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<sup>1</sup> Chapter 9, Article 2, Division 9, Section 9-61.1 is enacted. (Ord. 1715, eff., 1-31-03)

<sup>2</sup> Chapter 9, Article 2 is amended by the addition of Division 12 including Sections 9-67 through 9-87) (Ord. 1738, eff., 10-21-03)

## CHAPTER 9. LICENSES.

### ARTICLE 1. IN GENERAL.

#### Section 9-1. Short title.

This Ordinance shall be known as and may be cited as the "General Business Licensing Ordinance of the City of Trinidad."

#### Section 9-2. Purpose and scope.

The purpose of this Chapter is to provide a uniform procedure for the issuance, suspension and revocation of business licenses issued by the City. The provisions of this Chapter shall apply to all businesses except those exclusively involved in the sale and dispensing of alcoholic beverages, and any other businesses whose licensing provisions are contained in another Chapter in this Code.

#### Section 9-3. Business defined.

*Business* includes all kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in this City or anywhere else within its jurisdiction.

#### Section 9-4. License required.

It shall be unlawful for any person, firm or corporation to carry on or engage in any business within the corporate limits of the City of Trinidad, subject to any law of the State of Colorado now in force, or hereafter to be enacted, without first having obtained a license therefor from the City Clerk.

#### Section 9-5. Exempt activities.

(1) Nothing in this Chapter shall be construed to prohibit, or to require a license for, solicitations or sales by members of bona fide religious, charitable, school or civic organizations eligible for exemption under Section 501(c)(3) of the Internal Revenue Code.

(2) No license shall be required for a casual sale, that being defined as an individual, single or incidental transaction which in itself does not constitute the carrying on of business.

(3) Nor shall a license be required of any person for any mere delivery in the City where no intent by such person is shown to exist to evade the provisions of this Chapter.

(4) No license shall be required of any person for the holding of no more than one garage sale, exceeding not more than two days in length or two garage sales exceeding not more than one day each in length, at a given location, in a calendar year, except that any person holding any such garage sale shall be required to obtain a permit from the City Clerk prior to holding the garage sale. No garage sale may be conducted prior to 8:00 a.m. or after 8:00 p.m. of any day. (Ord. No. 1501, 3/31/95.)

(5) No license shall be required of a person operating a street stand as a part of a City sanctioned event lasting no more than five (5) days. However, such person shall be required to obtain a permit from the City Clerk pursuant to Section 9-63(2) of the Code of Ordinances. (Ord. 1353, Sec. 1, 5/23/89.)

### **Section 9-6. Applications.**

(1) The application for every license required by and issued under authority of the City shall contain:

- (a) The name of the person, firm or corporation desiring such license;
- (b) The residence address and home telephone number of each applicant, or of each of the individual members of such firm, or of each of the directing officers of such corporation, and the address and telephone number of its principle place of business;
- (c) The kind of business desired, stating the business, trade or profession;
- (d) Street address where business is to be carried on as well as its telephone number;
- (e) The time period for which such license is sought; and
- (f) Any other relevant information required by the terms of this Chapter relating to the particular license sought or deemed to be necessary by the City Clerk for the particular license sought.

(2) All applications shall be accompanied by payment of an application fee of Ten Dollars (\$10.00).

### **Section 9-7. Issuance.**

All licenses shall be issued by the City Clerk upon receipt of the following, unless otherwise specified in this Code:

- (1) A proper application containing all applicable information as required on the form provided by the City of Trinidad.
- (2) Payment of the annual business license fee of \$10.00 to the City Clerk.
- (3) The execution and delivery of any bond or insurance that may be required.
- (4) An inspection report by the building inspection and fire department, certifying that the business premises are fit for occupancy.
- (5) The fulfillment of all other specific requirements relating to the issuance of the particular license.

**Section 9-8. Term of license.**

All licenses, except those issued for seasonal business or activities, shall be valid for a term of one year and shall expire exactly one (1) year after the date of issuance.

**Section 9-9. Renewals.**

Any licensee may make application for a new license for the succeeding one year period and pay the required fee therefor on or before the expiration date of any license or licenses issued to him/her for the current one (1) year period. Whenever any application and license fee therefor is not received on or before the expiration date of any license issued for the current one year period, and the licensee continues to engage in the business or activity for which the license was issued, a penalty of ten percent (10%) of the amount of the license fee is imposed and collected and an additional penalty of five percent (5%) of the original fee is imposed as of the last day of each calendar month after the expiration date. In addition to the above penalty provision, it is unlawful for a licensee to engage in any business or activity after his/her license therefor has expired, and subjects the violations to the penalty provisions as set forth in this Chapter.

**Section 9-10. Transfers.**

No license may be transferred from one person to another, or from one place to another, except when permitted by State law or the provisions of this Code relating to the particular license, and then only by the City Clerk after written application therefor and the payment of a fee of Five Dollars (\$5.00) for the transfer of such license.

**Section 9-11. Suspension or revocation.**

(1) The City Clerk, may upon seven (7) days written notice to a licensee stating the contemplated action and in general the grounds therefor, suspend a license for a period not to exceed fifteen days. The licensee shall have seven days from the date of the notice to file a written protest with the Clerk. If a protest is filed, the matter shall be set for hearing before the City Council, and the suspension shall be stayed pending the hearing. Following the hearing, the City Council shall either overrule the suspension, uphold the suspension, impose a suspension for a greater or lesser length of time, or revoke the license.

(2) If a protest is not filed, the Clerk shall report the violation and suspension to the City Council, which at its option may set the matter for hearing to consider an extension of the suspension period, or a revocation of the license. Nothing in this Section shall be construed to prevent the City Council, on its own motion, from scheduling a suspension or revocation hearing.

(3) A license may be suspended by the City Clerk, or suspended or revoked by the City Council, upon finding that:

- (a) The licensee has failed to maintain or keep in place any bond or insurance during the course of licensing period, where such bond or insurance is required pursuant to the terms of the issuance of the license and the provisions of this Chapter;

- (b) The licensee has violated any of the terms of the provisions pertaining to his/her license, or any regulation or order lawfully made relating thereto; or
- (c) Any fact or condition which now exists or did exist at the time of the application for such license, which had it been known at the time, would have warranted the refusal of the issuance of such license.

#### **Section 9-12. Non-issuance of license.**

Upon the refusal of any license application, the license fee paid therefor in advance, shall be returned to the applicant; the application fee is nonrefundable.

#### **Section 9-13. Joint license.**

A person engaged in two or more businesses at the same location shall not be required to obtain separate licenses for each of such businesses but, when eligible, shall be issued one license which shall specify on its face all such businesses. However, should one or more of such businesses require a license for which additional and/or more stringent requirements are set forth than those set forth in this Article 1, such licensee shall be required to meet such additional and/or more stringent requirements, in order to obtain a license to operate such business or businesses.

#### **Section 9-14. License required by each place of business.**

A separate license must be obtained for each branch, establishment or separate place of business without payment of any additional fee.

#### **Section 9-15. Posting and exhibition.**

Every license for a business to be conducted at a particular street address shall be posted therein in a location that is visibly noticeable to public view during the period such license is valid. It shall be the duty of each and every person to whom a license has been issued by the City, to exhibit the same upon the request of any law enforcement officer, inspector, or other office of the City. (Ord. 1343, 12/6/88.)

#### **Section 9-16. Penalty for violation.**

Any person who violates any of the provisions of this Chapter shall, upon conviction, be punished by a fine of not more than Three Hundred Dollars (\$300.00), or be sentenced to jail for not more than ninety (90) days, or both such fine and imprisonment.

#### **Section 9-17. Each day's violation deemed separate offense.**

The carrying on of any business, profession, vocation, or occupation as provided in this Chapter, without first having procured a license from the City to do so, shall be deemed a separate violation of this Chapter for each and every day that such business, profession, vocation, or occupation is

carried on without a license.

**Section 9-18. Invalidity.**

If any Section of this Ordinance or the application of any section thereof to any particular class of business or persons or circumstances, such invalidity shall not affect the remaining portions of this Ordinance, and said Ordinance and the various portions thereof are declared to be severable.

**ARTICLE 2. BUSINESSES SUBJECT TO ADDITIONAL LICENSING REQUIREMENTS.**

**DIVISION 1. AMUSEMENT PARKS.**

**Section 9-19. Amusement park license - Fee, term, other pursuits included.**

A license may be granted to the manager of any amusement park upon payment in advance of One Hundred Dollars (\$100.00). The license shall be granted by the Council and issued by the City Clerk, to cover a period of one (1) year from the time such license is granted. Such licensee shall not be required to take out a separate license, as provided by existing ordinances, for the privilege of carrying on the soft drink or restaurant businesses, or conducting public dances, or for showing or permitting to be shown within such park, carnivals, circuses, road shows or any other tented amusement show or amusements such as ferris wheels and merry-go-rounds. (Code 1958, Sec. 14-14.)

