

ORDINANCE NO. 41-2005

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
REPEALING TITLE 4 AND CHAPTER 5.04 OF THE ELK GROVE MUNICIPAL CODE
AND ENACTING A NEW TITLE 4 REGARDING BUSINESS LICENSING AND
RELATED MATTERS**

The City Council of the City of Elk Grove does ordain as follows:

Section 1: Purposes and Authority.

Under California Constitution art. XI, Sec. 7, the City of Elk Grove may enact ordinances to preserve and protect the public safety, health, and welfare. To this end, the City Council of the City of Elk Grove has undertaken a comprehensive revision of Title 4 of the Municipal Code that regulates businesses as part of the licensing of business.

Section 2: Repeal of Title 4 and Chapter 5.04.

Title 4 and Chapter 5.04 of the Elk Grove Municipal Code are hereby repealed.

Section 3: Enactment of New Title 4.

A new Title 4 is hereby enacted and added to the Elk Grove Municipal Code to read as follows:

TITLE 4

BUSINESS REGULATION

Chapters:

General Provisions for Licenses and Permits

- 4.02 General Provisions for Business Licenses
- 4.04 Solicitation Licenses and Permits
- 4.06 General Business Licenses
 - Article 1 - Applicability and Issuance
 - Article 2 - Denial and Revocation
- 4.10 Special Business Licenses and Employee Permits
 - Article 1 - Applicability and Issuance
 - Article 2 - Denial and Revocation
 - Article 3 - Additional Special License Requirements

Particular Special Business Licenses

- 4.15 Taxicabs
- 4.16 Medical Cannabis Dispensaries
- 4.20 Cardrooms
- 4.21 Bingo Games
- 4.22 Bingo Parlors
- 4.23 Bingo Suppliers

- 4.25 Pawnbroker, Secondhand Dealers and Junk Dealers
- 4.26 Junk Tire Storage
 - Article 1 - Special Business License Required
 - Article 2 - Requirements-Services
 - Article 3 - Penalties
- 4.27 Tobacco Retailers
- 4.30 Adult-Related Establishments
 - Article 1 - General Provisions
 - Article 2 - Licenses and Permits
- 4.31 Adult-Oriented Businesses
 - Article 1 - General Provisions
 - Article 2 - Definitions
 - Article 3 - Adult-Oriented Business Licenses
 - Article 4 - Adult-Oriented Business Employee Permits
 - Article 5 - Denial, Suspension, and Revocation of License or Permit
 - Article 6 - Development and Performance Standards
 - Article 7 - Enforcement
- 4.35 Outdoor Festivals
 - Article 1 - General Provisions and Requirements
 - Article 2 - Special Business License
- 4.36 - 4.50 *Reserved for Special Business Licenses*

Other Business Regulation

- 4.54 Additional Regulations and Prohibitions for Businesses
 - Article 1 - Street Businesses
 - Article 2 - Aggressive Solicitation
 - Article 3 - Drug Paraphernalia
 - Article 4 - Fireworks
 - Article 5 - Public Convenience Determination for Alcohol Licenses

CHAPTER 4.02

GENERAL PROVISIONS FOR BUSINESS LICENSES

Sections:

- 4.02.010 Purposes.
- 4.02.015 Organization of Title.
- 4.02.020 Definitions.
- 4.02.021 Same - "Solicitation Activity."
- 4.02.022 Same - "Solicitor."
- 4.02.023 Same - "Solicitation Permit."
- 4.02.024 Same - "Business."
- 4.02.025 Same - "Employee Permit."
- 4.02.030 Same - "Fixed Location."
- 4.02.035 Same - "General Business License."
- 4.02.040 Same - "Person."
- 4.02.045 Same - "Convicted."
- 4.02.050 Same - "Special Business License."
- 4.02.055 Authority of City Officers.
- 4.02.060 License Fees.
- 4.02.065 Transferability.
- 4.02.070 Transferability - Partial Change in Ownership -
Special Business License.
- 4.02.075 Transferability - Partial Change in Ownership -
General Business License.
- 4.02.076 Transferability - Partial Change in Function -
General Business License.
- 4.02.080 Term.
- 4.02.085 Administration.
- 4.02.090 Notices.
- 4.02.095 Hearing Authority.
- 4.02.100 Violations.
- 4.02.105 Inspection.
- 4.02.110 Laws Not Enforced.
- 4.02.115 Statutory References.
- 4.02.120 Effective Date.
- 4.02.125 Severability.
- 4.02.130 Continuity.

4.02.010 PURPOSES. The purposes of this Title are to regulate businesses and other enterprises within the City in order to insure compliance with City ordinances and State laws, protect the public, health, safety, and welfare in the event of a disaster, prevent disturbances of neighborhoods and nuisances, and otherwise, protect the health, safety and welfare of the residents of the City.

A vast array of City Ordinances and State laws administered and enforced by City officials regulate the location, construction, improvements in, off-street parking for and other aspects of business-associated enterprises with fixed locations. Such regulation is for the purpose of protecting members of the public against building, safety and other hazards, adverse environmental impacts, risks to health and of public nuisance, risks of fire, disasters, and other life-threatening dangers, and other threats to the public peace, health, safety and welfare.

A purpose of this Ordinance and each of its chapters is to license all enterprises within the City's jurisdiction in order to maintain certain vital information about such enterprises operating within the City that could be detrimentally affected by or could be essential to provide assistance in the event of an extraordinary natural or man-made disaster.

Additionally, other purposes of this Ordinance and each of its chapters are to license enterprises that typically generate significant ordinance enforcement effort, promote improved enforcement of related Ordinances, reduced overall enforcement costs, provide a higher level of protection of the public, and reduce the risk that well-intentioned business operators are prejudiced by the unexpected enforcement of regulations at a time when compliance is least convenient.

