
- b. The business licensed;
- c. The place where such business is to be transacted and carried on;
- d. The business mailing address;
- e. The date of expiration of such license; and
- f. Such other information as may be necessary for the enforcement of the provisions of this chapter.

Whenever the tax imposed under the provisions of this chapter is measured by the number of vehicles, devices, machines, or other pieces of equipment used, or whenever the license tax is measured by the average number of employees involved in the operation of such items, the Director of Finance shall issue only one license for each such business, provided that he may issue for each tax period for which the license has been paid one identification sticker, tag, plate, or symbol for each item included in the measure of the tax or used in a business where the tax is measured by the average number of employees involved in the operation of such items. (Ord. No. 111, § 9; Ord. No. 92-02, § 5)

6-10 Unlawful Business Not Authorized.

No business license issued under the provisions of this chapter or the payment of any tax required under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner, or to conduct within the City the business for which a business license has been issued without complying with all the provisions of the chapter of City and State and Federal laws including but not limited to those requiring a permit from any commission, department, or office of the City or the County of Kern. (Ord. No. 111, § 10)

6-11 Approvals by Other Departments.

The Director of Finance shall not issue any business license, other than a renewal business license, to any established place of business within the City until such time as it is shown that the business has met the requirements of the Zoning, Building, Fire and Health Codes of the City and the State of California. For the purpose of providing the requisite evidence of such compliance, the Director of Finance will provide the forms for signature of the appropriate departments. Failure of the applicant to comply with the aforesaid codes shall constitute grounds for refusal to issue, suspension or revocation of a business license. (Ord. No. 111, § 11; Ord. No. 92-02, § 6)

6-12 Application; First License.

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 Director of Finance a sworn statement upon a form provided by the Director of Finance setting forth the following information:

- a. The exact nature or kind of business for which a license is requested;
- b. The place where such business is to be carried on, and if the same is not to be carried on at any permanent place of business, the places of residences of the owners of same;
- c. In the event that application is made for the issuance of a license to a person doing business under a fictitious name, the application shall set forth the names and places of residences of those owning said business;
- d. In the event that the application is made for the issuance of a license to a corporation or a partnership, the application shall set forth the names and places of residences of the officers or partners thereof;
- e. In all cases where the amount of license tax to be paid is measured by average number of employees, the applicant shall estimate the average number of persons to be employed for the calendar year to be covered by the license to be issued.

Such estimate shall be calculated as provided in the definition of "average number of employees" in Section 6-1 of this chapter; and, if accepted by the Director of Finance as reasonable, shall be used in determining the amount of license tax to be paid by the applicant; provided, however, the amount of the license tax so determined shall be tentative only and the amount of license tax for the period covered by the first license shall be finally ascertained and paid in the manner provided by this chapter for ascertaining and paying renewal business licenses taxes;

f. In all cases where the amount of license tax to be paid is measured by the number of vehicles, devices, machines, rental units, or other tax measures, applicant shall provide such information as the Director of Finance may require to enable him to ascertain the correct business license tax to be paid.

(Ord. No. 111, § 12; Ord. No. 92-02, § 7)

6-13 Renewal License.

In all cases, the applicant for the renewal of a business license shall submit to the Director of Finance, within 30 days after the expiration of the period for which the previous business license was issued, for his guidance in ascertaining the amount of the license tax to be paid by the applicant, a sworn statement upon a form provided by the Director of Finance, setting forth such information concerning the applicant's business during the preceding year as may be required by the Director of Finance to enable him to ascertain the amount of license tax to be paid by said applicant pursuant to the provisions of this chapter.

In all cases for renewal of a first license where the amount of license tax to be paid is measured by average number of employees the applicant's sworn statement shall indicate the actual average number of employees during the period of the first license. The Director of Finance shall subtract from the payment found to be due based on the actual average number of employees such payment as was made the previous year for the first license based on the estimated average number of em-

ployees, and the applicant shall pay the difference at the time of renewal.

The Director of Finance shall then determine the amount due for the renewal license based on the actual average number of employees indicated on the applicant's sworn statement and such payment shall also be due at the time of renewal.

The Director of Finance shall not issue to any person a renewal license or another license for the same or any other business until such person shall have furnished to him the sworn statement and paid the license tax as herein required. (Ord. No. 111, § 13; Ord. No. 92-02, § 8)

6-14 Information Confidential.

It shall be unlawful for the Director of Finance or any person having an administrative duty under the provisions of this chapter to make known in any manner whatever 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 tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, number of employees, or any particular thereof, set forth in any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided that nothing in this section be construed to prevent:

a. The disclosure to, or the examination of records and equipment by another City official, employee, or agent of the City for the sole purpose of administering or enforcing any provisions of this chapter or collecting taxes imposed hereunder;

b. The disclosure of information to, or the examination of records by, Federal or State officials, or the tax officials of another city or county, if a reciprocal arrangement exists, or to a grand jury or court of law, upon subpoena;

c. 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 deter-

mine the existence or amount of any license tax liability of the particular tax payers to the City;

d. The disclosure after the filing of a written request to that effect, to the taxpayer himself, or to his successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to the items included in the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalties; further provided, however, that the City Attorney approves each such disclosure and that the Director of Finance may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby;

e. The disclosure of the names and addresses of persons to whom licenses have been issued, and the general type or nature of their business;

f. 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 a refund of license taxes, or submits an offer of compromise with regard to a claim asserted against him by the City for license taxes, or when acting upon any other matter;

g. The disclosure of general statistics regarding taxes collected or business done in the City.

(Ord. No. 111, § 14; Ord. No. 92-02, § 9)

6-15 Failure to File Statement or Corrected Statement.

If any person fails to file any required statement within the time prescribed, or if after demand therefor made by the Director of Finance he fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to apply for a license, the Director of Finance may determine the amount of license tax due from such person by means of such information as he may be able to obtain.

If the Director of Finance is not satisfied with the information supplied in statements or applications filed, he may determine the amount of any license tax due by means of any information he may be able to obtain.

If determination is made the Director of Finance shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Ridgecrest, California, postage prepaid, addressed to the person so assessed at his last known address.

Such person may, within 15 days after the mailing or serving of such notice, make application in writing to the Director of Finance for a hearing on the amount of the license tax. If such application is made, the Director of Finance shall cause the matter to be set for hearing within 20 days before the City Council. The Director of Finance shall give at least ten days' notice to such person of the time and place of hearing in the manner prescribed above for serving of notices of assessment.

The City Council shall consider all evidence produced and shall make findings thereon, which shall be final. Notice of such findings shall be served upon the applicant in the manner prescribed above for serving of notices of assessment. (Ord. No. 111, § 15; Ord. No. 92-02, § 10)

6-16 Appeal.

Any person aggrieved by any decision of the Director of Finance with respect to the issuance or refusal to issue such license may appeal to the City Council by filing a notice of appeal with the Director of Finance. The Council shall thereupon fix a time and place for hearing such appeal. The Director of Finance shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office at Ridgecrest, California, postage prepaid, addressed to such person at his last known address. The Council shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this chapter. (Ord. No. 111, § 16; Ord. No. 92-02, § 11)

6-17 Extension of Filing Time.

In addition to the authority conferred upon the Director of Finance by other provisions of this chapter, he shall have the

power, for good cause shown, to extend the time for filing any required sworn statement or application for a period of not exceeding 30 days, and in such case to waive any penalty that would otherwise have accrued. Negligence of the applicant shall not be sufficient cause. (Ord. No. 111, § 17; Ord. No. 92-02, § 12)

6-18 License Nontransferable; Changed Location and Ownership.

No license issued pursuant to this chapter 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 license may upon application therefor and paying a fee of one (\$1.00) dollar have the license amended to authorize the transacting and carrying on of such business under said 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 chapter. For the purpose of this chapter 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. (Ord. No. 111, § 18)

6-19 Duplicate License.