**State law reference:** As to authority of City to license places of amusement, see C.R.S. 1973, Sec 31-15-501.

**Section 9-20. Carnivals at amusement park - License required; fee.**

(1) It shall be unlawful for any person without an amusement park license to operate a carnival within the confines of an amusement park duly licensed under this Chapter, unless he/she shall first obtain a license, which may be granted by the Council and issued by the City Clerk upon payment in advance by the applicant of the following fees:

- (a) For the first night of such operations-----\$20.00
- (b) For the second night of such operations----- 17.50
- (c) For the third night of such operations----- 15.00
- (d) For each night thereafter----- 12.50

(2) Nothing herein contained shall be construed to repeal Section 9-27 hereof, which Section shall remain in effect except as herein modified. (Code 1958, Sec. 14-15.)

**Section 9-21. Circus - License required; fee; effect on other sections.**

(1) It shall be unlawful for any person without an amusement park license to operate a circus (except as to parades) within the confines of an amusement park duly licensed under this Chapter,

unless he/she shall first obtain a license, which may be granted by the Council and issued by the City Clerk upon payment in advance by the applicant of the sum of Fifty Dollars (\$50.00) for each day of operation.

(2) The provisions of this Section shall exist concurrently with the provisions of Sections 9-26 and 9-28 and such later sections shall remain in effect as to circuses or other amusement shows not operating within an amusement park.

(3) Nothing in this Section shall be construed as rendering the provisions of Section 9-34 requiring a bond for all circus parades inapplicable to circuses showing in an amusement park under this Section. (Code 1958, Sec. 14-16.)

## **DIVISION 2. AUCTION SALES.**

### **Section 9-22. Auction sales - License required; exemption.**

It shall be unlawful for any person without first having obtained a license, to sell, dispose of, or offer for sale at auction or to cause or to permit to be sold, disposed of, or offered for sale at auction any goods, wares or merchandise whether the same be the property of such person or whether he/she shall sell the same as agent or employee of others; provided, however, this Section shall not apply to the following:

(1) Sales at auction by sheriffs, constables, tax collectors, coroners, marshals, executors, administrators, trustees, guardians, assignees of insolvent debtors or bankrupts, or any person required by law to sell real or personal property at auction;

(2) Sales at auction of the stock on hand of any person who shall for the period of one (1) year, next preceding such sale, have been continuously in business in the City, as a retail or wholesale merchant, handling the particular articles being sold at such auction, and that such sale at auction of the stock on hand of such merchant shall be held on successive days, Sundays and legal holidays excepted, and shall not continue for more than thirty (30) days in all, within the period of any one (1) year and shall consist solely of bona fide stock which has been on hand for at least ninety (90) days before said sale and in no instance shall the sale be allowed of merchandise specially imported for such sale;

(3) Sales of livestock at auction by regularly licensed livestock sales rings;

(4) Sales at auction of used household goods and effects and second hand goods and chattels belonging to bona fide residents of the City, or of the trade territory thereof;

(5) Sales at auction of the trade fixtures and equipment of any retail or wholesale establishment in the City. (Ord. 860, Sec. 1, 9/3/63.)

**State Law reference:** As to State licensing provisions for auction sales, see C.R.S. 1973, Sec. 12-51-101; as to authority of City to regulate, see C.R.S. 1973, Sec. 31-15-501.

**Section 9-23. License fee.**

No license for auction sales shall be granted until the applicant shall have paid the sum of Two Hundred Dollars (\$200.00) for the year, in advance. (Ord. 860, Sec. 3, 9/3/63.)

**Section 9-24. Sales at auction of new jewelry prohibited.**

It shall be unlawful for any person to sell at auction, even though he/she possesses a license as required herein any new watches, or articles known as jewelry, and any diamonds which have not been sold at retail on a previous occasion. (Ord. 860, Sec. 5, 9/3/63.)

**Section 9-25. Penalty for violation.**

Any person who shall violate this Division shall, upon conviction, be fined not less than Five Dollars (\$5.00) or more than Three Hundred Dollars (\$300.00) for each offense. (Ord. 860, Sec. 4, 9-3-63.)

**DIVISION 3. CARNIVALS, CIRCUSES, AND PARADES.****Section 9-26. Carnivals outside of amusement parks prohibited.**

It shall be unlawful for any person to conduct any carnival, street show, advertising show or other like show or exhibition, (circuses, dog and pony or animal shows excepted), within the City except as provided in Section 9-19. (Code 1958, Sec. 14-31.)

**Section 9-27. Circuses, shows, parades, exhibitions - License fees; exceptions.**

A license fee shall be paid to the City by any person, whether or not operating under the auspices of any organization, fraternal or otherwise, for the exhibiting or conducting of any circus, menagerie, acrobatic or gymnastic show, dog and pony show, vaudeville show under canvas, any natural or artificial curiosities, sleight of hand performances, or any other tented show or exhibition for gain, and for the conducting of a parade in connection therewith in the amounts as follows:

- (1) For each parade, in advance One Hundred Dollars (\$100.00); there shall be no license fee charged for the first (1st) exhibition of such show, but there shall be paid in advance for each additional exhibition Fifty Dollars (\$50.00); provided, however, that if such shows do not conduct a parade, One Hundred Dollars (\$100.00) for the first (1st) performance, and Fifty Dollars (\$50.00) for each additional performance thereafter. In case any exhibition should be continuous in its nature, for the purpose of fixing the amount of the license fee, each three (3) hours of operation shall be regarded as a separate exhibition.
- (2) Nothing contained in this Section shall be construed to apply to any carnival, street show, advertising show or other like show or exhibition, prohibited by Section 9-26.
- (3) A license shall not be required for the exhibiting of motion pictures or the holding of lectures or entertainments under the auspices of any religious organization, or for the holding of Chautauquas or other educational programs or home talent productions.

**Cross reference:** As to license fees when such amusements are conducted within amusement parks, see Sec. 9-21.

**State Law reference:** As to State license for circuses, see C.R.S. 1973, Sec 12-51-107.

**Section 9-28. Deposit required for possible damage to city property.**

Any person conducting a parade, as provided in Section 9-27, shall, before the start of such parade, deposit with the City Clerk the sum of Five Hundred Dollars (\$500.00) as a fund from which the City may be reimbursed for any damage which may be done by such parade to the streets, pavement, curbs, bridges, culverts, light poles, or any other City property. Immediately after the conclusion of such parade, the City Engineer and the Superintendent of the Street and Bridge Division of the Department of Public Works, shall examine the line of march covered by such parade and shall note any damage done by such parade to City property. In case damage is found to have been done, then such committee shall forthwith determine the sum necessary to replace the damaged property, and such sum shall be deducted from the deposit. The balance of the deposit shall be returned to the depositor. (Code 1958, Sec. 14-33.)

**Section 9-29. Licenses - Contents.**

All licenses issued under Section 9-27, shall specify the object, the number of exhibitions, or length of time for which such licenses are respectively granted. (Code 1958, Sec. 14-35.)

**DIVISION 4. FARM PRODUCE AT WHOLESALE.**

**Section 9-30. Definitions.**

As used herein:

(1) *Common Carrier* shall mean a common carrier by steam railroad or any common carrier which has a certificate of public convenience and necessity from the Colorado State Public Utilities Commission to operate as a common carrier.

(2) *Regular employee of any farmer or producer* shall mean a person then employed by such farmer or producer and whose principal occupation is field work upon the farm or ranch of such farmer or producer. (Code 1958, Sec. 14-140.)

(3) *Wholesale*, shall mean the sale or delivery to a hotel, restaurant, retailer, commission house, or to any other person for resale, either directly or indirectly, including resale as a part of or an ingredient of a manufactured article. (Code 1958, Sec. 14-140.)

**Section 9-31. Sale of farm produce; license required; fee, exception of common carriers and certain farmers.**

Except as otherwise provided, no person shall engage in the selling or delivering of any fruits, vegetables or farm products, from any building, store, room, freight car, wagon, truck or other vehicle, vacant lot, stand or any other structure or space, at wholesale without first having obtained a license therefor from the City Council and having paid to the City for such license the sum of One Hundred Dollars (\$100.00) in advance, for each calendar year or fraction thereof; provided, however, that this Section shall not apply to common carriers making deliveries as such common carriers, nor to any farmer or producer, registered as provided in Section 9-32 including a regular

employee of such farmer or producer, when selling or delivering only such fruits, vegetables or farm products actually grown or produced by such farmer or producer in the State. (Code 1958, Sec. 14-141.)

**Section 9-32. Registration of farmers and producers; certificate.**

Any farmer or producer desiring to sell or deliver any fruits, vegetables or farm products, actually grown or produced by him/her in the State, shall obtain a certificate of registration therefor from the City Clerk. The sale or delivery by such certificate holder of any fruits, vegetables or farm products not actually produced or grown by him/her, without obtaining a license as provided in Section 9-31 hereof, shall constitute a violation of this Code. (Code 1958, Sec. 14-142.)