Additional purposes of this Ordinance and each of its chapters are to license enterprises that generate economic activity to promote and protect the economic health and safety of the City by providing an economic data base about enterprises operating within the City so as to allow public officials to plan and anticipate economic threats to the well being of the City.

The purposes set forth herein are incorporated into every chapter of this title and each chapter may or may not set forth additional specific purposes for regulation of particular types of businesses.

The City Council does hereby declare that it finds any one of these manifold purposes sufficient in and of itself for justification for the adoption of this Ordinance and independently each of its chapters, and it further declares that it would have adopted this Ordinance and independently each of its chapters in their entirety based upon any one of the above-stated purposes, and invalidation of any one purpose or more of the above purposes would not have caused the City Council not to adopt the entire Ordinance or independently each of its chapters.

4.02.015 ORGANIZATION OF TITLE. The provisions of this Title 4 are organized as follows:

(a) This Chapter 4.02 contains introductory and master provisions governing the application of the balance of the Chapters in this Title.

(b) Chapter 4.04 establishes, defines the applicability of, and proscribes procedures and the basis for issuance, denial, renewal and revocation of the Solicitation License and Solicitor Permits for door-to-door, cold-calling solicitation and similar solicitation methods.

(c) Chapter 4.06 establishes, defines the applicability of, and prescribes procedures and the basis for issuance, denial, renewal and revocation of the General Business License.

(d) Unless a different or more specific provision is provided for in Chapters 4.15 through 4.50, Chapter 4.10 establishes, defines the applicability of, and prescribes procedures and the basis for issuance, denial, renewal and revocation of the Special Business License and Employee Permits.

(e) Chapters 4.15 through 4.50 establish special procedural and substantive regulations applicable to specified business enterprises required to obtain a Special Business License and personnel thereof required to obtain Employee Permits.

(f) Chapter 4.54 contains regulations and prohibitions applicable to specified business enterprises or solicitation activities.

4.02.020 DEFINITIONS. Unless the context indicates otherwise, the definitions of terms contained in Sections 4.02.021 through 4.02.050 shall govern the meaning of those terms as used in this Title.

4.02.021 SAME- "SOLICITATION ACTIVITY" - shall mean actions of any person who attempts to sell, solicit or take orders for goods, wares, merchandise, books, periodicals, subscriptions, photographs, and any personal service by going from private residence to private residence, or by appointment arranged by an unsolicited contact with a resident of the private residence, or by any other similar method and not from a fixed business location within the City.

4.02.022 SAME- "SOLICITOR" - shall mean a person who engages in solicitation activities as a sole business owner or as an agent, representative, employee, or independent contractor to a person or entity required to obtain a solicitation license.

4.02.023 SAME- "SOLICITATION PERMIT" - shall mean a Permit issued by the Chief of Police to a solicitor and required pursuant to the provisions of Chapter 4.04.

4.02.024 SAME- "BUSINESS" - shall mean any enterprise or endeavor by a Person operated or conducted for profit or non-profit purposes.

4.02.025 SAME- "EMPLOYEE PERMIT" - shall mean a Permit issued by the Chief of Police or other designated official to certain personnel retained as employees,

independent contractors or otherwise to perform specified duties or functions by particular types of enterprises required by Chapters 4.10 through 4.50 to possess a Special Business License for the purpose of insuring protection of the public health, safety or welfare.

4.02.030 SAME- "FIXED LOCATION" - shall mean a particular place where an enterprise is either regularly conducted or kept open, or is conducted or kept open on four or more days during any consecutive thirty-day period. An enterprise operated from a residence shall be deemed to be conducted at a fixed location.

4.02.035 SAME- "GENERAL BUSINESS LICENSE" - shall mean a license issued by the City Manager and required pursuant to the provisions of Chapter 4.06 below, in order to insure compliance with specified ordinances, prevent disturbances of neighborhoods and nuisances, and prevent safety hazards.

4.02.040 SAME- "PERSON" - shall mean a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture or other individual or entity carrying on a business for which a Permit or License must first be procured, and shall include any officer, employee, agent or other representative by or through whom the business is operated or conducted.

"Person" shall not include a public agency or any officer, employee or agent thereof while acting in the capacity as such.

4.02.045 SAME- "CONVICTED" - or "conviction" in relation to the outcome of criminal charges shall include a plea of nolo contendere.

4.02.050 SAME- "SPECIAL BUSINESS LICENSE" - shall mean a license issued by the Chief of Police or other designated official and required pursuant to the provisions of Chapters 4.10 through 4.50 for specified types of businesses which are potentially injurious to the public interest, are not regulated by the State in such a manner as to preempt local regulation, and which the health, safety and welfare of the community demand be operated by responsible persons in compliance with all laws, including any special regulations applicable to such businesses.

4.02.055 AUTHORITY OF CITY OFFICERS. Whenever reference in this Title is made to the City Council or any department, office, division, officer or official, the reference shall be deemed to be to, respectively, the City Council, or a department, office, division, officer or official of the City.

Whenever in this Title an authority or power is vested in or a duty is imposed upon an officer or official, a City employee subordinate to the officer or official to whom an appropriate delegation has been made shall be entitled to exercise the power or authority and perform the duty.