A duplicate license may be issued by the Director of Finance to replace any license previously issued hereunder which has been lost or destroyed upon the licensee filing statement of such fact and at the time of filing such statement paying to the Director of Finance a duplicate license fee of two (\$2.00) dollars. (Ord. No. 111, § 19; Ord. No. 92-02, § 13)

6-20 Posting and Keeping of Licenses.

a. Any license transacting and carrying on business at an established 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 an established place of business in the City shall keep the license upon his person at all times while transacting and carrying on the business for which it is issued.

c. Whenever identifying stickers, tags, plates, or symbols have been issued for each vehicle, device, machine, or other piece of equipment included in the measure of a license tax, the person to whom such stickers, tags, plates, or symbols have been issued shall keep firmly affixed upon each vehicle, device, machine, or piece of equipment the identifying sticker, tag, plate, or symbol which has been issued therefor at such locations as are designated by the Director of Finance. Such sticker, tag, plate, or symbol shall not be removed from any vehicle, device, machine, or piece of equipment kept in use during the period for which the sticker, tag, plate, or symbol is issued.

d. No person shall fail to affix as required herein any identifying sticker, tag, plate, or symbol to the vehicle, device, machine, or piece of equipment, for which it has been issued at the location designated by the Director of Finance, or to give away, sell, or transfer such identifying sticker, tag, plate, or symbol to another person, or to permit its use by another person.

(Ord. No. 111, § 20; Ord. No. 92-02, § 14)

6-21 License Tax — How and When Payable.

Unless otherwise specifically provided, all annual license taxes, under the provisions of this chapter, shall be due and payable to the Director of Finance in City Hall in advance on the first day of January of each year; provided that license taxes covering new operations, commenced after the first day

of January, shall be due and payable before the first day of operation of the new business.

Except as otherwise herein provided, license taxes, other than annual, required hereunder shall be due and payable as follows:

a. Semi-annual license taxes on the first day of January and the first day of July of each year;

b. Quarterly license taxes on the first day of January, April, July and October of each year; the Director of Finance shall not credit payment on a quarterly license toward payment for any annual license in a succeeding quarter;

c. Daily license taxes each day in advance.

(Ord. No. 111, § 21; Ord. No. 92-02, § 15)

6-22 Delinquent Taxes; Penalties; Installment Payment.

For failure to pay a license tax when due, the Director of Finance shall add a penalty of ten percent of said license tax on the first day of the month following the due date month and shall add a penalty of 90 percent of said license tax on the first day of the second month following the due date month. The total penalties added shall in no event exceed 100 percent of the amount of the license tax due.

No license shall be issued, nor one which has been suspended or revoked be reinstated or reissued, to any person, who at the time of applying therefor, is indebted to the City for any delinquent license taxes, unless such person, with the consent of the Director of Finance, enters into a written agreement with the City, through the Director of Finance, to pay such delinquent taxes, plus ten percent simple annual interest upon the unpaid balance, in monthly installments, or oftener, extending over a period of not to exceed one year.

In any agreement so entered into, such person shall acknowledge the obligation owed to the City and agree that, in the event of failure to make timely payment of any installment, the whole amount unpaid shall become immediately due and payable and that his current license shall be revocable by the Director of Finance upon 30 days notice. In the event legal action is brought by the City to enforce collection of any amount

included in the agreement, such person shall pay all costs of suit incurred by the City or its assignee, including a reasonable attorney's fee. The execution of such an agreement shall not prevent the prior accrual of penalties on unpaid balances at the rate provided hereinabove, but no penalties shall accrue to account of taxes included in the agreement, after the execution of the agreement, and the payment of the first installment and during such person shall not be in breach of the agreement.
(Ord. No. 111, § 22; Ord. No. 92-02, § 16)

6-23 Refunds of Overpayments.

No refund of an overpayment of taxes imposed by this chapter shall be allowed in whole or in part unless a claim for refund is filed with the Director of Finance within a period of one (1) year 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 Director of Finance on forms furnished by him and in the manner prescribed by him. Upon filing of such a claim and when he determines that an overpayment has been made, the Director of Finance may refund the amount overpaid.
(Ord. No. 111, § 23; Ord. No. 92-02, § 17)

6-24 License Tax Rates and Classifications.

6-24.1 Fees Designated; Increase or Decrease by Cost of Living Index. Every person who engages in business in the City shall pay a license tax based on the license tax rate specified in the Classification into which his business is placed by this chapter or by the Director of Finance in interpreting this chapter:

Beginning with the calendar year 1980, and each year thereafter, the license tax fees as hereinafter set forth for Classifications "A" through "T" shall be raised or lowered by the percentage of the cost of living index as determined by the Federal Government. The increase or decrease shall be to the nearest dollar according to the U.S. Department of Labor's adjusted, compound annual rate of the Consumer Price Index for all Urban

consumers (CPI-U) for all items to be determined in October of each year.

(Ord. No. 111, § 24; Ord. No. 78-15, § 2; Ord. No. 92-02, § 18)

6-24.2 Rates.

- (a) *Classification "A"—Retail Sales and Services—Base Permit Fee:* Sixty dollars (\$60.00) per year for the first five (5) employees plus six dollars (\$6.00) per year for each employee over five (5).
- (b) *Classification "B"—Professionals—Base Permit Fee:* Sixty dollars (\$60.00) per year for each professional practicing as an individual, partner, member of an association, or employee plus six dollars (\$6.00) per year for each non-professional employee.
- (c) *Classification "C"—Manufacturing, Hospitals, Utilities—Base Permit Fee:* Eighty-four dollars (\$84.00) per year for the first five (5) employees plus six dollars (\$6.00) per year for each employee over six (6).
- (d) *Classification "D"—Vending, etc.—Base Permit Fee:* Sixty dollars (\$60.00) per year for the first employee plus sixty-six dollars (\$66.00) per year for each additional employee.
- (e) *Classification "E"—Wholesale and Route—Base Permit Fee:* Sixty dollars (\$60.00) per year for the first vehicle plus sixteen dollars (\$16.00) per year for each additional vehicle.
- (f) *Classification "F"—Catering from Vehicle—Base Permit Fee:* Sixty dollars (\$60.00) per year for the first vehicle and sixty-six dollars (\$66.00) per year for each additional vehicle.
- (g) *Classification "G"—Itinerant/Theaters, Junk Dealers—Base Permit Fee:* One hundred sixty dollars (\$160.00) per year.
- (h) *Classification "H"—Residential Rentals—Base Permit Fee:* Sixty dollars (\$60.00) per year minimum for one (1) to three (3) units; six dollars (\$6.00) per year for every unit over three (3).
- (i) *Classification "I"—Mobilehome Space Rentals—Base Permit Fee:* Sixty dollars (\$60.00) per year minimum for one (1) to

three (3) spaces; six dollars (\$6.00) per year for every unit over three (3).

- (j) *Classification "J"—Commercial Rentals—Base Permit Fee:* Sixty dollars (\$60.00) per year for the first commercial parcel or structure plus sixteen dollars (\$16.00) per year for each additional parcel or structure.
- (k) *Classification "K"—Pool Tables/Bowling Alleys—Base Permit Fee:* Eighty dollars (\$80.00) per year for the first table or alley plus six dollars (\$6.00) per year for each additional table or alley.
- (l) *Classification "L"—Card Rooms—Base Permit Fee:* Three hundred ninety dollars (\$390.00) semi-annually for the first table plus forty dollars (\$40.00) semi-annually for each additional table.
- (m) *Classification "M"—Billboards—Base Permit Fee:* Sixty dollars (\$60.00) per year for one (1) sign; sixty dollars (\$60.00) per year for each sign over one (1).
- (n) *Classification "N"—Carnivals/Circuses (Non-charitable Sponsor)—Base Permit Fee:* Three hundred ninety dollars (\$390.00) per day plus sixteen dollars (\$16.00) per day for each concession as defined in Section 6-1.
- (o) *Classification "O"—Carnival/Fortune Tellers, etc.—Base Permit Fee:* One hundred dollars (\$100.00) per day.
- (p) *Classification "P"—Shoe Shining—Base Permit Fee:* Fifteen dollars (\$15.00) per year for the first chair and six dollars (\$6.00) per year for each additional chair.
- (q) *Classification "Q"—Non-licensed Contractor—Base Permit Fee:* Sixty-six dollars (\$66.00) per year for the first employee plus six dollars (\$6.00) per year for each additional employee.
- (r) *Classification "R"—Licensed Contractor—Base Permit Fee:* Sixty-six dollars (\$66.00) per year for each licensed contractor contracting as an individual, partner, or member of an association, plus six dollars (\$6.00) per year for each non-licensed employee.

- (s) *Classification "S"—Part-time/Intermittent—Base Permit Fee:*
Nine dollars (\$9.00) per day per each day of retail sales.
- (t) *Classification "T"—Swap Meets, etc.—Base Permit Fee:*
Three hundred ninety dollars (\$390.00) per day plus nine dollars (\$9.00) per day for each vendor not having a City license.