**Section 9-33. License transfer; use of license of another.**

Licenses issued under Section 9-31 shall run from January 1 of each calendar year, shall be for the full calendar year, shall not be transferable, and the fees therefor shall not be prorated for any portion of a calendar year. No refunds shall be made in case of revocation or surrender. The conducting of any business by any person under any license or certificate of registration issued to another under the provision of this Division shall constitute a violation thereof. (Code 1958, Sec. 14-143.)

**Section 9-34. Bond requirements.**

Before any license shall be issued under Section 9-31 the applicant shall file with the City Clerk a good and sufficient bond in the penal sum of One Thousand Dollars (\$1,000.00) in favor of the City, such bond to be approved by the City Council and conditioned that the licensee shall fully comply with all ordinances relating to the conduct of the business thereby authorized and shall pay all judgments rendered against such licensee for any violation of any such ordinance or for any damage arising out of any misrepresentation or deceit practiced by such licensee in the conduct of business. The bond herein provided for may be sued upon in the name of the City by and for the use of any person injured by the breach of any condition thereof. (Code 1958, Sec. 14-144.)

**Section 9-35. Exclusions from provisions.**

Nothing in this Division shall be construed to supersede or repeal any ordinances now or hereafter in effect relating to peddlers or hucksters selling direct to consumers, or to restaurants and hotels, or to the inspection of foods, wares and merchandise sold or offered for sale. (Code 1958, Sec. 14-145.)

**DIVISION 5. JUNK DEALERS.**

**Section 9-36. Junk shop - License required.**

It shall be unlawful for any person without first having obtained a license from the City Council to engage in the business of keeping a junk shop or yard, to purchase, sell, barter, exchange or otherwise deal in, or storage of, rags, or old rope, paper or bagging, old iron, brass, copper, tin, slush, or lead, empty bottles or other junk; or carry on any such business at any place other than that designated in his/her license; or draw or drive, or cause to be drawn or driven through the streets any

hand cart, wheel barrow, or other cart or vehicle, for the purpose of collecting or disposing of such articles; or use a car or cart, or other vehicle for the aforesaid purpose. (Code 1958, Sec. 14-124.)

**Section 9-37. License fee - Junk shop; junk wagon.**

The license fee for keepers of junk shops or junk yards shall be One Hundred Dollars (\$100.00) per annum, payable in advance; and for each junk wagon, truck, or other conveyance used in connection with a junk shop or yard, Ten Dollars (\$10.00) per annum, payable in advance; and the license fee for the operator of each junk wagon, truck or other conveyance when used in connection with a junk shop or yard regularly established and licensed in the City, shall be One Hundred Dollars (\$100.00) per wagon, truck, or other conveyance, and no such license shall be issued for a period less than one (1) year. (Code 1958, Sec. 14-121.)

**Section 9-38. Bond requirements.**

Before any person shall be licensed under the provisions of this Division as a keeper of a junk shop or yard, he/she shall execute a bond to the City with good and sufficient securities, to be approved by the City Council, in the sum of Five Hundred Dollars (\$500.00) conditioned for the due observance of all ordinances of the City respecting keepers of junk shops or yards, and before any person shall receive a license for a junk wagon or truck he/she shall execute a like bond in the sum of One Hundred Dollars (\$100.00). (Code 1958, Sec. 14-122.)

**Section 9-39. Junk shop - License issuance.**

The City Council may grant licenses to persons who shall produce satisfactory evidence of good character to keep what are commonly called junk shops, junk yards or junk wagons or trucks for the purchase and sale of old rope, old iron, brass, copper, tin or lead, rags, slush, empty bottles, paper, bagging and other junk. (Code 1958, Sec. 14-120.)

**Section 9-40. Separate license for each vehicle required.**

A separate license shall be obtained by every keeper of a junk shop or yard for each truck, wagon or other vehicle used in his/her business. (Code 1958, Sec. 14-123.)

**Section 9-41. Change of business location; notice to City Clerk.**

In case any person licensed as provided in this Division shall move his/her place of business from that designated in the license, he/she shall immediately give notice to the City Clerk and have the change noted upon the license. (Code 1958, Sec. 14-134.)

**Section 9-42. Vehicle license plate; driver's badge.**

Every person licensed under the provisions of this Division shall, before using any cart, wagon or other vehicle, or cause the same to be used for the collection or disposal of any of the articles of junk mentioned in this Division, obtain from the City Clerk for each wagon, cart or other vehicle, two (2) painted metal plates eight inches (8") long and four inches (4") wide, on which shall be stamped or

painted a number corresponding to the license number and also the words "Trinidad Junk", which plates shall be securely fastened on the outer sides of such cart, wagon or other vehicle used in his/her business. Such persons shall also at the same time obtain from the Clerk a metal badge one and three fourths inches (1 3/4") long and one and one eighth inches (1 1/8") wide for the driver of each licensed wagon, having a number thereon corresponding to the number on the aforesaid plate. Such badge shall be provided with a pin or other fastening, and shall be worn in a conspicuous place on the outside of the coat. (Code 1958, Sec. 14-125.)

**Section 9-43. Register of articles dealt in.**

Every person licensed as the keeper of a junk shop or yard, or junk wagon or truck shall keep at his/her place of business a record book, in which he/she shall enter a minute description of all the personal property purchased by him/her, the date of the purchase, the name and residence, or place of business of the person from whom such purchase was made, and particular mention of any prominent or descriptive marks that may be on such property, and all the entries made therein shall be made in ink. Every licensee shall, during the ordinary hours of business and when requested by any police officer or inspector of the City, submit and exhibit such book for inspection, and shall also exhibit such goods or personal property to any of the aforesaid officers. Any person failing or refusing to comply with any requirement of this Section shall be guilty of a misdemeanor. (Code 1958, Sec. 14-126.)

**Section 9-44. Waiting period before sale.**

It shall be unlawful for any dealer in junk or keeper of a junk shop, wagon or truck to expose for sale, or sell or dispose of any article within ten (10) days after it shall have been purchased, or until the article shall have been in or upon the premises wherein it is offered, exposed or sold, at least ten (10) days. (Code 1958, Sec. 14-127.)

**Section 9-45. Purchasing from minor prohibited.**

(1) It shall be unlawful for any dealer in junk or keeper of a junk shop, wagon or truck to purchase any goods, articles or things whatsoever, except old rags, and waste paper, from any minor under the age of eighteen (18) years.

(2) Any person who violates the provisions of this Section shall be guilty of a misdemeanor. (Code 1958, Sec. 12-128.)

**Section 9-46. Hours of purchase.**

It shall be unlawful for any dealer in junk or keeper of a junk shop, wagon or truck to purchase for sale and goods, article or thing whatsoever from any person between the hours of 6:00 P.M. and 6:00 A.M. (Code 1958, Sec. 14-129.)

**Section 9-47. Receiving articles in pawn; advancing money.**

It shall be unlawful for any dealer in junk or keeper of a junk shop, junk yard, junk wagon or truck to

receive any article or thing by way of pledge or pawn or loan or advance any sum of money on the security of any article or thing. (Code 1958, Sec. 14-131.)

**Section 9-48. Licensing as pawnbroker or secondhand dealer prohibited.**

No keeper of a junk shop, yard, wagon or truck shall receive or hold a license to carry on the business of a pawnbroker, or of a dealer in secondhand articles. (Code 1958, Sec. 14-132.)

**Cross reference:** As to provisions pertaining to licenses for pawnbrokers, see Sec. 9-52; as to licenses for secondhand dealers, see Sec. 9-56.

**Section 9-49. Police supervision of junk dealers.**

The Chief of Police, or any officer designated by him/her, shall have general supervision over all dealers in junk and keepers of junk shops, and the power to inspect their respective places of business, and vehicles, and all articles or things kept therein, whenever he/she shall deem it necessary so to do. (Code 1958, Sec. 14-133.)

**Section 9-50. Exhibiting articles to police.**

Every dealer in junk or keeper of a junk shop, wagon or truck, who shall receive, or be in possession of any goods, articles or things which may have been lost or stolen, or alleged, to have been lost or stolen, shall forthwith, on demand, exhibit the same to any member of the Police Department. (Code 1958, Sec. 14-130.)

**DIVISION 6. PAWNBROKERS.**

**Section 9-51. Pawnbroker defined.**

Pawnbroker shall mean a person who advances or loans money or other valuable things on the deposit of personal security, or who deals in the purchasing of personal property on condition of selling it back at a stipulated price. (Code 1958, Sec. 14-55.)

**Section 9-52. Pawnbroker - License required; fee.**

(1) It shall be unlawful for any person to carry on the business of a pawnbroker without first having obtained a license therefor.