4.02.060 LICENSE FEES. The City Council may, by resolution and from time to time, prescribe fees for the issuance and renewal of Solicitation Licenses, Solicitor Permits, General Business Licenses, Special Business Licenses and Employee

Permits, fees for special oversight of some Special Business Licenses, and fees for the filing of appeals relating to denial of such Permits or Licenses or the suspension or revocation thereof. Such fees shall be for the sole purpose of defraying costs incurred in the administration of this Title, and shall be prescribed in amounts yielding revenues which do not exceed the costs of administration by each office and department charged with responsibility under this Title. To the extent the City Council determines to be practical, such fees may be varied in amounts for different types of permits or licenses, types of businesses, issuance and renewal, and on the basis of other factors, for the sole purpose of apportioning relative regulatory costs to parties regulated. Commercial enterprises subject to Unrelated Business Taxable Income under sections 511 to 515 of the Internal Revenue Code not exempted by 4.06.010(a) and operated by certain types of non-profit organizations may be exempted from fees authorized herein, if a contribution from the general or another fund supported by tax revenues is made by the City Council to underwrite the costs of regulation.

Fees related to the costs which a department incurs in reviewing and acting upon a particular type of application for a license or permit may be made payable within a general fee chargeable by the City Manager, or may be charged individually by the department reviewing and acting upon the application as a condition precedent to processing of the approval required from that department.

All fees for the issuance and renewal of permits and licenses shall be paid at the time of and with the filing of the application with the City Manager or pursuant to a request for approval by another department charged with the responsibility of reviewing the application. All fees for an appeal shall be paid at the time of and with the filing of the appeal. No application or request for approval or appeal shall be deemed valid or complete until all prescribed fees have been paid.

4.02.065 TRANSFERABILITY. A Solicitation License, General Business License or Special Business License shall not be transferable or assignable from one person to another.

Each such license shall terminate and be deemed to have no further force or effect upon: (a) a transfer from one person to another of the whole ownership of the business or enterprise; or, (b) a change of the whole function or operation for which the permit or license has been issued.

During the term of a General Business License or a Special Business License and within thirty (30) days of the occurrence thereof, the holder shall file in writing with the City Manager notice of: (a) the transfer from one person to another of the whole ownership of the business or enterprise, or, (b) a change of the whole function or operation for which the permit or license has been issued.

4.02.070 TRANSFERABILITY - PARTIAL CHANGE IN OWNERSHIP SPECIAL BUSINESS LICENSE. During the term of a Special Business License the holder of the permit or license shall file in writing with the Chief of Police notice of each:

- (a) addition or deletion of a general or limited partner, when the holder is a partnership;
- (b) addition or deletion of a joint venturer, when the holder is a joint venture;
- (c) transfer of more than one-half of one percent of the voting shares of stock, when the holder is a commercial corporation;
- (d) change of directors, when the holder is either a for profit or non-profit corporation;
- (e) change of membership in management committee composed of persons holding ownership interests, when the holder is a partnership or joint venture;
- (f) change in membership of a governing body or other board or committee to which management is entrusted, when the holder is an unincorporated association; and
- (g) change in president or general manager, vice-president or chief assistant manager, secretary and treasurer, or any officer with equivalent or similar authority.

The holder of a license or permit shall provide in writing such detailed information respecting any such change as the Chief of Police may require.

A termination of a Special Business License shall be deemed to have occurred whenever the Chief of Police determines that effective management or control of the holder has been transferred in significant part to a person whose character or business responsibility was not reviewed at the time the license was issued, and when written notice of the Chief of Police's determination and of termination of the license is served on the holder. The effective date of termination shall be fifteen days following the date of service of the notice of termination except if an appeal from termination is filed within the time and in the manner prescribed, termination shall occur on the date on which the appeal is finally determined.

4.02.075 TRANSFERABILITY - PARTIAL CHANGE IN OWNERSHIP
GENERAL BUSINESS LICENSE. During the term of a General Business License the holder shall file in writing with the City Manager notice of each: (a) addition or deletion of a general partner, when the holder is a partnership; (b) addition or deletion of a joint venturer, when the holder is a joint venture; and (c) transfer of more than ten percent of the voting shares of stock, when the holder is a commercial corporation.

A termination of the license shall be deemed to have occurred whenever the City Manager determines that a change in ownership has occurred in significant part to another person and when written notice of the determination and of termination is served upon the holder. The effective date of termination shall be fifteen days following the date of service of the notice of termination except if an appeal from termination is filed within the time and in the manner prescribed, termination shall occur on the date on which the appeal is finally determined.

4.02.076 TRANSFERABILITY - PARTIAL CHANGE IN FUNCTION GENERAL BUSINESS LICENSE. During the term of a General Business License the holder of the permit or license shall file in writing with the City Manager notice of any change in the business function, operation, or enterprise for which the permit or license has been issued. The holder shall provide in writing such detailed information relating to any alteration in the business function, operation, or enterprise as the City Manager may require.

A termination of the license shall be deemed to have occurred when the City Manager determines that any such change materially alters the business function, operation, or enterprise for which the license has been issued in a manner which requires a new investigation of the applicability of or compliance with the laws enforced through the license, and when written notice of the determination and of termination is served upon the holder.

The effective date of termination shall be fifteen days following the date of service of notice of termination except if an appeal from termination is filed within the time and in the manner prescribed, termination shall occur on the date on which the appeal is finally determined.

4.02.080 TERM. General Business Licenses shall expire when the person to whom the License is issued ceases operations authorized thereby. The term of a General Business License shall be two years from the date of issuance. Licenses previously issued under prior provisions of this section prescribing a three year term shall expire three years from the date of issuance and shall then be reissued upon qualification for a two year term.

Solicitation Licenses and Special Business Licenses shall expire when the person to whom the License is issued ceases operations authorized thereby. The term of a Solicitation License, Special Business License, a Solicitor Permit, and an Employee Permit shall be one year from the date of issuance.

4.02.085 ADMINISTRATION. Except as otherwise provided, the City Manager is charged with the responsibility of administering General Business Licenses, and shall be authorized from time to time to promulgate and enforce such rules or regulations consistent with the purposes, intent, and express terms of this Title as he or she deems necessary to implement such purposes, intent and express terms. Whenever in this Title the City Manager is charged with responsibility to administer a particular provision, the City Manager may delegate such responsibility to other departments and subordinate personnel of the City.