(Ord. No. 111, § 24; Ord. No. 114, § 4, § 8; Ord. No. 116, § 4; Ord. No. 124, § 1; Ord. No. 78-15, § 3; Ord. No. 91-02, § 2; Ord. No. 91-06, § 2; Ord. No. 93-06, § 1)

6-24.3 *Classifications.*

- (a) Classification "A" shall consist of:
- (1) Retailing of goods, wares, or merchandise including, but not limited to, the following businesses selling tangible personal property at retail or conducting a business of a retail nature:
 - Air conditioning or cooler supplies
 - Appliance sales and service
 - Automobiles—New or used
 - Automobile tires, batteries, parts, and accessories
 - Automobile service station
 - Awning sales
 - Bakery
 - Bicycle sales and service
 - Book shop
 - Brush and toiletries
 - Catalogue and mail order sales
 - Carpet sales and installation
 - Clothing store
 - Cosmetics and toiletries

Dairy products delivery to customer service routes from an established place of business in the City, (Otherwise see Classification "E")

Department store

Drug store

Dry goods store

Electric supplies and appliances

Feed

Fence sales (not installation, see Classification "G")

Fish and poultry (not from vehicle, see Classification "G")

Fire extinguisher sales and service

Five and ten—variety store

Florist

Fruit and vegetable sales (not from vehicle, see Classification "G")

Furniture and home furnishings

Gasoline and gasoline tank sales

Gift and novelty shop

Glass and paint shop

Groceries and meats

Hardware, paint, and appliances

Health foods

Ice

Ice cream parlors

Ice cream sales from vehicles operated from an established place of business in the City (otherwise see Class "E")

Jewelry store

Lapidary shop

Lumber and building materials
Motorcycle sales and service
Mobilehome sales and repairs (not towing, see Class "E")
Newspaper publishing (not distributors see Classification "E")
Nursery
Paint sales
Pet shop, pet food, pet supplies
Pharmacy
Photographer (not transient photographer, see Classification "G")
Photo shop
Plumbing supplies and appliances
Sewing machine sales and service
Shoe sales
Sporting goods
Stationery, office equipment, office supplies
Stamp redemption center
Wig sales

- (2) Services including, but not limited to, the following businesses which are considered of a service nature:

Advertising and advertising agency (not billboards, see Classification "M")

Artist

Automobile or truck repairs (all types)

Automobile parking lot

Automobile or recreation vehicle or trailer rentals

Automobile towing service

Automobile wash

Animal kennels

Barber shop

Beauty shop

Bookkeeper (not public accountant, see Classification "B")

Bus depot

Savings and loan institution
Saw sharpening
Steam cleaning
Stocks and bonds broker or agent
Sweeping service
Swimming pool, commercial operation
Telephone answering service
Travel services
Upholstering

(b) Classification "B" shall consist of:

Accountant
Architect
Appraiser
Attorney
Bacteriologist
Certified Public Accountant
Chemist
Chiropractor
Consultant
Clairvoyant
Dental or Medical Laboratory
Dentist
Detective
Engineer (all types)
Embalmer
Fortune Teller
Funeral Director
Geologist
Masseur
Medium
Mortician
Oculist
Optician
Optometrist
Osteopath
Palm Reader
Physician
Psychiatrist

Cafe, restaurant, night club, tavern, without live entertainment or public dancing (with live entertainment or public dancing add twenty (\$20.00) dollars per year)

Carpet cleaning

Cemetery

Cesspool cleaning

Collection agency

Credit checking agency

Dancing school

Dressmaking and tailoring

Dry cleaning and laundry (not out-of City, see Class "E"); not coin-operated, see Class "D")

Finance company or loan company

Financial counselor

Gardener, yard cleaning (not landscaping, see Class "G")

Gunsmith

Gymnasium, health studio

Income tax service

Insurance broker or adjustor

Interior decorator

Janitorial service

Laundry (not coin-operated, see Classification "D")

Locksmith

Machine shop making repairs only (for fabricating machine shops, see Classification "C")

Musical instructor or school

Mutual fund broker

Moving and storage services

Nursery school

Printing, dry copying, mimeographing, multi-graphing, duplicating

Radio or television station

Real estate agent or broker

Repair services (all types except those under "contractor" in Classification "G" and those under Classification "Q")

Psychologist
Public Stenographer
Radiologist
Spiritualist
Surgeon
Surveyor
Veterinarian

(c) Classification "C" shall consist of:

- (1) Manufacturing, fabricating, processing, or other industrial businesses including data processing businesses, data analysis services and manufacturer's customer service representatives working in the City.
- (2) Hospitals of all types.
- (3) Telephone and other utility companies and communication companies not specifically classified in this ordinance or franchised by the City.
- (4) Automobile dismantling yards including sale of used vehicle parts removed from dismantled vehicles.

(d) Classification "D" shall consist of:

- (1) Coin-operated laundrettes, laundromats, dry cleaning establishments, wet wash businesses including persons conducting businesses in which the public is permitted to enter to wash, dry, or dry clean clothes or other materials in individual machines and the public uses coins in coin-operated machines.
- (2) Persons distributing and maintaining vending and self-service machines including but not limited to:

Merchandise dispensing machines
Music dispensing machines

**Amusement machines
Beverage dispensing machines
Food dispensing machines
Automobile car wash machines
Copying machines.**

(e) Classification "E" shall consist of:

- (1) Wholesaling including any person primarily selling goods, wares, or merchandise directly to retailers, and including, but not limited to:**
 - Automobile parts distributors (TBA)**
 - Bakery products distributors**
 - Dairy products distributors**
 - Grocery products distributors**
 - Gasoline and oil distributors**
 - Produce distributors**
- (2) Laundry, dry cleaning, and other services conducted over customer routes from locations outside the corporate limits of the City.**
- (3) Retail sales conducted from vehicles over customer routes from locations outside the corporate limits of the City (but not itinerant merchants as defined in Section 6-1).**
- (4) Pick-up and delivery services including, but not limited to:**
 - Parcel and freight delivery (when delivery in the City is more than occasional and incidental to business conducted elsewhere)**
 - Newspaper delivery (but not newspaper boys)**
 - Mobilehome transport service**
- (5) Ice cream vending from vehicles.**
- (6) Bottled water distributors.**
- (7) Propane or other gas or fuel distributors.**
- (8) Pest exterminator services.**

(f) **Classification "F" shall consist of:**

Food catering service when conducted primarily from a vehicle (otherwise see Classification "A").

(g) **Classification "G" shall consist of:**

- (1) **Theater (motion picture or playhouse) except that only one license shall be required for a firm operating theaters at separate locations alternately and not simultaneously.**
- (2) **Skating rink.**
- (3) **Public dance hall (but not night club or restaurant with dancing, see Classification "A").**
- (4) **Itinerant merchant as defined in Section 6-1, see also Section 6-31 of this chapter.**
- (5) **Solicitor as defined in Section 6-1 of this chapter.**
- (6) **Transient photographer as defined in Section 6-1 of this chapter.**
- (7) **Junk dealer as defined in Section 6-1 of this chapter.**

(h) **Classification "H" shall consist of:**

Persons regularly engaged in the business of renting residential property or accommodations including all those types of residential accommodations listed in Section 6-1 of this chapter but not including mobilehome park spaces and not including a residential accommodation usually rented which is being occupied by its owner.

(i) **Classification "I" shall consist of:**

Persons regularly engaged in the business of renting mobile-home park spaces. Persons owning mobilehome park spaces who rent out or lease out mobilehomes on those spaces shall also obtain a license under

Classification "H" for the number of mobilehome units so rented or leased.

(j) Classification "J" shall consist of:

Persons regularly engaged in the business of renting commercial property or accommodations including offices, stores, shops, or other commercial structures and parcels of land occupied by any business use. Several parcels used together as part of the same local business (lessee) shall be considered one parcel for the purposes of applying the tax rate in this Classification.

(k) Classification "K" shall consist of:

Persons engaged in the business of providing recreation involving the following games:

Pool, billiards, or bagatelle

Bowling

Shuffleboard

Skeeball

A table, alley, board, or device licensed under this Classification shall not be licensed under any other classification.

A person licensed under this Classification shall not be required to obtain an additional license under Classification "A" for the serving of food or beverages on the same premises.

(l) Classification "L" shall consist of:

Persons operating card rooms approved by the Chief of Police as prescribed by City Ordinance. See also Section 6-32.

(m) Classification "M" shall consist of:

Persons erecting and maintaining outdoor advertising structures as defined in Section 6-1 of this chapter.

(n) Classification "N" shall consist of:

Persons operating carnivals, circuses, animal shows, and exhibitions not sponsored by a local charitable organization.