(2) Licenses may be issued for the purpose of carrying on the business of pawnbroker to any applicant therefor upon the payment of Twenty-Five Dollars (\$25.00) for each six (6) months, or Fifty Dollars (\$50.00) for one (1) year. (Code 1958, Sec. 14-55 and 14-56.)

**Cross reference:** As to provisions relating to licensing of junk dealers as pawnbrokers, see Sec. 9-48

**State law reference:** As to authority of City to license and regulate pawnbrokers, see C.R.S. 1973, Sec. 13-15-501.

**DIVISION 7. PEDDLERS AND SOLICITORS.****Section 9-53. Merchandise peddlers and solicitors - License requirements; fees.**

(1) Licensing Requirements. Hawkers, hucksters, peddlers, vendors, solicitors or transient salesmen who go about from place to place selling and delivering merchandise of any character, except produce and vegetables at retail, and any person who shall come into the City, except traveling salesmen or drummers taking orders for merchandise to be delivered to retail dealers only, in going about from house to house or place to place, offering the performance of temporary services or soliciting the sales of goods, wares or merchandise of any character at retail, whether the same be in its raw or manufactured state, and whether deliveries are made by them or not, for the purpose of profit to themselves through the use of the streets, sidewalks and other municipal agencies of the City, or peddlers, itinerant vendors and persons other than itinerant vendors who shall temporarily bring into the City stocks of goods, wares or merchandise and offer the same for sale at public auction or private sale, shall, before commencing business in the City, secure an annual license from the City Clerk, and shall pay the application fee and license fee as set forth in this Section.

(2) Application fee and license fee. The application fee for a new license issued pursuant to this Section shall be Ten Dollars (\$10.00). The annual license fee shall be Twenty-Five Dollars (\$25.00).

(3) Bonding Requirement. Before any license, as provided by this Section is issued to an applicant, such applicant shall file with the City Clerk a bond running to the City in the sum of One Thousand Dollars (\$1,000.00), executed by the applicant as principal and at least one surety upon which service of process may be made in the state of Colorado; such bond to be conditioned that the applicant shall comply fully with all the provisions of the ordinances of the City, of the statutes of the state regulating and concerning the applicant's business, and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes, or any of them together with all judgments and costs that may be recovered against him/her by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant, whether the misrepresentations or deceptions were made or practiced by the owners or by their servants, agents or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought in the name of the City or the use of the aggrieved person. Such bond must be responsibility of the surety thereon. (Ord. 1386, 08/21/90.)

**Section 9-54. Exclusion from provisions.**

Nothing contained in Section 9-53 shall apply to any resident of this State selling fruits, farm or garden produce of their own raising, or fresh meat butchered from animals of their own raising. (Code 1958, Sec. 14-136.)

**State Law reference:** As to authority to regulate peddlers and solicitors, see C.R.S. 1973, Sec. 31-15-501.

**DIVISION 8. SECONDHAND GOODS.****Section 9-55. Definitions.**

As used herein:

(1) *Dealer in secondhand goods* shall mean a person who shall keep a store or other place of business for the purchase or sale of secondhand clothing, household goods, books, pictures, tools, leather goods, firearms, or any other kind of secondhand goods, wares and merchandise.

(2) *Secondhand goods* shall mean and include any and all kinds of goods, wares and merchandise, which shall have been purchased by one not a dealer in such articles, for the use of himself/herself, or his/her family or employees. (Code 1958, Sec. 4-69.)

**Section 9-56. Dealer in secondhand goods - License required; fee.**

(1) It shall be unlawful for any person to carry on the business of a dealer in secondhand goods without first having obtained a license therefor.

(2) Licenses may be issued for the purpose of dealing in secondhand goods upon payment by the applicant of a license fee of Ten Dollars (\$10.00) per year.

**Cross reference:** As to provision pertaining to licensing of a junk dealer as secondhand dealer, see Sec. 9-48.

**State Law reference:** As to authority to regulate secondhand stores, see C.R.S. 1973, Sec. 31-15-501.

**Section 9-57. Record to be kept; inspection.**

Every dealer in secondhand goods shall keep a record of all purchases of goods made by him/her or his/her agent, in which record he/she shall enter the names of the seller, a description of the article or articles purchased, the day and hour of purchase, and the signature of the seller. This record shall be open at all times to the inspection of any member of the City police force. Any dealer in secondhand goods who shall fail to keep a record as herein required, or who shall fail or refuse to submit the same to the inspection of any member of the City police force, when requested so to do, shall be deemed guilty of a misdemeanor. (Code 1958, Sec. 14-71.)

**Section 9-58. Receiving goods from minors.**

It shall be unlawful for any dealer in secondhand goods to purchase or receive from any minor, without the written consent of his/her guardian or parent, any article whatsoever. When any goods are purchased from any minor, the written consent of the parent or guardian shall be attached to the record of the purchase. (Code 1958, Sec. 14-72.)

## **DIVISION 9. CONTRACTORS.**

### **Section 9-59. Contractor defined.**

*Contractor* shall mean any person, firm, partnership, corporation, association or other organization which is engaged in the trade of building contractor, roofing contractor, siding contractor, insulation contractor, road contractor, excavating contractor, masonry contractor, concrete contractor, brick laying contractor, sprinkler systems contractor, refrigeration and heating contractor, air conditioning contractor, plumbing contractor or gas fitter, and which performs work on real property within the City for another under the terms of an agreement for which a fixed fee, trade-in-kind or other compensation is normally made. For the purpose of this Ordinance, "*subcontractor*" has the same meaning as "*contractor*". An individual working for salary or wages is not considered a contractor. (Ord. 1510, 6/6/95.)

### **Section 9-60. Contractor license required.<sup>3</sup>**

It shall be unlawful for any person to carry on the business of contractor or perform any contracting work without first having obtained a contractor's license. Therefore, any person who makes application for such license and has satisfied the conditions of Sections 9-61 and 9-61.1, and Article 1 of Chapter 9, of this Code, shall be issued a contractor's license upon payment of the required annual license fee. The annual license fee shall be Twenty-five Dollars (\$25.00). (Ord. 1510, 6/6/95; Ord 1715, eff., 1-31-03)

### **Section 9-61. Liability and property damage insurance and workers' compensation insurance required.**

- (1) Each application for a contractor's license or renewal thereof shall be accompanied by a certificate(s) of insurance indicating that the applicant has in force public liability, property damage, and workers' compensation insurance in the amounts set forth below.
- (2) No contractor's license shall be issued unless the certificate of insurance accompanying the application for license indicates that the applicant has in force insurance coverage of the types and in the amounts set forth below.
- (3) The City Clerk shall maintain in the City records, all applications for contractor's license and all certificates of insurance furnished pursuant hereto.
- (4) A contractor's license shall expire upon the date of expiration of any type of insurance coverage prescribed herein or any time any type of insurance coverage is of an amount less than that prescribed below. Every insurance certificate furnished pursuant hereto shall state that coverage of any insurance provided thereby shall not be terminated or any amount specified therein shall not be reduced unless ten (10) days notice is given to the City Clerk. The date of expiration of any insurance coverage shall be presumed to be that stated on the insurance certificate unless the holder of a contractor's license furnishes a new certificate specifying a different date of expiration or unless the City is notified by an insurer that coverage has terminated or has been reduced below the

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standards set forth below.

(5) Insurance certificates required by this Section shall evidence the following coverage:

TYPE	MINIMUM AMOUNT
Public Liability	\$100,000.00 per person/ 300,000.00 per accident
Property Damage	\$100,000.00
Worker's Compensation	Statutory

(6) The City Clerk shall notify the City Manager upon the expiration of any contractor's license.

**Section 9-61.1 Contractor’s examination.**

(1) All applicants for a new contractor’s license shall be required to take and pass the International Conference of Building Officials (ICBO) written contractor’s competency exam, administered by Assessment Systems, Inc., or provide proof of having previously passed the same exam. The exam shall test applicants on the Uniform Building Code which has been adopted and is in effect for the City of Trinidad at the time the exam is taken. Provided the exam used to test applicants is that exam developed by and currently in use by the ICBO or any successor organization, it shall not be necessary to amend this Section, even if the exam is not identical to that in use as of the effective date of this ordinance. (Ord. 1715, eff., 1-31-03)

(2) All current holders of contractor’s licenses shall be required to pass the exam within one year after the expiration of the current license. This requirement may be satisfied by providing proof of having previously passed the same exam. Failure to meet this requirement shall result in non-renewal or revocation of the license at that time. (Ord. 1715, eff., 1-31-03)

**DIVISION 10. STREET STANDS.**

**Section 9-62. Street stands - License required.**

It shall be unlawful for any person to have or keep any stand, booth, box, wagon, shed, cart or other thing or contrivance in or upon any street or alley or other public or private place for the purpose of selling or offering for sale therefrom popcorn, candy, lunches, meals or any other article or thing or any goods, wares or merchandise without first having obtained a license therefor, except as set forth in Section 9-63. (Ord. 1353, Sec. 2, 5/23/89.)