Except as otherwise provided, the Chief of Police is charged with the responsibility of administering Special Business Licenses, and shall be authorized from time to time to promulgate and enforce such rules or regulations consistent with the purposes, intent and express terms of this Title as he or she deems necessary to implement such purposes, intent and express terms. No rules or regulations promulgated by the City Manager or Chief of Police, or amendments thereof, shall be

enforced or become effective until thirty (30) calendar days following the date on which the proposed rules or regulations are filed with the Clerk of the City Council.

4.02.090 NOTICES. Any notice or other writing authorized or required by this Title shall be deemed served and effective for all purposes on the date when it is reduced to writing and is either personally delivered to the party to whom it is directed or is deposited in the United States mail, postage prepaid, and addressed to the party to whom it is directed. When under the provisions of this Title any notice or other writing is authorized or required to be filed, it shall not be deemed to have been filed until it is received in the office of the official with whom filing is required.

Whenever a provision in this Title requires a public hearing to be conducted, notice of the time, date, place and purpose of the hearing shall be published at least once not later than ten calendar days in advance of the date of commencement of the hearing in a newspaper of general circulation which is published within the County. The same type of notice shall also be served on each Licensee whose License would be affected by the action taken at the conclusion of the hearing.

4.02.095 HEARING AUTHORITY. Whenever the term "Hearing Authority" is utilized in this Title, it shall be deemed to refer to a person assigned the responsibility of conducting a hearing by the City Manager. The City Manager shall be authorized to assign hearing responsibilities from time to time to:

(a) City management personnel who the City Manager finds are qualified by training and experience to conduct such hearings;

(b) Any attorney who the City may employ for the purpose of conducting administrative hearings;

(c) Attorneys engaged in practice within the Sacramento community who are retained by contract to conduct such hearings; or

(d) Administrative Law Judges assigned to the State of California Office of Administrative Hearings.

The City Manager is hereby authorized to contract in the name of the City for the retention of hearing services either by attorneys engaged in private practice or the Office of Administrative Hearings at rates which do not exceed those payable by the City for the legal defense of tort liability claims within financial limitations established by the City's annual budget.

4.02.100 VIOLATIONS. Except as otherwise specifically provided, pursuant to the provisions of Government Code Section 36900, violation of any of the provisions contained in this Title shall constitute an infraction subject to a fine of one hundred (\$100.00) dollars for each day or any portion thereof a violation continues.

Violation of any of the following provisions of this Title following service at the business of a written notice by an enforcing official advising of the violation and ordering

a cessation thereof, shall pursuant to the provisions of Section 1.01.190 of Title 1 of this Code, constitute a misdemeanor: Sections 4.06.005, 4.06.006, 4.10.005, 4.15.015, 4.16.010, 4.20.010, 4.21.005, 4.22.020, 4.23.025, 4.25.005, 4.34.200, 4.34.210, 4.35.205, 4.54.010, 4.54.020, 4.54.105, 4.54.220, 4.54.225, 4.54.300, 4.54.330 and 4.54.340. As used in this Paragraph, an enforcing official includes the Chief of Police, City Manager and any other City officer charged with the responsibility of administering the provisions of this Title. Pursuant to the provisions of Section 836.5 of the Penal Code, City personnel acting under the direction and control of the City Manager, shall be authorized to enforce and arrest persons without a warrant for violations of those provisions within those Chapters and Articles of this Title which are assigned, respectively, to the administrative responsibility of the City Manager.

Violation of any of the provisions of this Title may be remedied by injunction or other civil proceedings commenced in the name of the City by the City Attorney. In prosecution of criminal violations of this Title, the City Attorney may, in his or her discretion, reduce the charge of a misdemeanor to an infraction.

4.02.105 INSPECTION. The City Manager and Chief of Police are charged with the responsibility of enforcing the provisions of this Title, and to that end may inspect any and all types or classes of businesses which are by this Title licensed and regulated. The City Manager, Chief of Police, and their deputies or subordinate personnel may enter any place of business which is subject to the provisions of this Title for the purpose of inspection for compliance with this Title.

The City Manager and Chief of Police may, during the term of a license, require the licensee to complete a license information update form for the purpose of assuring continued compliance with this Title. The licensee shall, within fifteen (15) calendar days of the date of mailing by the City Manager of such an information form, file the completed form with the City Manager or to the Chief of Police, whichever officer has requested the information update form.

4.02.110 LAWS NOT ENFORCED. There are many ordinances and other laws applicable to businesses licensed under Chapters 4.06 through 4.50 which are not sought to be enforced under that licensing process. Such laws include, but are not limited to, building, fire, electrical and other codes and regulations contained in Chapter 4.54 of this Title, and noise control, sewage disposal and other health measures. It has been determined that the administrative costs of enforcing such laws would result in fee levels which are so high as to exceed the benefits produced by such enforcement.

Neither the issuance of a General Business License nor a Special Business License shall be deemed to constitute a representation that the business so licensed or the premises upon which it is situated complies with such ordinances or other laws. Nor shall the existence of such an unrevoked License be deemed to preclude any criminal or civil remedy for violation of such ordinances or laws, including, but not limited to, the closure of the business if otherwise warranted under remedies sought to be invoked. The possession of either a General Business License or Special Business License shall

not be deemed to relieve the holder of the requirement to apply for or obtain any other License or Permit required by ordinance or statute.

4.02.115 STATUTORY REFERENCES. Any reference to a state or federal statutory or regulatory provision contained in this Title shall be interpreted to refer to such provision as it may be amended or renumbered from time to time.

4.02.120 EFFECTIVE DATE. The provisions of this Title shall become effective February 1, 2006.

4.02.125 SEVERABILITY. The provisions of this Title are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Title, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this title, or the validity of its application to other persons or circumstances.