(o) Classification "O" shall consist of:

(1) Persons operating carnivals, circuses, animal shows and exhibitions sponsored by a local church, school, PTA club, veteran's organization or other recognized local charitable organization.

(2) Fortune teller, clairvoyant, palm reader, spiritualist, medium or other prognosticator who provides such services in connection with an event described in the preceding paragraph (1).

(3) A masseur or masseuse who provides such services in connection with an event described in the preceding paragraph (1).

(p) Classification "P" shall consist of:

Persons engaged in the business of shining shoes.

(q) Classification "Q" shall consist of:

Persons engaged in businesses not required to be licensed under the California Contractors License Law but which involve maintenance or repair of structures, or installation, maintenance or repair of improvements to structures, including but not limited to:

Air conditioning

Building moving and wrecking

Cabinet making

Carpentry and building alterations

Concrete finishing

Coolers

Earth moving, grading, trenching, paving

Electrical alterations

Flooring and tiling

Heating

Landscaping
Masonry
Metal Working
Mobilehome installation and accessory building erection
Painting and decorating
Plumbing, including sewer repairing and rodding
Refrigeration
Roofing
Sign painting
Welding
Well drilling

All persons applying for a license under Classification "Q" shall be required by the City Clerk to sign a statement under penalty of perjury that they are exempt from and will not do any work in violation of the California Contractors License Law (Bus. & Prof. Code Secs. 7000 et seq.). If it appears that any person licensed under Classification "Q" has performed work different from that permitted hereunder, the City Clerk may, after conferring with the City Attorney notify such person in accordance with Section 6-25 that his business is being reclassified to Classification "G". Notwithstanding provisions of Section 6-25 to the contrary, such reclassification shall apply during the current licensing year and such person shall pay the difference in licensing fees. Procedures in Section 6-2 for appeal to the City Council shall apply to any such reclassification.

- (r) Classification "R" shall consist of contractors as defined in Section 6-1.f.
- (s) Classification "S" shall consist of persons who engage in business on a part-time or intermittent basis.

- (t) Classification "T" shall consist of: Persons carrying on, conducting, or managing such events as arts exhibitions, crafts exhibitions, swap meets, flea markets, and similar events.

(Ord. No. 111, § 24; Ord. No. 114, §§ 1,2,3,5,7; Ord. No. 116, § 1,2,3; Ord. No. 78-15, § 4; Ord. No. 87-07, §§ 2,3; Ord. No. 91-02, § 3; Ord. No. 91-06, §3)

6-25 Reclassification.

In any case where a licensee or an applicant for a license believes that his individual business is not assigned to the proper classification under this section because of circumstances peculiar to it, as distinguished from other business of the same kind, he may apply to the Director of Finance for reclassification.

Such application shall contain such information as the Director of Finance may deem necessary and require in order to determine whether the applicant's individual business is properly classified. The Director of Finance shall then conduct an investigation following which he shall assign the applicant's individual business to the classification shown to be proper on the basis of such investigation.

The proper classification is that classification which, in the opinion of the Director of Finance most nearly fits the applicant's individual business. The reclassification shall not be retroactive, but shall apply at the time of the next regularly ensuing calculation of the applicant's tax. No business shall be classified more than once in one year.

The Director of Finance shall notify the applicant of the action taken on the application for reclassification. Such notice shall be given by serving it personally or by depositing it in the United States Post Office at Ridgecrest, California, postage prepaid, addressed to the applicant at his last known address.

Such applicant may, within 15 days after the mailing or serving of such notice, make written request to the Director of Finance for a hearing on his application for reclassification. If such request is made within the time prescribed, the Director of Finance shall cause the matter to be set for hearing before the City Council within 20 days. The Director of Finance shall give the applicant at least ten days notice of the time and place of the hearing in the manner prescribed above for serving notice of the action taken on the application for reclassification.

The Council shall consider all evidence adduced and its findings thereon shall be final. Written notice of such findings shall be served upon the applicant in the manner pre-

scribed above for service of notice of the action taken on the application for reclassification.

(Ord. No. 111, § 25; Ord. No. 92-02, § 19)

6-26 Enforcement.

It shall be the duty of the Director of Finance, and he is hereby directed to enforce each and all of the provisions of this chapter, and the Chief of Police shall render such assistance in the enforcement hereof as may from time to time be required by the Director of Finance or the City Council.

The Director of Finance, in the exercise of the duties imposed upon him hereunder, and acting through his deputies or duly authorized assistants, shall examine or cause to be examined all places of business in the City to ascertain whether the provisions of this chapter have been complied with.

The Director of Finance and each and all of his assistants, and any police officers shall have the power and authority, upon obtaining an inspection warrant therefor, if necessary, 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 possession or under his control, who willfully fails to exhibit the same on demand, shall be guilty of a misdemeanor and subject to the penalties provided for by the provisions of this chapter. It shall be the duty of the Director of Finance and each of his assistants to cause a complaint to be filed against any and all persons found to be violating any of the provisions of this section. (Ord. No. 111, § 26; Ord. No. 92-02, § 20)

6-27 License Tax a Debt.

The amount of any license tax and penalty imposed by the provisions of this chapter 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 tax and penalties. All remedies prescribed hereunder

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shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof. (Ord. No. 111, § 27)

6-28 Effect of Ordinance on Past Actions.

Neither the adoption of this ordinance nor its superseding 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. (Ord. No. 111, § 28)

6-29 Penalty for Violation.

Any person violating any of the provisions of this chapter or knowingly or intentionally misrepresenting to any officer or employee of this City any material fact in procuring the license herein provided for shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to the penalty established in Chapter I, Section 1-5. (Ord. No. 111, §29)

6-30 Regulating of Adult Entertainment Businesses.**6-30.1 Findings.**

a. Lists as conditional uses certain "adult entertainment" businesses within the General Commercial (CG) District of the City.

b. The City Council finds that "adult entertainment" businesses, because of their very nature, are recognized as having objectionable operational characteristics, thereby having a deleterious effect upon the adjacent areas. Special regulation of these businesses is also necessary to insure that the conduct or operation of any such "business" shall not be detrimental to the public health, safety, morals or welfare. (Ord. No. 79-9, §1, §2)

6-30.2 Definitions. "Adult entertainment businesses" as used in this section:

a. "Adult Book Store" shall mean an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are

distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" or an establishment with a segment or section devoted to the sale or display of such material.

b. "*Adult Theater and Auditorium*" shall mean an enclosed building with a capacity of fifty or more persons used for presenting material distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

c. "*Adult Mini Motion Picture Theater*" shall mean an enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

d. "*Adult Hotel or Motel*" shall mean a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

e. "*Adult Motion Picture Arcade*" shall mean any place to which the public is permitted or invited wherein coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

f. "*Cabaret*" shall mean a nightclub, theater or other establishment which features live performances by "go-go" dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

g. "*Model Studio*" shall mean any business where, for any form of consideration or gratuity, figure models who display "specified anatomical areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity.

h. "*Sexual Encounter Center*" shall mean any business, agency or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in "specified sexual activities" or exposing "specified anatomical areas."

i. Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

j. "*Specified sexual activities*" shall mean and include but not be limited to the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or

2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or

3. Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or

4. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or

5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or

6. Erotic or lewd touching, fondling or other contact with an animal by a human being; or

7. Human excretion, urination, menstruation, vaginal or anal irrigation.

k. "*Specified anatomical areas*" shall include the following:

1. Less than completely and opaquely covered (1) human genitals, public region; (2) buttock, and (3) female breast below a point immediately above the top of the areola; and

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

(Ord. No. 79-9, § 3)

6-30.3 License Required. No person shall own, operate, conduct or maintain any "adult entertainment" business without first obtaining from the Director of Finance a license for such "adult entertainment" business. Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this section is committed, continued, or permitted by such person, firm or corporation, and shall be punishable as herein provided. (Ord. No. 79-9, § 4; Ord. No. 92-02, § 21)

6-30.4 Fees; Term of License. No license shall be granted under this section to any person under the age of 18. The fee for the operator license shall be five hundred (\$500.00) dollars. Every initial license shall be valid from the date of issue until December 31 of the calendar year of issue unless earlier suspended or revoked. Any renewal license shall be obtained not later than February 1 of the year following the last previous year in which a valid license was held and shall be valid until December 31 of the calendar year of issue unless earlier suspended or revoked. (Ord. No. 79-9, § 5)