**Section 9-63. License or permit requirements.**

(1) Licenses may be issued for the purposes contemplated in Section 9-62 upon compliance with the provisions of Section 9-6, and upon receipt of a proper application containing all applicable

information as required on the form provided by the City of Trinidad and the payment of a license fee in lieu of the annual business license fee set forth in Section 9-7(2). The license shall be valid for a six (6) month period beginning the date of issuance. The license fee shall be Twenty-Four Dollars (\$24.00) for each six (6) month period. A new license application, application fee and license fee shall be required for each six-month period for which a license is issued. No business shall be transacted under such license between the hours of 10:00 P.M. and 6:00 A.M. All places where such business shall be conducted shall be designated by the City Clerk or a subordinate acting under the City Clerk's direction. (Ord. 1353, Sec. 3, 5/23/89.)

(2) Any person operating a street stand as part of a City sanctioned special event lasting no more than five (5) days shall not be required to obtain a business license or the license described in Subsection (1) of this Section. However, such person shall be required to obtain a permit from the City Clerk. Application shall be made on a form provided to the City. No application fee shall be charged. The applicant shall be charged a \$5.00 permit fee for issuance of the permit. The permit shall be valid for the duration of the special event. No business shall be transacted under such permit between the hours of 10:00 p.m. and 6:00 a.m. The permit fee requirement set forth in this Section shall not take effect until July 1, 1989. All other provisions of this Ordinance shall take effect on the effective date of this Ordinance. (Ord. 1353, Sec. 2, 5/23/89.)

(3) Any organization or entity seeking City sanction of a special event shall make such a request in writing to the City Manager. The City Manager shall take into consideration, in deciding whether an event shall be sanctioned by the City, the degree and type of control exercised over the event and arrangements made for clean-up after the conclusion of the events, in addition to any other factors he/she may deem relevant. (Ord. 1353, Sec. 2, 5/23/89.)

## **DIVISION 11. EMERGENCY, POLICE AND FIRE ALARM SYSTEMS.**

### **Section 9-64. License to engage in business of selling; fee.**

(1) It shall be unlawful for any person to engage in the business of operating, maintaining, installing or selling any dial alarm devices or systems, or emergency alarm devices of any kind which result in the transmission of a telephone, electrical or electronic signal or impression to the Police Department, Fire Department or any other person who, acting in response thereto, in turn transmits or releases a communication to the Police or Fire Department of an emergency without first having obtained a license from the City Clerk. An annual license in the amount of One Hundred Dollars (\$100.00) shall be paid by any person securing a license to engage in such business under the provisions hereof and a performance bond or liability insurance policy covering all operations in the scope of this Chapter in the principal sum of no less than Two Thousand Five Hundred Dollars (\$2,500.00).

(2) It shall be unlawful to install and thereafter operate and maintain any emergency alarm device or system of any kind without having first obtained a permit therefor for each device or system installed. A permit fee of Twenty-Five Dollars (\$25.00) shall be paid prior to the installation of any such device or system in any place within the City, or under any circumstances covered by the provisions of this article.

**Section 9-65. Installation and maintenance costs.**

Any and all costs and recurring charges attributable to the installation and maintenance of systems permitted by this Chapter which terminate directly in the Police Department or Fire Department of the City shall be borne entirely by the licensee or permittee.

**Section 9-66. False alarms; charges for; suspension or terminations of permits.**

(1) A charge of Twenty-Five Dollars (\$25.00) for each false fire, burglar, holdup or police emergency alarm to which the Police or Fire Department respond in excess of three (3) in any ninety (90) day period shall be paid to the City. Repeated false alarms in excess of six (6) shall be charged Fifty Dollars (\$50.00) for each call. False alarms in excess of nine (9) in any ninety day period for whatever reason shall be grounds for suspension or termination by the Chief of Police of the permit for such system as a faulty system.

(2) The Chief of Police shall at all times have the authority to suspend the permit for any such system until such time as satisfactory repairs or replacement is made correcting such system. Systems shall remain deactivated or removed until the suspension is terminated or a new permit is issued. (Ord. 1297, 4/1/86.)

**DIVISION 12. SEXUALLY ORIENTED BUSINESSES.****Section 9-67. Definitions.**

Certain words and phrases used in this Article shall have the meanings ascribed in them in Section 9-3 and 14-172. (Ord. 1738, eff., 10-21-03)

**Section 9-68. Sexually oriented business license required.**

(1) No sexually oriented business license shall be issued for any sexually oriented business located within any zone district other than the I-Industrial District. (Ord. 1738, eff., 10-21-03)

(2) No person shall operate a sexually oriented business without first having obtained a valid type A or type B sexually oriented business license issued by the City of Trinidad. (Ord. 1738, eff., 10-21-03)

(a) A type A sexually oriented business license shall be required for sexually oriented businesses where alcoholic beverages or alcoholic liquors, as defined by the Colorado Liquor Code, and/or fermented malt beverages, as defined by the Colorado Beer Code, are allowed pursuant to a valid license issued under Chapter 3 of the Code of Ordinances of the City of Trinidad. (Ord. 1738, eff., 10-21-03)

(b) A type B sexually oriented business license shall be required for all sexually oriented businesses where alcoholic beverages or alcoholic liquors, as defined by the Colorado Liquor Code, and/or fermented malt beverage, as defined by the Colorado Beer Code, are not allowed. (Ord. 1738, eff., 10-21-03)

(3) It shall be unlawful to operate or cause to be operated a sexually oriented business when said person knows or reasonably should know that: (Ord. 1738, eff., 10-21-03)

- (a) the business does not have a sexually oriented business license; (Ord. 1738, eff., 10-21-03)
- (b) the business has a sexually oriented business license that is under suspension; (Ord. 1738, eff., 10-21-03)
- (c) the business has a sexually oriented business license that has been revoked; (Ord. 1738, eff., 10-21-03)
- (d) the business has a sexually oriented business license that has expired; (Ord. 1738, eff., 10-21-03)
- (e) the business operates under a type B sexually oriented business license and allows alcoholic beverages or alcoholic liquors, as defined by the Colorado Liquor Code, and/or fermented malt beverages, as defined by the Colorado Beer code, on the premises; (Ord. 1738, eff., 10-21-03)
- (f) the business is in violation of any applicable provision of Chapter 14 of this Code. (Ord. 1738, eff., 10-21-03)

#### **Section 9-69. Fees.**

- (1) The annual fee for a sexually oriented business license is five hundred dollars (\$500.00) (Ord. 1738, eff., 10-21-03)
- (2) The annual manager's license fee is one hundred dollars (\$100.00). (Ord. 1738, eff., 10-21-03)
- (3) An applicant for either a type A or type B sexually oriented business license shall pay a nonrefundable application fee of five hundred twenty-five dollars (\$525.00) at the time of filing an application. (Ord. 1738, eff., 10-21-03)

#### **Section 9-70. Application for sexually oriented business license.**

- (1) The City Clerk is responsible for granting, denying, revoking, renewing, and suspending sexually oriented business licenses for proposed or existing sexually oriented businesses. (Ord. 1738, eff., 10-21-03)
- (2) The Planning Director or his or her designee is responsible for ascertaining whether a proposed sexually oriented business for which a sexually oriented business license application has been submitted complies with all location requirements of Section 14-174. (Ord. 1738, eff., 10-21-03)
- (3) The Police Chief or his or her designee is responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time periods set forth in Section 9-73(3)(i). (Ord. 1738, eff., 10-21-03)

- (4) The Building Inspector or his or her designee is responsible for inspecting a proposed sexually oriented business in order to ascertain whether it is in compliance with applicable building codes and ordinances. (Ord. 1738, eff., 10-21-03)
- (5) The Fire Chief or his or her designee is responsible for ascertaining the compliance of the sexually oriented business with all applicable fire and electrical codes and occupancy requirements. (Ord. 1738, eff., 10-21-03)
- (6) Any person desiring to operate a sexually oriented business shall file with the City Clerk an original and two (2) copies of a sworn sexually oriented business license application on the standard application form supplied by the City Clerk. (Ord. 1738, eff., 10-21-03)
- (7) The completed application shall contain the following information and shall be accompanied by the following documents: (Ord. 1738, eff., 10-21-03)
- (a) If the applicant is an individual, the individual shall state his or her legal name and any aliases, and submit satisfactory proof that he or she is twenty-one (21) years of age or older in the case of a type A sexually oriented business license or eighteen (18) years of age or older in the case of a type B sexually oriented business license. (Ord. 1738, eff., 10-21-03)
  - (b) If the applicant is a legal entity, the application shall state its complete name, the date and place of its organization, evidence that it is in good standing under the laws of the state in which it is organized, and if it is organized under the laws of a state other than Colorado, that it is registered to do business in Colorado, the full legal names, date of birth and the capacity of all officers, directors, managers, and principal owners, and the name of the registered agent and the address of the registered agent for service of process, if any. (Ord. 1738, eff., 10-21-03)
  - (c) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the sexually oriented business' fictitious name must be stated. (Ord. 1738, eff., 10-21-03)
  - (d) Whether the applicant or any of the other individuals listed pursuant to subsections (6)(a) or (b) has been convicted of a specified criminal act within the times set forth in Section 9-73(3)(i), and if so, the specified criminal act involved, the date of conviction and the place of conviction. (Ord. 1738, eff., 10-21-03)
  - (e) Whether the applicant or any of the other individuals listed pursuant to subsections (6)(a) or (b) has had a previous license under this or any other sexually oriented business ordinance from another city, town or county denied, suspended, or revoked and, if so, the name of the city, town or county where the license was previously denied, suspended or revoked, and the name and location of the sexually oriented business for which the license was denied, suspended, or revoked, as well as the date of the denial, suspension or revocation. (Ord. 1738, eff., 10-21-03)