4.02.130 CONTINUITY. Except as specifically amended or changed in the repeal and reenactment of this Title, the reorganization or renumbering of this Title shall not be construed as a substantive change and the regulation of businesses in the City is continued as was construed under prior law without substantive change.

CHAPTER 4.04

SOLICITATION LICENSES AND PERMITS

Sections:

- 4.04.000 Purposes.
- 4.04.010 Solicitation License and Solicitor Permit Required.
- 4.04.015 Exemptions.
- 4.04.020 Statement of Exemption.
- 4.04.025 Solicitation License Application.
- 4.04.030 Solicitation License Issuance.
- 4.04.035 Conditions on Solicitation License and Permit.
- 4.04.040 Solicitors.
- 4.04.045 Solicitor Permit.
- 4.04.050 Renewal.
- 4.04.055 Suspension or Revocation.
- 4.04.060 Appeal.

4.04.000 PURPOSES. City Council finds that door-to-door solicitation, including appointments arranged through cold calling residents of the City, historically have generated complaints regarding the sale of goods, services, securities, investments, and other products. With unfortunate frequency, many solicitation schemes prey upon the elderly and infirm of the community. Without the requirement that such solicitors obtain a permit from the City, residents are exposed to higher risk of unfair sales and business practices by businesses and organizations with no physical presence in the City and therefore less accountability for their business practices. For these reasons, the City Council a licensing of such businesses and their solicitor agents is required to protect the public, safety, and welfare.

4.04.010 SOLICITATION LICENSE AND SOLICITOR PERMIT REQUIRED. It is unlawful for any person or entity to engage in, conduct or carry on any business, exhibition, occupation or service that is based upon solicitation activities as defined in Section 4.02.021, without first having, upon written application, procured a solicitation license from the City Manager.

It is unlawful for any person employed or working on behalf of a business engaged in a solicitation business to engage in the solicitation activities as defined in Section 4.02.021, without first having, upon written application, procured a solicitor permit from the City Manager.

4.04.015 EXEMPTIONS. This Chapter does not apply to:

- (a) Girl Scouts, Camp Fire Girls, Boy Scouts, Little League members and members of similar organizations when soliciting on behalf of such organizations;
- (b) Persons who represent a fixed place of business in the City who regularly make deliveries, normally not involving personal contact with customers for the purpose of making sales or obtaining orders, over an established route and who only occasionally make calls on persons residing within the area covered by such route for the purpose of obtaining additional customers for such regular deliveries. The foregoing provisions intended to cover only such persons as milk delivery persons, newspaper delivery persons and other persons engaged in substantially similar activities;
- (c) Persons soliciting charitable contributions on behalf of any nonprofit corporation or nonprofit voluntary unincorporated association organized for charitable purposes.
- (d) Persons who go from private residence to private residence for political purposes or for the purpose of influencing legislation.

4.04.020 STATEMENT OF EXEMPTION.

- (a) Every person claiming to be entitled to exemption from the payment of any license fee or from any other requirement provided for in this Chapter upon the ground that such license casts a burden upon his or her right to engage in commerce with foreign nations or among the several states, or conflicts with the laws of the United

States respecting interstate commerce, shall file a verified statement with the City Manager, disclosing the interstate or other character of his or her business entitling such exemption. The statement shall contain the name and location of the company or firm for which the orders are to be solicited or secured, the name of the nearest local or state manager, if any, and his or her address, the kind of goods, wares or merchandise to be delivered, the place from which the same are to be shipped or forwarded, the method of solicitation or taking orders, the location of any warehouse, factory or plant within the state, the method of delivery, the name and location of the residence of the applicant, and any other facts necessary to establish such claim of exemption. A copy of the order blank, contract form or other papers used by such person in taking orders shall be attached to the affidavit. The affidavit may be filed by a firm on behalf of one or more employees or representatives of the firm who are subject to the requirements of this Chapter.

(b) If the City Manager determines that a license fee is not applicable with respect to any person because of interstate commerce requirements, a license fee shall not be required and the person may be issued an exempt license. Such license shall be valid only for the purpose of authorizing solicitation of orders to be filled directly from another state. Any person who is eligible for a license pursuant to this section shall be subject to all applicable provisions of this chapter.

4.04.025 SOLICITATION LICENSE APPLICATION. A person may apply for a solicitation license by filing an application with the City Manager and paying the required fees. The City Manager shall forward the application for the solicitation license to the Chief of Police for investigation in the same manner as provided for a Special Business License under 4.10.035.

4.04.030 SOLICITATION LICENSE ISSUANCE.

The City Manager shall issue a solicitation license unless he or she finds that:

(a) The City Manager finds in writing that the application is not complete despite requests for supplemental information;

(b) The City Manager finds in writing that the application or any supplementary material contains false information;

(c) The City Manager finds in writing that any of the following persons has been convicted of a crime and the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under California Penal Code Section 1203.4; or has done any act involving dishonesty, fraud or deceit with intent to substantially injure another; and the City Manager concludes that by reason of the crime or act there is a substantial risk that the applicant would not conduct the enterprise in a law abiding manner or in a manner which does not subject patrons of the enterprise to risk of harm or criminal, deceitful or otherwise unethical practices:

(1) A general or limited partner of a partnership which possesses an ownership interest in the enterprise;

(2) A joint venturer in a joint venture which possesses an ownership interest in the enterprise and if one or more of the joint venturers is a partnership or corporation, those partners, directors or stockholders to whom the requirements of this Section would apply if the partnership or corporation were the sole owner of the enterprise;

(3) A sole proprietor when the enterprise is a sole proprietorship;

(4) An owner of more than one-half of one percent of the voting shares of stock when a commercial corporation possesses an ownership in the enterprise;

(5) A director, when either a commercial or non-profit corporation possesses an ownership in the enterprise;

(6) A member of a management committee when a partnership or joint venture possesses an ownership interest in the enterprise;

(7) A member of a governing body or other Board or committee to which management is entrusted, when an unincorporated association possesses an ownership interest in the enterprise; or,

(8) A president, general manager, vice president, chief assistant manager, secretary, treasurer or any officer with equivalent or similar authority employed or retained by the firm possessing an ownership interest in the enterprise.