6-30.5 Issuance of License; Site Plan Approval Required. Upon payment of the applicable fee to the Director of Finance by the applicant, the Director of Finance shall grant and issue an appropriate license under this section when the Director of Finance receives from the Ridgcrest Planning Commission a written approval of a Site Plan for the operation of an adult use as defined by Chapter XX. (Ord. No. 79-9, § 6; Ord. No. 92-02, § 22)

6-30.6 License Information. An applicant for a license under this section shall file a verification and written application with the Director of Finance, on forms to be provided by the Director of Finance, which application shall state the name of the business, its address or proposed location, the names,

addresses, ages and Social Security numbers of all persons interested in the ownership thereof, if privately owned, or the names, addresses, ages and Social Security numbers of all officers and directors, if owned by a corporation, the type, nature, and size of the business to be conducted by the applicant, the name, address, age, and Social Security number of a designated person upon whom notices may be served, a copy of a partnership agreement, if any, a copy of the articles of incorporation, if any, a copy of its bylaws, and such other and pertinent information as the Council may require. An investigation fee of fifty (\$50.00) dollars shall be paid to the Director of Finance at the time such application is filed and such fee shall not be returnable to the applicant. (Ord. No. 79-9, § 7; Ord. No. 92-02, § 23)

6-30.7 *Change in Ownership.* The owner of and/or the holder of an operator's license shall, at all times, notify the Director of Finance of any change of ownership of the said "adult entertainment" business. Failure to so notify the Director of Finance shall be grounds for suspension or revocation and canceling by the Director of Finance of any licenses issued under this section.

a. No person under the age of 18 years shall be allowed or permitted on the licensed premises.

b. No license shall be transferable to another person or to another business location.

c. Each licensed premises shall have posted, and continually kept posted, a copy of this section in a conspicuous place on the licensed premises. Also, the operator's business licenses shall be similarly displayed nearby.

(Ord. No. 79-9, § 8; Ord. No. 92-02, § 24)

6-30.8 *Compliance With City Ordinances; Revocation or Suspension of License.* Persons securing licenses under the Business License Regulation, Sections 6-1 through 6-29, shall be subject to all regulations and ordinances adopted by the City, including all the regulations set forth in this section and nothing in this section contained shall be construed to create any vested right in any person to the assignment, renewal,

reissuance, or continuance of any license and such rights shall be, and remain at all times, vested in the City Council.

a. The City Council may suspend or revoke and cancel any license for good cause shown, which may include but not be limited to fraud or misrepresentation in its procurement, or for a violation of any of the provisions of this section, or of any other ordinance of this City, or any State or Federal statute, relating to gambling or the sale of intoxicating liquors, committed or permitted on the licensed premises or any other conduct or act permitted on the premises tending to render such premises a common nuisance or a menace to the health, peace, morals, or general welfare of the City, or whenever in the judgment of the City Council the public safety demands such revocation or suspension. A public hearing on the issue of suspension, revocation, or cancellation may be requested by the applicant, licensee, or concerned citizens.

b. Whenever the Council shall receive satisfactory evidence that any operator, his or her officers, employees, partners, or agents have caused, committed or allowed any act provided in paragraph a. above to be grounds for the suspension or revocation of any license issued hereunder, the Council may, by written notice serve upon said licensed person, or persons, temporarily suspend such license pending a hearing on the permanent suspension or revocation of such license, which hearing is to be held not more than ten working days after notice of such temporary suspension.

c. The notice of the temporary suspension, together with the notice of the hearing thereon, shall be given in writing, and served at least five days prior to the date of the hearing thereon, such service to be upon the licensed operator and/or employee and such notice shall state the grounds of complaint against the said licensed operator and/or employee, and the time when, and the place where such hearing shall be held. Deposit of such notice in a United States mail box in a correctly addressed, stamped envelope shall constitute service. The Council shall hold the hearing and shall give notice of the determination of the Council in the same manner as set forth above.

(Ord. No. 79-9, § 9)

6-30.9 Conflict With City Ordinances, This Section Takes Precedence. If any of the provisions of this section are found to be in conflict with any other City Ordinance, it is the intention of the City Council that the provisions of this section take precedence. (Ord. No. 79-9, § 10)

6-30.10 Penalties. Any violation of the Business License Chapter shall be an infraction and shall be liable, upon conviction of the penalty stated in Chapter I, Section 1-5. (Ord. No. 79-9, § 11)

6-31 Itinerant Vendors. (Ord. No. 94-01, § 2)

6-31.1 Purpose and Scope. The purpose of this section is to protect the health, safety and welfare of the general public and consumers who purchase products from itinerant vendors. As used herein, "itinerant" vendors are persons who sell goods or services or solicit donations without a fixed place of business within the City. The term "itinerant vendor" does not include a member of a nationally chartered nonprofit corporation wearing the organization's uniforms or persons sponsored by a public or private school with school identification cards. The term "itinerant produce vendor" refers to an itinerant vendor who sells food product. (Ord. No. 150, § 1; Ord. No. 94-01, § 3)

6-31.2 Requirements.

(a) Every itinerant vendor shall:

- (1) Obtain a business license prior to commencement of any commercial activities;
- (2) Wear a badge issued by the City, at the applicant's cost, displaying such information as photograph, name of the person who will be soliciting and the name, address and phone number of the company represented by the solicitor;
- (3) Conduct business only until 7:00 p.m.

(b) Every itinerant produce vendor's vehicle shall have displayed on both sides thereof the name, address and phone number of the person who manages and controls the vending operation. The name shall be shown in letters at least three (3) inches in height, and the address and phone number shall be shown in

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letters at least one and one-half (1½) inches in height. (Ord. No. 150, § 2; Ord. No. 94-01, § 4)

6-31.3 *Preparation of Products Sold.* No prepared food or produce shall be served or sold by an itinerant produce vendor unless prepared in an establishment complying with all applicable health regulations and laws. No food or produce sold by an itinerant produce vendor shall be packed or wrapped except in an establishment complying with all applicable health regulations and laws. An itinerant produce vendor shall not prepare food or produce except as provided herein. The Health Officer may restrict the food or produce offered for sale or gift by an itinerant produce vendor to such items as are not a hazard to the public health, safety and welfare when handled by facilities of itinerant produce vendors. (Ord. No. 150, § 3)

6-31.4 *Storage.* It shall be unlawful to store or keep any itinerant produce vendor's vehicle, equipment, food, produce or supplies in an unsanitary or unhealthful manner or place. (Ord. No. 150, § 4)

6-31.5 *Personal Cleanliness.* All itinerant produce vendors, and all of their employees and agents who handle food or produce shall at all times maintain themselves in a sanitary condition. (Ord. No. 150, § 5)

6-31.6 *Vendors in Fixed Location.* All persons claiming to be itinerant produce vendors but who offer for sale any food or produce at a fixed location shall comply with all laws and regulations applicable to food establishments and restaurants. Any such vendor's vehicle which is not moved at least five hundred (500) feet within each twenty-four-hour period shall be deemed to be in a fixed location unless specifically excepted in writing by the Health Officer. (Ord. No. 150, § 6)

6-31.7 *Parking Limitations.* Itinerant produce vendors shall not permit any vehicle to remain in one location for the purpose of displaying or selling food or produce for more than thirty (30) minutes during any twenty-four-hour period. No vehicle shall be parked on private property without the prior written approval of the Planning Department, Health Department and Director of Finance. No vehicle shall be parked on any public street, highway

or right-of-way without written approval of the public agency having jurisdiction thereof. (Ord. No. 150, § 7; Ord. No. 92-02, § 25)

6-31.8 Sanitation Facilities. No portable sanitation facilities shall be permitted. Toilet and handwashing facilities shall be available with a distance of one hundred fifty (150) feet from the vendor's vehicle and must be approved by the Health Officer. All garbage, papers, debris and litter must be promptly picked up and disposed of, and the premises must be maintained at all times in a neat, clean and orderly condition. All food products except liquids shall be sold only in sealed packages or from sanitary dispensers. Water shall be provided on the site for controlling dust and blowing sand, which water supply shall be from an approved water system. (Ord. No. 150, § 8)

6-31.9 General Requirements. In addition to the requirements set forth hereinabove, every itinerant produce vendor shall:

- a. Obtain a City business license prior to commencement of any activities;
- b. Maintain all signs on the vehicle, tables or stands, and not on adjoining premises;
- c. Use a vehicle of a commercial type, with truck bed in clean and good condition, and with a current valid California registration;
- d. Not display or store any food or produce on the ground, but only from the vehicle or on tables or stands at least thirty (30) inches above the ground level;
- e. Provide suitable containers for disposal of culls, trash, debris and litter, such containers to be sanitary and in good condition with tight-fitting lids;
- f. Report to Health Officer and Director of Finance any change in equipment for inspection and approval prior to use;
- g. Have the vehicle and any equipment inspected each time the City business license is renewed or changed;
- h. Leave all sales sites in a clean condition, with all vehicles, tables, stands, food, produce, culls, trash, debris and litter removed;

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- i. Vendors in a fixed location shall remove all vehicles, tables, and stands within twenty-four (24) hours after termination of offering food or produce for sale.