- (f) Whether the applicant or any other individuals listed pursuant to subsection (6)(a) or (b) has been a partner in a partnership or a principal owner of a corporation or other legal entity whose license has previously been denied, suspended, or revoked and, if so, the name of the city, town or county where the license was previously denied, suspended or revoked, and the name and location of the sexually oriented business for which the license was denied, suspended, or revoked, as well as the date of denial, suspension, or revocation. (Ord. 1738, eff., 10-21-03)
- (g) Whether the applicant or any other individual listed pursuant to subsections (6)(a) and (b) holds any other licenses under this Article or any other sexually oriented business ordinance from another city, town or county, and, if so, the name of such city, town or county, and names and locations of such other licensed businesses. (Ord. 1738, eff., 10-21-03)
- (h) The location of the proposed sexually oriented business including a legal description of the property, street address, and telephone number(s). (Ord. 1738, eff., 10-21-03)
- (i) Proof of the applicant's right to possession of the premises wherein the sexually oriented business will be conducted. (Ord. 1738, eff., 10-21-03)
- (j) The applicant's mailing address and residential address. (Ord. 1738, eff., 10-21-03)
- (k) A sketch or diagram showing the configuration of the premises including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be oriented to the north or to some designated street or object and shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. The City Clerk may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared. If the sexually oriented business has or will have a peep booth or booths subject to the provisions of Section 14-182, the sketch shall show the locations and dimensions of any manager's stations and demonstrate that there is an unobstructed view from at least one of the manager's stations of every area of the premises to which any patron is permitted access, excluding restrooms. The floor plan shall designate those rooms or other areas of the premise where patrons are not permitted and shall also designate the use of each room or other area of the premises. (Ord. 1738, eff., 10-21-03)
- (l) A current certificate and straight-line drawing prepared within thirty (30) days prior to an initial application by a Colorado registered land surveyor depicting: (i) the property lines and the structures of the property to be certified; and (ii) the location of the property lines of any church, school, dwelling, public park, or childcare facility within five hundred (500) feet of the property to be certified and (iii) the location of the property lines and structures on the property of any other sexually oriented business within one hundred (100) feet of the property to be certified. For purposes

of this section, a use shall be considered existing or established if it is in existence or pending at the time an application is submitted. (Ord. 1738, eff., 10-21-03)

- (m) If a person who wishes to operate a sexually oriented business is an individual, he or she must sign the application for a sexually oriented business license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each principal owner of the applicant must sign the application for a sexually oriented business license as applicant. (Ord. 1738, eff., 10-21-03)

(8) In the event that the City Clerk determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, he or she shall promptly notify the applicant of such fact and allow the applicant ten (10) days properly to complete the application. The time period for granting or denying a sexually oriented business license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application. (Ord. 1738, eff., 10-21-03)

(9) The fact that a person possesses or is required to possess other types of state or town licenses does not exempt him or her from the requirement of obtaining a sexually oriented business license. (Ord. 1738, eff., 10-21-03)

#### **Section 9-71. Duty of supplement application.**

(1) Applicants for a sexually oriented business license under Section 9-70 shall have a continuing duty to promptly supplement any application information required by that section in the event that said information changes in any way from what is stated on the application. (Ord. 1738, eff., 10-21-03)

(2) The failure to comply with said continuing duty to supplement an application within thirty (30) days from the date of such change shall be grounds for suspension of a sexually oriented business license. (Ord. 1738, eff., 10-21-03)

#### **Section 9-72. Investigation and application.**

(1) Upon receipt of an application for a sexually oriented business license properly filed with the City Clerk and upon payment of the nonrefundable application fee and refundable annual license fee, the City Clerk shall immediately stamp the application as received and send copies of the application to the director of planning, the building official, fire chief and the police chief. The Planning Director, the Building Inspector and the Police and Fire Chief, or their respective designees, shall promptly conduct an investigation of the application information, and the proposed sexually oriented business in accordance with his or her responsibilities under this section. Investigations shall be completed within twenty (20) days of receipt of the application by the licensing officer. At the conclusion of their investigations, the Planning Director and the Building Inspector shall indicate on the copy of the application his or her approval or disapproval of the application, date it, sign it, and in the event of the disapproval, state the reasons therefore. The Fire Chief shall only be required to render an opinion regarding fire and electrical code violations and occupancy limits. The Police

Chief shall only be required to provide the information specified in Section 9-70(3), and shall not be required to approve or disapprove applications. (Ord. 1738, eff., 10-21-03)

(2) The Planning Director, the Building Inspector, and the Fire Chief may disapprove an application if he or she finds that the proposed sexually oriented business will be or is in violation of any provision of any statute, code, ordinance, regulations, or other law in effect in the City. After their investigations and review the Planning Director, the Building Inspector and the Police Chief shall immediately return the copy of the application to the City Clerk. The City Clerk shall not issue a sexually oriented business license unless signed copies of the application for the same have been delivered to the City Clerk by the Planning Director and the Building Inspector and unless the Police Chief has supplied said City Clerk with the information specified in Section 9-70(3). (Ord. 1738, eff., 10-21-03)

### **Section 9-73. Issuance of sexually oriented business license.**

(1) The City Clerk shall grant or deny a sexually oriented business license within thirty (30) days from the date of its proper filing. Upon the expiration of the thirty (30) days, the applicant shall be licensed to begin operating the business for which the sexually oriented business license is sought, unless and until the City Clerk notifies the applicant, by first class mail to the address on the application, of a denial of the application and states the reason(s) for that denial. (Ord. 1738, eff., 10-21-03)

(2) Grant of a sexually oriented business license. (Ord. 1738, eff., 10-21-03)

- (a) The City Clerk shall grant the sexually oriented business license unless one or more of the criteria set forth in subsection (3) below is present. (Ord. 1738, eff., 10-21-03)
- (b) The sexually oriented business license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be easily read at any time. (Ord. 1738, eff., 10-21-03)

(3) Denial of a sexually oriented business license. (Ord. 1738, eff., 10-21-03)

- (a) An applicant is under twenty-one (21) years of age in the case of an application for a type A sexually oriented business license or under eighteen (18) years of age in the case of an application for a type B sexually oriented business license. (Ord. 1738, eff., 10-21-03)
- (b) An applicant is overdue on his or her payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him or her in relation to a sexually oriented business. (Ord. 1738, eff., 10-21-03)
- (c) An applicant has failed to provide information required by this Article for the

issuance of the sexually oriented business license or has falsely answered a question or request for information on the application form and has refused to provide corrected information. (Ord. 1738, eff., 10-21-03)

- (d) The premises to be used for the sexually oriented business have been disapproved by an inspecting agency pursuant to the provisions of Section 9-72(2). (Ord. 1738, eff., 10-21-03)
- (e) The application or sexually oriented business license fees have not been paid. (Ord. 1738, eff., 10-21-03)
- (f) An applicant for the proposed business is in violation of or is not in compliance with any of the provisions of this Article. (Ord. 1738, eff., 10-21-03)
- (g) The granting of a license would violate a statute, ordinance, or court order. (Ord. 1738, eff., 10-21-03)
- (h) The applicant has or had a sexually oriented business license under this Article, or under the regulatory provisions of another jurisdiction, that was suspended or revoked within the previous twelve (12) months. In the case of a denial of an application due to the suspension or revocation of the applicant's license in another jurisdiction, the applicant shall be entitled to a hearing before the City Manager. After the hearing, the City Manager may grant the application without regard to the suspension or revocation of the applicant's license in another jurisdiction if he finds that the grounds for suspension or revocation in that jurisdiction would not be grounds for suspension or revocation of a license pursuant to this Article. (Ord. 1738, eff., 10-21-03)
- (i) An applicant has been convicted of a specified criminal act or acts for which:
  - (I) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense; (Ord. 1738, eff., 10-21-03)
  - (II) Less than five (5) years have elapsed since the date of conviction or the date or release from confinement, whichever is the later date, if the conviction is of a felony offense; or (Ord. 1738, eff., 10-21-03)
  - (III) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two (2) or more misdemeanors. (Ord. 1738, eff., 10-21-03)