Notwithstanding the foregoing, an application shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under California Penal Code Section 4852.01 et seq., or, that the person has been convicted of a misdemeanor, if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under California Penal Code Section 4852.01 et seq.

(d) The City Manager finds in writing that when the applicant or enterprise is a "contractor," as that term "contractor" is defined in Division 3, Chapter 9, Article 2, Section 7026, et seq., of the Business and Professions Code, the applicant has failed to provide sufficient proof, as determined by the City Manager, that the applicant is licensed to engage in the business as a contractor, by the State of California, Contractors' State License Board, and that the license is presently valid, effective, not suspended, and in good standing.

4.04.035 CONDITIONS ON SOLICITATION LICENSE AND PERMIT. Every solicitation license issued by the City Manager shall include the following conditions:

(a) Solicitation activities shall not be conducted by any license holder or any solicitor between the hours of 9:00 p.m. to 8:00 a.m. the following day weekdays, 9:00 p.m. on Fridays to 9:00 a.m. on Saturdays, and 9:00 p.m. on Saturdays to 10:00 a.m. on Sundays;

(b) Every solicitor shall carry on his or her person the City-issued solicitor permit at all times when conducting solicitation activities and shall produce such permit to any law enforcement officer upon demand; and

(c) Any other condition reasonably related to protection of the public interest in solicitation activities.

4.04.040 SOLICITORS. The employees, agents, solicitors or representatives of any firm, irrespective of the form of organization, may be covered under a single license obtained by and issued in the name of the firm as long as each such person holds a valid solicitor permit issued pursuant to Section 4.04.045.

4.04.045 SOLICITOR PERMIT.

(a) It is unlawful for any solicitor to conduct solicitation activities within the City without having first obtained a solicitor permit pursuant to this section.

For the purposes of this section the word "solicitor" includes all employees, agents, solicitors or representatives of any firm, irrespective of the form of organization, subject to the solicitation license requirement of this Chapter.

(b) A solicitor may file a written application for a solicitor's permit with the City Manager, giving the name and address of the applicant, the firm or organization which he represents, a description of the purpose for which the applicant proposes to conduct solicitation activities and such other information the City Manager and Chief of Police may require.

(c) The City Manager shall refer the applicant to the Chief of Police who shall fingerprint and photograph the applicant and obtain reports from the state Department of Justice of any record regarding the applicant which is available from those agencies. After an applicant has been fingerprinted and photographed by the Chief of Police, the applicant shall be issued temporary permit by the City Manager, valid for forty-five (45) days, unless the Chief of Police, based on a check of any immediately available record or source of information regarding the character of the applicant or the business responsibility of the firm which he represents disapproves the issuance of a temporary permit. If the Chief of Police disapproves, his reasons for disapproval shall be specified in writing, a copy of which shall be delivered to applicant. When he or she receives the reports, the Chief of Police shall forward them to the City Manager together with any other relevant information from the Chief of Police's files regarding the applicant and the firm which the applicant plans to represent in the City.

(d) On the face of each permit, including temporary permits, there shall be placed each of the following:

- (1) The solicitor's permit number;
- (2) The solicitor permit holder's name and address;
- (3) The name and address of the firm or organization which the holder represents;
- (4) A physical description of the holder or a photo ID;
- (5) The expiration date of the permit.

(e) While engaged in solicitation activities, the solicitor's permit shall be carried on the person of solicitor who, upon demand, shall show such permit to any person authorized to enforce this chapter.

4.04.050 RENEWAL. Not later than forty-five (45) days prior to expiration of the term of a Solicitation License or a Solicitor's Permit, the City Manager shall transmit to the licensee or permit holder by mail an application for renewal. The application for renewal shall be on such a form, and include such information, as prescribed and required by the City Manager.

The application for renewal shall be filed with the City Manager not later than the date of expiration of the immediately preceding License. The City Manager may provide an option for businesses to renew and pay license and permit fees on the City's website in a manner consistent with the process specified herein for paper-based transactions. As a condition of processing a solicitation license or solicitor's permit renewal electronically, the Licensee consents to the use of electronic means of notice and expressly acknowledges that his or her submission of his electronic signature shall be enforceable in any proceeding as if the renewal was submitted with a manual signature consistent with Civil Code section 1633.1 et seq

4.04.055 SUSPENSION OR REVOCATION.

A Solicitation License issued pursuant to this Chapter may be immediately suspended or revoked during its term if the City Manager finds in writing that one or more of the following grounds exist:

- (a) That information in the latest application was untrue;
- (b) That the City Manager or the Chief of Police has acquired information supporting a finding that one of the persons listed in Section 4.04.045(c) has a new criminal conviction or a criminal conviction previously undisclosed;
- (c) That the Licensee or any one of the Licensee's Solicitors has violated one or more conditions imposed; or
- (d) That the Licensee or any one of the Licensee's Solicitor's has violated any term, condition or requirement or prohibition established by this Chapter or

Chapter 4.02, which are applicable to the License or the holder, or any administrative regulation promulgated thereunder, or any other applicable law.