(Ord. No. 150, § 9; Ord. No. 92-02, § 26)

6-31.10 Penalties.

- (a) The first violation of this section is an infraction.

(b) The second or subsequent violation within two (2) years is a misdemeanor punishable by a fine of not to exceed five hundred dollars (\$500.00), or imprisonment for not to exceed thirty (30) days, or by both fine and imprisonment. (Ord. No. 150, § 10; Ord. No. 94-01, § 5)

6-32 Controlled Games. (Ord. No. 99-02, § 2)

6-32.1 *General.* This section regulates controlled games permitted under State law. As used herein, a "controlled game" is a card game not prohibited by the Penal Code. "Controlled game" does not include bingo or games played with cards in private homes where no person makes money for operating the game, except as a player. Terms used in this section, also defined in the Business and Professions Code or the Penal Code, have the meanings ascribed by those Codes. (Ord. No. 18, §§ 1, 2; Ord. No. 99-02, § 3)

6-32.2 *Permit Required.* No person shall permit a controlled game to be conducted without first securing a permit from the City. The owner and lawful occupant of real property where the controlled game is conducted and persons employed at a location where the controlled game is conducted are responsible for compliance with this section. (Ord. No. 92-02, § 27; Ord. No. 99-02, § 4)

6-32.3 *Application for Permit.* Applications for permits to conduct controlled games shall be filed in writing with the city clerk. The application shall contain at least the following information:

- (a) The location where the controlled game is to be conducted;

- (b) The names and addresses of the owners of the real property where the controlled game is to be conducted;
- (c) The names of the lawful occupants of the real property where the controlled game is to be conducted;
- (d) The names and addresses of gambling enterprise employees, including key employees; and
- (e) The names and addresses of the owners of the gambling enterprise. (Ord. No. 18, § 3; Ord. No. 92-02, § 28; Ord. No. 99-02, § 5)

6-32.4 *Investigation of Application.*

- (a) The Chief of Police, or designee, shall determine whether the proposed location is suitable for controlled gaming and whether the gambling enterprise owners are of good moral character.
- (b) The Chief's written decision shall be provided to the: Division of Gambling Control of the California Department of Justice; the applicant and the City Clerk within thirty (30) days after the application is filed. All work permit applicants must submit an application and fingerprints directly to the State Department of Justice, Division of Gambling Control, for a full background check to be conducted by that State Agency.
- (c) The applicant for the gambling enterprise may appeal the Chief's decision to the City Council by filing a written appeal within ten (10) days after the Chief's decision. The Council shall schedule a hearing within thirty (30) days. The decision of the Council is final. (Ord. No. 18, § 5; Ord. No. 92-02, § 29; Ord. No. 99-02, § 6)

6-32.5 *Permit Conditions.*

- (a) Permits issued under this section shall include at least the following conditions:
 - (1) The location of the gambling enterprise shall be as stated in the application;
 - (2) The gambling enterprise ownership shall not change without prior written approval following investigation by the Chief of Police;

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- (3) The permittee shall comply with other provisions of law;
 - (4) The permit shall be prominently displayed on the premises;
 - (5) Each dealer shall display an identification card issued by the State Department of Justice;
 - (6) The gambling enterprise shall operate only between the hours of 2:00 p.m. and 2:00 a.m.;
 - (7) The owner shall be liable for the safety and security of patrons;
 - (8) The permittee shall comply with applicable zoning;
 - (9) Wagers shall be set by the gambling establishment and shall be approved by the City. Wager limits must be clearly displayed at the table;
 - (10) The maximum number of tables, in each establishment shall not cause the maximum number of tables for the City to be exceeded;
 - (11) The premises shall be open for inspection by the Chief of Police and other peace officers;
 - (12) An expiration date of the next following January 1st.
- (b) The maximum number of tables permitted in each gambling establishment is three (3). The maximum number of tables permitted in the City is twelve (12). Additional tables may be permitted for gambling tournaments and other special events on application. (Ord. No. 18, § 6; Ord. No. 99-02, § 7)

6-32.6 *Revocation of Permit.*

- (a) The Chief of Police may revoke permits issued under this section for:
 - (1) Fraudulent application statements;
 - (2) Noncompliance with permit conditions;
 - (3) Maintaining the premises in a manner detrimental to good public morals and social peace.
- (b) The permittee may appeal the Chief's decision to revoke a permit to the City Council by filing a written appeal with

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the City Clerk within ten (10) days of the decision. The Council shall conduct a hearing within thirty (30) days. The decision of the council is final. (Ord. No. 18, § 7; Ord. No. 99-02, § 8)

6-32.7 *Fees.* The applicant, gambling enterprise employees, owners of the gambling enterprise and the permittee shall pay fees established by resolution of the Council. (Ord. No. 18, § 8; Ord. No. 92-02, § 30; Ord. No. 99-02, § 9)

6-32.8 *Enforcement.* Violation of this section is a misdemeanor. (Ord. No. 18, § 10; Ord. No. 66, § 1; Ord. No. 106, § 1; Ord. No. 99-02, § 10)

6-32.9 *Reserved.* (Ord. No. 18, § 9; Ord. No. 99-02, § 11)

6-33 Hours of Operation of Gambling Games.

6-33.1 *Hours Prohibited.* It shall be unlawful for any person to deal, play or carry on or open or cause to be opened or conduct or cause to be conducted, either as owner or employee, or otherwise, whether for hire or not, any game not mentioned or included in Section 330 of the Penal Code of the State of California, played with cards or dice or any other device for money, checks, credits or any other representative of value, within the City, between the hours of 2:00 a.m. and 9:00 a.m. of any day, including Sundays and holidays. (Ord. No. 11, § 1)

6-33.2 *Enforcement.* It shall be the duty of each and every peace officer of said City or of the County of Kern to use all legal means of detecting and convicting persons of violating any provision of this section and to exercise the right of search given by the law of this State to seize and safely keep all chips, checks, cards, apparatus and paraphernalia used for gambling purposes at any place that may exist contrary to this section and to produce the same in court and retain them until the final decision of the case in which such articles may be required as evidence and these articles shall be destroyed by the order of the court after proof having been made of their use for gambling purposes. (Ord. No. 11, § 2)

6-33.3 *Violations and Penalties.* Any person violating any provision of this section shall be guilty of a misdemeanor and upon conviction thereof shall be liable to the penalty established in Section 1-5. Each day that any provision of this section is violated is a separate and distinct offense and shall be punished as a separate and distinct offense. (Ord. No. 11, § 3)

6-34 Bingo Games for Charitable Purposes.

6-34.1 *Bingo Games for Charitable Purposes Permitted.* The City is authorized pursuant to Section 19, Article IV of the California Constitution and Section 326.5 of the Penal Code to provide for, and does hereby provide for bingo games, but only

for charitable purposes in accordance with the provisions of this section. (Ord. No. 77-16, § 1)

6-34.2 *Bingo Games License Required.* No person, firm, corporation, organization or association shall engage in, carry on, maintain, conduct, or cause to be engaged, carried on, maintained or conducted a bingo game in the City without first having secured a license from the Director of Finance in accordance with the requirements of this section nor without complying with the regulations contained herein pertaining to the operation of bingo games. (Ord. No. 77-16, § 2; Ord. No. 92-02, § 31)

6-34.3 *Organizations Eligible for City License to Conduct Bingo Games.* Organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 237011 of the Revenue and Taxation Code, and mobile home park associations and senior citizens organizations are eligible to apply to the City for a license to conduct bingo games in the City under the provisions of Section 326.5 of the Penal Code, provided that the proceeds of such games are used only for charitable purposes. (Ord. No. 77-16, § 3)

6-34.4 *Applications for Licenses.* Applications for a license to conduct bingo games pursuant to this section shall be executed under penalty of perjury and submitted to the Director of Finance on forms to be obtained from the Director of Finance's office upon payment of the license fee prescribed in subsection 6-34.6f. The license issued shall be for a term of one year from the date of issue, subject to renewal for annual fee. (Ord. No. 77-16, § 4; Ord. No. 92-02, § 32)