The fact that a conviction is being appealed shall have no effect on disqualification of the applicant. An applicant who has been convicted of a specified criminal act or acts may qualify for a sexually oriented

business license only when the time period required above has elapsed. (Ord. 1738, eff., 10-21-03)

- (IV) If the City Clerk denies the application, he or she shall notify the applicant, by first class mail to the address on the application, of the denial and state the reason(s) for the denial. A copy of such denial shall be forwarded to the City Attorney. (Ord. 1738, eff., 10-21-03)

**Section 9-74. Expiration of sexually oriented business license.**

(1) Each sexually oriented business license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 9-70 of this article, including but not limited to a review of whether the applicant has been convicted of a specified criminal act or acts (for renewals, filing of the original survey shall be sufficient). Application for renewal of a sexually oriented business license shall be made at least thirty (30) days before the expiration date of the sexually oriented business license. (Ord. 1738, eff., 10-21-03)

(2) If, subsequent to denial of renewal the City Clerk finds that the basis for denial of the renewal of the sexually oriented business license has been corrected, the applicant shall be granted a sexually oriented business license if no more than ninety (90) days have elapsed since the date denial became final. (Ord. 1738, eff., 10-21-03)

**Section 9-75. Suspension of sexually oriented business license.**

(1) The City Clerk may suspend a sexually oriented business license for a period not to exceed one hundred fifty (150) days, unless the period is extended by operation of subpart (2) of this section, if he or she determines that a licensee or an employee of a licensee has: (Ord. 1738, eff., 10-21-03)

- (a) violated or is not in compliance with any section of this article or any provision of Chapter 14 of this Code; or (Ord. 1738, eff., 10-21-03)
- (b) refused to allow an inspection of the sexually oriented business premises as authorized by this article; or (Ord. 1738, eff., 10-21-03)
- (c) knowingly allowed repeated disturbances of the public peace to occur within the licensed establishment or upon the premises of the licensed establishment involving patrons, employees, or the licensee; or (Ord. 1738, eff., 10-21-03)
- (d) operated the sexually oriented business in violation of a building, fire, health, or zoning code, ordinance, or regulation, whether federal, state or local, said determination being based on investigation by the department, division, or agency charged with enforcing said rules or laws. In the event of such a statute, code, ordinance, or regulation violation, the licensing officer shall promptly notify the licensee of the violation and shall allow the licensee a twenty (20) day period in which to correct the violation. If the licensee fails to correct the violation before the

expiration of the twenty (20) day period, the City Clerk shall forthwith suspend the sexually oriented business license and shall notify the licensee of the suspension; or (Ord. 1738, eff., 10-21-03)

- (e) operated the sexually oriented business in violation of the hours of operation provisions in Section 14-182; or (Ord. 1738, eff., 10-21-03)
- (f) transferred a sexually oriented business license contrary to Section 9-78. In the event of such suspension, the City Clerk shall forthwith notify the original licensee and the transferee of the suspension. The suspension shall remain in effect until the applicable provisions of Section 9-78 have been satisfied. (Ord. 1738, eff., 10-21-03)

(2) The suspension shall remain in effect until and including the last day in the City Clerk's order and until the violation of the statute, code, ordinance, or regulation in question has been corrected. (Ord. 1738, eff., 10-21-03)

**Section 9-76. Revocation of sexually oriented business license.**

(1) The City Clerk shall revoke a sexually oriented business license upon determining that: (Ord. 1738, eff., 10-21-03)

- (a) a cause of suspension of Section 9-75 of this article occurred and the sexually oriented business license has been suspended within the preceding twelve (12) months; or (Ord. 1738, eff., 10-21-03)
- (b) a licensee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a sexually oriented business or license; or (Ord. 1738, eff., 10-21-03)
- (c) a licensee, manager or an employee has knowingly allowed possession, use, or sale of controlled substances ( as defined in Part 3 of Article 22 of Title 12, C.R.S.) on the premises; or (Ord. 1738, eff., 10-21-03)
- (d) a licensee, manager, or an employee has knowingly allowed acts of prostitution or negotiations for acts of prostitution on the premises; or (Ord. 1738, eff., 10-21-03)
- (e) a licensee, manager or an employee knowingly operated the sexually oriented business during a period of time when the licensee's sexually oriented business license was suspended; or (Ord. 1738, eff., 10-21-03)
- (f) a licensee has been convicted of a specified criminal act for which the time period set forth in Section 9-73(3)(i) has not elapsed; or (Ord. 1738, eff., 10-21-03)
- (g) on two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense, occurring in or on the licensed premises constituting a specified criminal act for which a conviction has been obtained, and the person or

persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the sexually oriented business license; or (Ord. 1738, eff., 10-21-03)

- (h) a licensee is delinquent in payment to the city or state for any taxes or fees; or (Ord. 1738, eff., 10-21-03)
- (i) a licensee, manager or an employee has knowingly allowed any specified sexual activity to occur in or on the licensed premises. (Ord. 1738, eff., 10-21-03)

(2) When the City Clerk revokes a sexually oriented business license, the revocation shall continue for one year (1) and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. (Ord. 1738, eff., 10-21-03)

### **Section 9-77. Suspension or revocation hearing.**

(1) A licensee shall be entitled to a hearing before the City Manager if the City seeks to suspend or revoke his or her sexually oriented business license based on a violation of this Article or any provision of Chapter 14 of this Code. The business may continue to operate during the hearing process. (Ord. 1738, eff., 10-21-03)

(2) When there is probable cause to believe that a cause for suspension or revocation exists, the City Attorney may file a written complaint with the City Clerk setting forth the circumstances of the alleged violation. (Ord. 1738, eff., 10-21-03)

(3) The City Clerk shall provide a copy of the complaint to the licensee, together with notice to appear before the City Manager for the purpose of a hearing on a specified date to show cause why the licensee's sexually oriented business license should not be suspended or revoked. (Ord. 1738, eff., 10-21-03)

(4) At the hearing, the City Manager shall hear such statements and consider such evidence as the police department or other enforcement officers, the owner, occupant, lessee, or other party in interest, or any other witness shall offer that is relevant to the violation alleged in the complaint. The City Manager shall make findings of fact from the statements and evidence offered as to whether the violation occurred in or near the licensed establishment. If the City Manager determines that a cause for suspension or revocation exists, he or she shall issue an order suspending or revoking the sexually oriented business license with thirty (30) days after the hearing is concluded based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license. In performing his duties pursuant to this section 9-77, the City Manager may retain independent counsel to advise him regarding any matter. (Ord. 1738, eff., 10-21-03)

(5) The order of the City Manager made pursuant to subsection (4) above shall be a final decision and may be appealed to the district court pursuant to Colorado Rule of Civil Procedure 106(a)(4). Failure of a licensee timely to appeal said order constitutes a waiver by him or her of any right he or she may otherwise have to contest the suspension or revocation of the sexually oriented business license. (Ord. 1738, eff., 10-21-03)

(6) The City Manager shall have the power to administer oaths, issue subpoenas, and when necessary grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books, and records necessary to the determination of any hearing, which the City Manager conducts. It is unlawful for any person to fail to comply with any subpoena issued by the City Manager. A subpoena shall be served in the same manner as a subpoena issued by the district court of the State of Colorado. (Ord. 1738, eff., 10-21-03)

(7) All hearings held before the City Manager regarding suspension or revocation of a sexually oriented business license issued under this ordinance shall be recorded steno-graphically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the City Manager, and shall pay all costs of preparing such record. (Ord. 1738, eff., 10-21-03)

(8) In the event of suspension, revocation, or cessation of business, no portion of the sexually oriented business license fee shall be refunded. (Ord. 1738, eff., 10-21-03)

**Section 9-78. Transfer of sexually oriented business license.**

(1) A licensee shall not operate a sexually oriented business under the authority of a sexually oriented business license at any place other than the address designated in the application for sexually oriented business license. (Ord. 1738, eff., 10-21-03)

(2) A licensee shall not transfer his or her sexually oriented business license to another person unless and until such other person satisfies the following requirements: (Ord. 1738, eff., 10-21-03)

- (a) Obtains an amendment to the sexually oriented business license from the licensing officer that provides that he or she is not the licensee, which amendment may be obtained only if he or she has completed and properly filed an application with the licensing officer setting forth the information called for under Section 9-70 in the application; and
- (b) Pays a nonrefundable application fee and an annual sexually oriented business license fee. (Ord. 1738, eff., 10-21-03)

(3) No sexually oriented business license may be transferred when the City Clerk has notified the licensee that suspension or revocation proceedings have been or will be brought against the licensee. (Ord. 1738, eff., 10-21-03)