4.04.060 APPEAL. Any person aggrieved by any decision or action of any City officer or employee may file a written notice of appeal with the City Manager within fifteen days following of the date of issuance of written notice of such decision or action. Any such appeal shall be conducted by the City under the provisions of sections 4.10.115 to 4.10.150 to the extent equally applicable to determination of an appeal of a denial of initial application or renewal, or the proposed suspension or revocation of a solicitation license or solicitor's permit under this Chapter.

CHAPTER 4.06

GENERAL BUSINESS LICENSES

Article 1

Applicability and Issuance

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Denial and Revocation

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Article 1 Applicability and Issuance

4.06.000 PURPOSES. The purposes of this Chapter are set forth in Section 4.02.010.

4.06.005 LICENSE REQUIRED. Except as provided by Section 4.06.010, no person shall operate or conduct at a fixed location within the City any enterprise whatsoever, including but not limited to, a manufacturing, fabricating, processing, assembly or repair; wholesaling or storage; lodging, rental housing, or other temporary or permanent housing; entertainment; service; retailing; educational; hospital or other medical care; or business or professional office enterprise; home occupation or family contractor's business; or other facility to which members of the general public are invited; or adult-related uses as defined in this Title; unless under and by authority of a valid, unexpired and unrevoked General Business License authorizing the enterprise issued pursuant to the provisions of this Chapter. It is intended by this Chapter to license, unless expressly exempted, every enterprise operated at a fixed location which is of a type described by this section, whether the enterprise is operated for commercial, non-profit, charitable or other purposes, and whether the enterprise is operated or conducted independently or in association with or at the same location as an enterprise or activity for which a License is not required.

A person shall be deemed to operate or conduct an enterprise and violate this Section if the person, without a required General Business License in effect, supervises, inspects, directs, organizes, manages or controls or is in any way responsible for or in charge of the enterprise for which the License is required.

4.06.006 TEMPORARY CONCESSIONS. No person shall operate or conduct within the City a Temporary Concession, whether or not the Temporary Concession is conducted at a fixed location, unless under and by authority of a valid, unexpired and unrevoked General Business License issued pursuant to the provisions of this Chapter authorizing the Temporary Concession at the location where it operates.

As used in this Section, and except as hereinafter expressly provided, a "Temporary Concession" is any out-of-doors retail sales operation, whether conducted for an hour or less, a day, or longer, established for the purpose of selling flowers, produce, Christmas trees or greens, clothing, paintings or other artistic products, books or other written materials, or other goods from a table, stand, temporary sheltered enclosure, cart, motor vehicle or similar equipment.

A "Temporary Concession" shall not be deemed to include:

(a) The sale of Christmas trees or greens in connection with and on the same premises as a supermarket, hardware or home maintenance or repair store, or other established business, if a temporary structure and electrical wiring are not employed in connection with such sales;

(b) Residential “garage sales” conducted for the purpose of disposing household goods formerly utilized in a home which have become surplus where such garage sale is conducted on the residential premises where the goods to be sold were utilized;

(c) The sale from stands of fireworks preceding and in connection with the celebration of the Fourth of July as such temporary sales are permitted as provided in Chapter 4.54;

(d) The sale of agricultural products on the site where the product is grown; and

(e) The sale or offering for sale or distribution from public sidewalks or pedestrian circulation areas of shopping centers or malls of products to pedestrians who are traversing such areas or patrons of retail stores.

The exemption of the above activities from the temporary concessions licensing requirement shall not be deemed to authorize any activity which is illegal under other laws or to exempt any such activities from other applicable laws; or to deprive the owner or occupant of private property of any otherwise applicable right to consent to such activity.

Notwithstanding the provisions of Section 4.02.085, the Chief of Police shall enforce the provisions of this Section by citing and charging pursuant to the provisions of Section 4.02.100 such persons who violate this Section.

4.06.010 EXEMPTIONS. A business license shall be issued to the following enterprises at no charge and marked as “EXEMPT” upon the completion of an application that demonstrates to the satisfaction of the City Manager that the business qualifies for an exemption provided in law including, but not limited to, the following California constitutional or statutory exemptions:

(a) Any non-profit organization exempt from tax as provided in section 501(c)(3) of the Internal Revenue Code (churches, educational institutions, charitable organizations, and scientific organizations) to the extent of its tax-exempt activities, however, no exemption is granted to any commercial business activity of a 501(c)(3) organization for which it has Unrelated Business Taxable Income as provided in section 511-515 of the Internal Revenue Code (bookstores, coffeeshops, child care centers, etc.);

(b) Any apartment, rooming house, duplex, and other residential facility in which living units are rented or leased solely on a term of thirty days and longer;

(c) Any agricultural activities such as the growing of crops or raising of livestock and all the auxiliary and ancillary uses incidental to operation of a farm or ranch, however, no exemption is granted to any wholesaling, processing or storage of products of multiple farms or other cooperative marketing arrangement;

(d) Any sale of produce (vegetables, nuts, fruits, etc.) raised on the same parcel of land from a roadside stand served by no public utility services on a reasonable basis not to exceed four (4) months;

(e) Any enterprise that solely manufactures, sells, purchases, possesses or transports alcoholic beverages as provided in Cal. Constitution, art. XX, § 22;

(f) Any enterprise operating as a bank or financial corporation subject to the in lieu taxes payable to the State under California Revenue and Taxation Code section 23182

(g) Any enterprise operating solely as an intercity transportation business for household goods or other property for hire that is under the jurisdiction of the Public Utilities Commission pursuant to Public Utilities Code section 5327;

(h) Any commercial traveler whose business is limited to goods, wares, and merchandise sold or dealt in at wholesale as provided in California Business and Professions Code section 16002;

(i) Any enterprise operating solely as a real estate auctioneer whose principal place of business is located outside the City as provided in California Business and Professions Code section 16002.1;

(j) Any cafe musician who plays a musical instrument at any retail establishment where food or alcoholic beverages are sold or given away as provided in California Business and Professions Code section 16000.5;