6-34.5 *Applicant Must Be Qualified.* No license shall be issued to any organization unless such applicant is an eligible organization under subsection 6-34.3 and its application conforms to the requirement, terms and conditions of this section. (Ord. No. 76-15, § 5)

6-34.6 *Contents of Application.* Said application for a license shall contain the following:

- a. The name of the applicant organization and a statement that applicant is an eligible organization.
- b. The name and signature of at least two officers, including the presiding officer, of the corporation or community chest and the trustee of any trust.
- c. A list of the names of members of the applicant organization who will, from time to time, operate and staff bingo games.
- d. The particular property within the City including the street number, owned or leased by the applicant, used by such applicant for an office or for performance of the purposes for which the applicant is organized, on which property bingo games will be conducted, together with the occupancy capacity of such place.
- e. Proposed days of week and hours of day for conducting of bingo games.
- f. The annual license fee fixed by the City Council by resolution shall accompany the application.
- g. The applicant shall also submit with its application a letter or other evidence from the State Franchise Tax Board showing that the applicant is exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 237011 of the Revenue and Taxation Code, or that the organization is a mobile home park association or a senior citizens organization.
- h. A statement that the applicant agrees to conduct bingo games in strict accordance with the provisions of Section 326.5 of the Penal Code and this section as they may be amended from time to time, and agrees that the license to conduct bingo games may be revoked by the Chief of Police upon violation of any of such provisions.
- i. Said application shall be signed by the applicant under penalty of perjury.

(Ord. No. 76-15, § 6; Ord. No. 77-16, § 5)

6-34.7 *Investigation of Applicant.* Upon receipt of the completed application, the Chief of Police shall make an investigation to determine if all of the statements in the application are true and shall refer the application to other interested departments of the City, including but not limited to the Director of the Planning Department, Director of Building Inspection, the County Health Officer and the Fire Marshal to determine if the appropriate zoning ordinances and regulations, building code ordinances, health ordinances and regulations, and provisions of the Uniform Fire Code have been or will be complied with. (Ord. No. 76-15, § 7)

6-34.8 *Contents of License.* Upon being satisfied that the applicant is fully qualified, under the law, to conduct bingo games in the City, the Director of Finance shall issue a license to said applicant, which shall contain the following information:

- a. The name and nature of the organization to whom the license is issued.
 - b. The address where bingo games are authorized to be conducted.
 - c. The occupancy capacity of the room in which bingo games are to be conducted.
 - d. The date of the expiration of such license.
 - e. Such other information as may be necessary or desirable for the enforcement of the provisions of this section.
- (Ord. No. 77-16, § 6; Ord. No. 92-02, § 33)

6-34.9 *Posting of License.* An organization licensed pursuant to this section shall not conduct or permit to be conducted a bingo game unless said license is posted in a conspicuous place during the conduct of any bingo game. The licensee shall produce and exhibit the same, when applying for renewal thereof, and whenever requested to do so by any peace officer or officer authorized to issue, inspect or collect licenses. (Ord. No. 76-15, § 9)

6-34.10 *Summary Suspension of License Pending Opportunity for Hearing; Misdemeanor to Continue After Suspension; Revocation.*

a. Whenever it appears to the Chief of Police that the licensee is conducting a bingo game in violation of any of the provisions of this section, the Chief of Police shall have the authority to summarily suspend the license and order the licensee to immediately cease and desist any further operation of any bingo game.

b. Any person who continues to conduct a bingo game after any summary suspension thereof under paragraph a. shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not exceeding five hundred (\$500.00) dollars or by imprisonment in the County jail for a period not exceeding six months, or by both such fine and imprisonment.

c. The order issued under paragraph a. shall also notify the licensee that it shall have five (5) days from the date of such order to request a hearing to determine whether such license shall be revoked. Failure to request, in writing, such hearing before the Chief of Police within said five-day period, shall result in a revocation of the license.

d. Upon such request by the licensee, whose license has been suspended under paragraph a. for a hearing to determine whether such license shall be revoked, the Chief of Police shall provide such hearing within ten days after receipt of such request at which hearing the suspended licensee may appear before the Chief of Police for the purpose of presenting evidence why the license should not be revoked. No license shall be revoked under this section unless notice of the time and place of such hearing shall have first been given at least five days before the hearing thereof by depositing in the United States mail a notice directed to said suspended licensee at the address given in the application. The notice shall set forth a summary of the ground advanced as the basis of the suspension and revocation.

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e. Any organization whose license is revoked under this section shall not conduct any bingo game in the City until such time as the City Council, on appeal, determines to overrule the decision of the Chief of Police.
(Ord. No. 76-15, § 10)

6-34.11 *Revocation of License; Alternative Procedure.*

a. Whenever it appears to the Chief of Police that the licensee is conducting bingo games in violation of any of the provisions of this section or that the license was obtained by fraudulent representation and no summary suspension is ordered, under subsection 6-34.10, the license may be revoked; provided, however, the licensee may appear before the Chief of Police at the time fixed by the Chief of Police, for the purpose of presenting evidence why the license should not be revoked. No license shall be revoked under this section unless written notice shall have first been given at least five days before the hearing thereof by depositing in the United States mail a notice directed to said licensee at the address given in the application. The notice shall set forth a summary of the grounds advanced as the basis of the revocation.

b. Any organization whose license is revoked under this section shall not conduct any bingo game in the City until such time as the City Council, on appeal, determines to overrule the decision of the Chief of Police. (Ord. No. 76-15, §10)

6-34.12 *Appeal of Revocation to the City Council.*

a. Any holder of a license whose license is revoked under this section shall have the right, within ten days after receiving notice in writing of the revocation, to file a written appeal to the City Council. Such appeal shall set forth the specific ground or grounds on which it is based. The City Council shall hold a hearing on the appeal within 30 days after its receipt by the City, or at a time thereafter agreed upon and shall cause the appellant to be given at least ten days written notice of such hearing. At the hearing the appellant or its authorized representative shall have the right to present evidence and a written or oral argument, or both, in support of his appeal. The determination of the City Council on the appeal shall be final.

b. Any organization whose license is finally revoked may not again apply for a license to conduct bingo games in the City for a period of one year from the date of such revocation; provided, however, if the ground for revocation is cancellation of the exemption granted under Section 23701d of the Revenue and Taxation Code, such organization may again

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apply for a license upon proof of reinstatement of said exemption. (Ord. No. 76-15, §10.2)

6-34.13 *Definition of "Bingo"*. As used in this section, "Bingo" shall mean a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. (Ord. No. 76-15, §11)

6-34.14 *Maximum Amount of Prize*. The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty (\$250.00) dollars in cash or kind, or both, for each separate game which is held. (Ord. No. 76-15, §12)

6-34.15 *Profits to be Kept in Separate Fund or Account*. All profits derived from a bingo game shall be kept in a special fund or account and shall not be co-mingled with any other fund or account. Such proceeds shall be used only for charitable purposes except as follows:

1. Such proceeds may be used for prizes.

2. A portion of such proceeds, not to exceed ten percent of the proceeds after the deduction for prizes or five hundred (\$500.00) dollars per month, whichever is less, may be used for rental of property, overhead, and administrative expenses.