(4) Any attempt to transfer a sexually oriented business license either directly or indirectly in violation of this section is hereby declared void. (Ord. 1738, eff., 10-21-03)

**Section 9-79. Manager's license required; change of manager; inactive status.**

(1) A manager shall be on the premises of a sexually oriented business at all times during operation. It shall be unlawful for any person to work as a manager of a sexually oriented business without first obtaining a manager's license for such premises. A manager can only manage one sexually oriented business establishment. (Ord. 1738, eff., 10-21-03)

(2) In the event a manager ceases to be employed at the premises listed in his or her application, the manager shall immediately report such change to the licensing officer but in no event shall such change be reported later than ten (10) days after cessation of employment. (Ord. 1738, eff., 10-21-03)

(3) Provided a manager has complied with the requirements of subsection (2), his or her license shall remain in inactive status until it expires or is reactivated. A manager who is re-employed at the premises listed in the manager's license may reactivate his or her license provide the City Clerk determines he or she still meets the requirements of Section 9-80. (Ord. 1738, eff., 10-21-03)

**Section 9-80. Application for manager's license.**

(1) A manager shall submit an application for a manager's license for each sexually oriented business the manager proposes to manage on a form to be provided by the licensing officer. The application shall contain the applicant's full legal name, address, date of birth, telephone number, address, the name and address of the sexually oriented business that manager proposes to manage and the information required in Section 9-70(6)(d). (Ord. 1738, eff., 10-21-03)

(2) The police department shall conduct an investigation of the applicant to determine if the applicant has been convicted of a specified criminal act within the times set forth in Section 9-73(3)(i). (Ord. 1738, eff., 10-21-03)

(3) The City Clerk shall grant the application within ten (10) days of its filing unless: (Ord. 1738, eff., 10-21-03)

- (a) the applicant is under the age of twenty-one (21) in the case of a type A sexually oriented business license or under the age of eighteen (18) in the case of a type B sexually oriented business license; (Ord. 1738, eff., 10-21-03)
- (b) the applicant has failed to provide the information required by this section; (Ord. 1738, eff., 10-21-03)
- (c) the license fee has not been paid; (Ord. 1738, eff., 10-21-03)
- (d) the applicant has been convicted of a specified criminal act within the times set forth in Section 9-73(3)(i). (Ord. 1738, eff., 10-21-03)

**Section 9-81. Expiration of manager's license.**

(1) Each manager's license shall expire one year from the date of issuance and may be renewed only by making application as provided in section 9-78, including but not limited to a review of whether the applicant has been convicted of a specified criminal act or acts. Application for renewal of a manager's license shall be made at least thirty (30) days before the expiration date of the manager's license. (Ord. 1738, eff., 10-21-03)

(2) If, subsequent to denial of renewal the City Clerk finds that the basis for denial of the renewal of the manager's license has been corrected, the applicant shall be granted a manager's license if no more than ninety (90) days have elapsed since the date denial became final. (Ord. 1738, eff., 10-21-03)

**Section 9-82. Suspension of manager's license.**

(1) The City Clerk may suspend a manager's license for a period not to exceed ninety (90) days, unless the period is extended by operation of subpart B of this section, if he or she determines that the manager has: (Ord. 1738, eff., 10-21-03)

- (a) violated or is not in compliance with any section of this article or any provision of Chapter 14 of this Code; or
- (b) refused to allow an inspection of the sexually oriented business premises as authorized by this Article; or (Ord. 1738, eff., 10-21-03)
- (c) knowingly allowed repeated disturbances of the public peace to occur within the licensed establishment or upon the premises of the licensed establishment involving patrons, employees, or the licensee; or (Ord. 1738, eff., 10-21-03)
- (d) operated the sexually oriented business in violation of the hours of operation provisions in Section 14-183. (Ord. 1738, eff., 10-21-03)

(2) The suspension shall remain in effect until and including the last day in the City Clerk's order and until the violation of the statute, code, ordinance, or regulation in question has been corrected. (Ord. 1738, eff., 10-21-03)

**Section 9-83. Revocation of manager's license.**

(1) The City Clerk shall revoke a manager's license upon determining that: (Ord. 1738, eff., 10-21-03)

- (a) a cause of suspension in Section 9-82 of this article occurred and the manager's license has been suspended within the preceding twelve (12) months; or (Ord. 1738, eff., 10-21-03)

- (b) the manager gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a manager's license; or (Ord. 1738, eff., 10-21-03)
- (c) the manager knowingly allowed possession, use, or sale of controlled substances (as defined in Part 3 or Article 22 of Title 12, C.R.S.) on the premises; or (Ord. 1738, eff., 10-21-03)
- (d) the manager knowingly allowed acts of prostitution or negotiations for acts of prostitution on the premises; or (Ord. 1738, eff., 10-21-03)
- (e) the manager knowingly operated the sexually oriented business during a period of time when the sexually oriented business license was suspended; or (Ord. 1738, eff., 10-21-03)
- (f) the manager has been convicted of a specified criminal act for which the time period set forth in Section 9-73(3)(i) has not elapsed; or (Ord. 1738, eff., 10-21-03)
- (g) the manager has knowingly allowed any specified sexual activity to occur in or on the licensed premises. (Ord. 1738, eff., 10-21-03)

(2) When the City Clerk revokes a manager's license, the revocation shall continue for one year and the licensee shall not be issued a manager's license for one year from the date revocation became effective. (Ord. 1738, eff., 10-21-03)

#### **Section 9-84. Suspension or revocation hearing.**

(1) A manager shall be entitled to a hearing before the City Manger if the City seeks to suspend or revoke the manager's license based on a violation of this Article or any provision of Chapter 14 of this Code. The manager may continue to manage a sexually oriented business during the hearing process. (Ord. 1738, eff., 10-21-03)

(2) When there is probable cause to believe that a cause for suspension or revocation exists, the City Attorney may file a written complaint with the City Clerk setting forth the circumstances of the alleged violation. (Ord. 1738, eff., 10-21-03)

(3) The licensing officer shall provide a copy of the complaint to the licensee, together with notice to appear before the City Manager for the purpose of a hearing on a specified date to show cause why the licensee's license should not be suspended or revoked. (Ord. 1738, eff., 10-21-03)

(4) At the hearing, the City manger shall hear such statements and consider such evidence as the police department or other enforcement officers, the owner, employee, occupant, lessee, or other party in interest, or any other witness shall offer that is relevant to the violation alleged in the complaint. The City Manger shall make findings of fact from the statements and evidence offered as to whether the violation occurred in or near the licensed establishment. If the City Manager

determines that a cause for suspension or revocation exists, he or she shall issue an order suspending or revoking the manager's license within thirty (30) days after the hearing is concluded based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license. (Ord. 1738, eff., 10-21-03)

(5) The order of the City Manager made pursuant to subsection (4) above shall be a final decision and may be appealed to the district court to Colorado Rule of Civil Procedure 106(a)(4). Failure of a licensee timely to appeal said order constitutes a waiver by him or her of any right he or she may otherwise have to contest the suspension or revocation of the manager's license. (Ord. 1738, eff., 10-21-03)

(6) The City Manager shall have the power to administer oaths, issue subpoenas, and when necessary grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books, and records necessary to the determination of any hearing, which the City Manager conducts. It is unlawful for any person to fail to comply with any subpoena issued by the City Manager. A subpoena shall be served in the same manner as a subpoena issued by the district court of the State of Colorado. (Ord. 1738, eff., 10-21-03)

(7) All hearing held before the City Manager regarding suspension or revocation of a manager's license issued under this ordinance shall be recorded steno-graphically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the City Manager, and shall pay all costs of preparing such record. (Ord. 1738, eff., 10-21-03)

(8) In the event of suspension, revocation, or cessation of business, no portion of the manager's license fee shall be refunded. (Ord. 1738, eff., 10-21-03)

#### **Section 9-85. Notice.**

Any notice required by this Article shall be deemed sufficient if it is deposited in first class mail, postage pre-paid, to the address on the application and shall be effective upon mailing. (Ord. 1738, eff., 10-21-03)

#### **Section 9-86. Judicial review.**

After denial of an application, or denial of a renewal of an application, or suspension or revocation of a license, such act shall be a final decision. Therefore, the applicant or licensee may seek judicial review of such administrative action pursuant to Colorado Rules of Civil Procedure. The court shall promptly review such administrative action. (Ord. 1738, eff., 10-21-03)

#### **Section 9-87. Inspection.**

(1) An applicant or licensee or manager shall permit representative of the licensing officer, building official, the director of planning, the police department, the county health department and the fire

department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law at any time it is occupied or open for business. (Ord. 1738, eff., 10-21-03)

(2) It shall be unlawful for the person, applicant, licensee, or manager who operates a sexually oriented business or his or her agent to refuse to permit such lawful inspection of the premises at any time that it is occupied or open for business. (Ord. 1738, eff., 10-21-03)