The licensee shall keep full and accurate record of the income and expenses received and disbursed in connection with its operation, conduct, promotion, supervision and any other phase of bingo games which are authorized by this section. The City by and through its authorized officers, shall have the right to examine and audit such record at any reasonable time, and licensee shall fully cooperate with City by making such record available. (Ord. No. 77-16, §7)

6-34.16 *Financial Interest in Licensee Only*. No individual, corporation, partnership, or other legal entity except the licensee shall hold a financial interest in the conduct of such bingo game. (Ord. No. 76-15, §14)

6-34.17 *Exclusive Operation By Licensee*. A bingo game shall be operated and staffed only by members of the

licensee organization whose names shall have been previously given to the Chief of Police in accordance with subsection 6-34.6c. Such members shall at all times during the conduct and operation of any bingo game be conspicuously identified by a name tag or other appropriate means, as members authorized to operate and staff such game. Such members shall not receive a profit, wage, or salary from any bingo game. Only the licensee shall operate such game, or participate in the promotion, supervision or any other phase of such game. (Ord. No. 76-15, §15)

6-34.18 *Bingo Games Open to Public.* All bingo games shall be open to the public, not just to the members of the licensee organization. (Ord. No. 76-15, §16)

6-34.19 *Attendance Limited to Occupancy Capacity.* Notwithstanding that bingo games are open to the public, attendance at any bingo game shall be limited to the occupancy capacity of the room in which such game is conducted as determined by the Fire Department and Building Inspection Department of the City in accordance with applicable laws and regulations. Licensee shall not reserve seats or space for any person. (Ord. No. 76-15, §17)

6-34.20 *Bingo Games Conducted Only on Licensee's Property.* An organization authorized to conduct bingo games pursuant to this section shall conduct a bingo game only on property owned or leased by it and which property is used by such organization for an office or for performance of the purposes for which the organization is organized. Nothing in this section shall be construed to require that the property owned or leased by the organization be used or leased exclusively by such organization. The license issued under this section shall authorize the holder thereof to conduct bingo games only on such property, the address of which is stated in the application. In the event the described property ceases to be used as an office or as a place for performance of the purposes for which the organization is organized, the license shall have no further force or effect. A new license may be obtained by an eligible organization upon application under this section when it again owns or leases property

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used by it for an office or for performance of the purposes for which the organization is organized. (Ord. No. 77-16, §18)

6-34.21 *Minors Not to Participate.* No person under the age of 18 years of age shall be allowed to participate in any bingo game. (Ord. No. 76-15, §19)

6-34.22 *Use of Credit Prohibited.* No licensee shall issue chips or money to a patron on credit or loan (including but not limited to IOU's and checks to be held) or allow any patron to play on credit. (Ord. No. 76-15, §20)

6-34.23 *Intoxicated Persons Not to Participate.* No person who is in a state of intoxication shall be allowed to participate in a bingo game. (Ord. No. 76-15, §21)

6-34.24 *Hours of Operation.* No licensee shall conduct any bingo game more than six hours out of a 24 hour period. No bingo game shall be conducted before 9:00 a.m., nor continued after 2:00 a.m. of the following day. (Ord. No. 76-15, §22)

6-34.25 *Posting of Bingo Game Rules and Regulations.* The licensee shall post in a conspicuous place during the conduct of any bingo game the rules and regulations of said game. (Ord. No. 76-15, §23)

6-34.26 *Participant Must be Present.* No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place in which the bingo game is being conducted. (Ord. No. 76-15, §24)

6-34.27 *Receipt of Profit by a Person, a Misdemeanor Under State Law.* It is a misdemeanor under Section 326.5 (b) of the Penal Code of the State of California for any person to receive or pay a profit, wage, or salary from any bingo game authorized under this section, a violation of which is punishable by a fine not to exceed ten thousand (\$10,000.00) dollars which fine shall be deposited in the general fund of the City. (Ord. No. 77-16, §9)

6-34.28 City May Enjoin Violation. The City may bring an action in a court of competent jurisdiction to enjoin a violation of Section 326.5 of the Penal Code or of this section. (Ord. No. 76-15, §26)

6-35 Display of Certain Merchandise.

6-35.1 General.

a. No person shall display merchandise depicting sexual activity or merchandise intended to assist or promote sexual activity in any commercial establishment except in areas set aside and clearly posted for adults only or displayed within opaque units.

b. "Adults only" areas shall be visible from the cash register or sales center of the store. No item frequently purchased by minors shall be located in the vicinity of the "adults only" area. Minors shall not be permitted to enter an "adults only" area. Merchandise with sexually explicit depictions shall not be visible to persons outside the "adults only" area. (Ord. No. 92-13, §3)

6-35.2 Definitions. The following terms are defined for the purposes of this section:

a. "*Merchandise*" shall mean any book, magazine, pamphlet, video cassette or disk, newspaper, or tangible personal property offered for sale, rent, lease or loan.

b. "*Commercial Establishment*" shall mean any place of business located within the City in which minors are permitted.

c. "*Depicting Sexual Activity*" shall mean any picture, photograph, drawing, decoration or other illustration depicting:

1. Stimulation of human genitals, or otherwise emphasizing the genitals;

2. Acts of human masturbation, sexual intercourse, sodomy, bestiality, buggery, cunnilingus, fellatio, pederasty, homosexuality, sado-masochism or similar acts;

3. Fondling or other erotic touching of human genitals, pubic regions or female breasts.

d. *"Assist or Promote Sexual Activity"* shall mean any device that is used or useful for:

1. Stimulation of human genitals, or otherwise emphasizing the genitals;

2. Acts of human masturbation, sexual intercourse, sodomy, bestiality, buggery, cunnilingus, fellatio, pederasty, homosexuality, sado-masochism or similar acts;

3. Fondling or other erotic touching of human genitals, pubic regions or female breasts.

e. *"Opaque Display Units"* are display units that show only the top two (2) inches of magazine covers.

(Ord. No. 92-13, §3)

6-35.3 Exemptions. Nothing contained herein shall prohibit:

a. A minor having proprietary interests in or managerial control of the ordinary and routine operation of a commercial establishment from entering the "adults only" areas of the commercial establishment.

b. Employing or allowing a minor to act in a proprietary or managerial capacity with respect to the operation of a commercial establishment including "adults only" areas of a commercial establishment.

c. Admitting a minor to an "adults only" area of a commercial establishment if the minor is accompanied by an adult who represents himself or herself as the minor's parent or guardian.

d. Allowing a minor to enter the "adults only" area of a commercial establishment, when not accompanied by parent or guardian, if the minor presents false documentation of being at least eighteen (18) years of age and the documentation appears to be legitimate to an average, prudent person.

e. Allowing a minor to legally purchase contraceptive devices.

(Ord. No. 92-13, §3)

6-35.4 Civil Enforcement. Any violation of this section is a public nuisance that may be abated as provided by law. (Ord. No. 92-13, § 3)

6-35.5 Criminal Enforcement.

a. Every person who violates any provision of this section is guilty of an infraction for the first offense and is guilty of a misdemeanor for subsequent offenses that occur within twelve (12) months of the first offense.

b. It shall be a defense in any prosecution for violation of this section that the merchandise does not depict, assist or promote sexual activity if its apparent character, outward appearance or contemporary Kern County-wide reputation would not cause an average adult person to reasonably know or suspect that the merchandise depicts sexual activity or assists or promotes sexual activity.

c. The criminal penalties for violations of this section are separate and cumulative to the civil enforcement of this section. (Ord. No. 92-13, § 3)

6-36. Reserved.

6-37. Distribution of Handbills.

6-37.1 Purpose. The purposes of this chapter [section] are declared to be as follows:

(a) To protect the health and safety of the people and the expense incident to the littering of public places by the uncontrolled distribution of commercial handbills; and

(b) To preserve to the people their constitutional right to receive and disseminate information by distinguishing between the nuisance created by the uncontrolled distribution of commercial handbills and the right to deliver noncommercial handbills.

(Ord. No. 94-03, § 2)

6-37.2 Definitions. The following words, terms and phrases when used in this chapter [section] shall have the meanings ascribed to them in this section:

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(a) *Handbill* means and includes any printed or written matter, any sample or device, circular, leaflet, paper, booklet or any other printed or otherwise reproduced original copies of any matter or literature.

(b) *Commercial handbill* is a handbill which is not a newspaper or sign and which has for its principle purpose one (1) or more of the following:

- (1) Advertising for sale any merchandise, product, commodity, or thing;
- (2) Directing attention to any business, mercantile, commercial establishment or other activity for the purpose of promoting the interests thereof of sales;
- (3) Directing attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit.

(c) *Noncommercial handbill* is a sign, newspaper or any handbill other than a commercial handbill.

(d) *Newspaper* means and includes any newspaper of general circulation, as defined by general law, any newspaper duly entered with the United States Postal Service in accordance with federal statute or regulation, any newspaper filed and recorded with any recording officers provided by general law, and any periodical or current magazine regularly published with not less than four (4) issues per year and sold to the public.

(e) *Private property* means and includes any dwelling, house, building or other structure designed for use either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

(f) *Public property* means and includes any and all streets, boulevards, avenues, lanes, alleys or other public ways and any and all public parks, squares, plazas, grounds, and buildings.

(Ord. No. 94-03, § 3)

6-37.3 Posting or Distribution of Commercial Handbills.

(a) No person shall throw, cast, distribute, scatter, deposit, or place commercial handbill upon any public property within the City, except as may be authorized or required by the laws of the United States, the State, and the ordinances of the City.

(b) No person shall throw, cast, distribute, scatter, deposit or place any commercial handbill upon an unattended vehicle.

(c) Violation of this section is an infraction.
(Ord. No. 94-03, § 4)