(k) Any enterprise operating solely for the solicitation of donations for the support of veterans by federally chartered veterans' organizations specified in Title 36 of the United States Code as provided in California Business and Professions Code section 16001.7

(l) Any person honorably discharged or honorably relieved veteran who is unable to earn a livelihood from manual labor as provided in California Business and Professions Code section 16001.5;

(m) Any blind person operating a vending facility as provided in California Welfare and Institutions Code section 19633;

(n) Any residential care facility or residential day care home of six or less people, or a small family day care of eight children or less as provided in California Health and Safety Code sections 1523.1(b), 1566.2, 1568.05(b), 1569.185, 1596.803 or 1597.45;

(o) Any professional services business, not based at a location within the City, whose work in the corporate limits, in the judgment of the City Manager, constitutes such a de minimus contact with the City that the imposition of the regulatory fee would

unfairly burden intercity business as provided in *City of San Jose v. Ruthroff & Englekirk Consulting Structural Engineers, Inc.* (1982) 131 Cal.App.3d 462; and

(p) Any Adult-Oriented Business as defined and regulated in Chapter 4.31.

4.06.055 HOME OCCUPATIONS. Unless exempt under Section 4.06.010, a General Business License shall be required for any business, enterprise or activity which is operated or conducted as a Home Occupation. A General Business License shall also be required for a family contractor's business.

As used in this Chapter, a "Home Occupation" shall mean and include any commercial use conducted in a dwelling unit which is also utilized for residential purposes. The terms "Family Contractor's Business" shall mean a business operated at or from a residence which employs only members of the resident's family, and which may include the storage of contractor's equipment or supplies at the residence of one of the family members engaged in the business.

4.06.060 ZONING ENFORCEMENT. The administration of the General Business License under the provisions of this Chapter shall assist the City Manager and the Community Services Director or any successor City division to enforce the provisions of the City of Elk Grove Zoning Code, as those provisions may hereafter be amended, and the terms, conditions and requirements of rezoning ordinances and any and all contracts associated therewith, variances, conditional use permits and other legislative and administrative approvals issued pursuant to the Zoning Code.

4.06.065 NUMBER OF LICENSES. In instances where space within an office building, shopping center, warehouse, department store or other structure or property is leased for business or commercial use, each tenant of the premises operating an enterprise required to be licensed hereunder shall apply for and obtain a General Business License.

When a particular enterprise has more than one fixed location or branch within the City, a separate General Business License shall be required for each location or branch.

Certain types of persons required to obtain General Business Licenses hereunder are also required to obtain a Special Business License or other license or permit under this or other Titles. The issuance of a Special Business License or other license or permit for an enterprise shall not be deemed to excuse the requirement that a General Business License be obtained, and the provisions of this Chapter are declared to be independently applicable to each enterprise to which the provisions of this Chapter apply.

The provisions of this Chapter shall also be deemed to be independently applicable to any enterprise required to be licensed hereunder which is also required by any State or other law to obtain a license, permit or certificate.

4.06.070 APPLICATION FILING. All applications for General Business Licenses shall be filed in the office of the City Manager, or in the office of his or her designee.

4.06.075 APPLICATION CONTENTS. The application for a General Business License shall be filed on a form and contain such information as is prescribed by the City Manager, including the following:

(a) The name and address of the person or entity who owns the enterprise for which application is made;

(b) A complete description of the enterprise to be conducted at the location for which the license is sought;

(c) The address of the location for which the license is sought;

(d) The assessor's parcel number;

(e) The number of employees reporting to and/or located at the business site. If the business is seasonal, the highest and lowest number of employees reporting to and/or located at the business site with the corresponding month or months of the year for each period;

(f) The number of electronic, mechanical and video games to be operated in the business;

(g) Whether or not the applicant or enterprise is a contractor, as that term is defined in Division 3, Chapter 9, Article 2, Section 7026, et seq., of the Business and Professions Code, and if such contractor is licensed as a contractor by the State of California, Contractors' State License Board, with a license in good standing, and the License Number and Class thereof; and,

(h) Such other and further information as is deemed necessary to enforce the City of Elk Grove Zoning Ordinance, and administer the provisions of this Chapter.

The City Manager may provide an option for businesses to initially apply and pay business license fees on the City's website in a manner consistent with the process specified herein for paper-based transactions. As a condition of processing a business license application electronically, the applicant consents to the use of electronic means of notice and expressly acknowledges that his or her submission of his electronic signature shall be enforceable in any proceeding as if the application was submitted with a manual signature consistent with Civil Code section 1633.1 et seq.

4.06.080 INVESTIGATION. The City Manager shall refer the application for review by:

(a) The City Manager and the Community Services Director; and

- (b) The Chief of Police, if the enterprise requires a Special Business License.

The City Manager and Community Services Director shall examine the application for the purpose of determining whether the enterprise complies with the City of Elk Grove Zoning Ordinance, and whether any conditions should be attached to issuance of the License. Inspection of the site shall be conducted as necessary to determine applicability, compliance with, or the adequacy of corrections to achieve compliance with such laws.

4.06.085 ISSUANCE. The City Manager shall act upon an application not later than forty-five (45) days after the date a complete application is validly filed except where Section 4.06.206 of this Chapter is applicable. An application is complete and deemed validly filed when all information requested on the application form is provided by the applicant and any associated fees paid. The City Manager shall act upon the application by issuing the license unless one of the following occurs:

(a) The City Manager, the City Manager, or the Community Services Director find in writing that the applicant has failed to provide sufficient or adequate plans, information or other data necessary to permit determinations respecting compliance with the City of Elk Grove Zoning Ordinance;

(b) The City Manager or the Community Services Director finds in writing that the enterprise at the location proposed would violate the City of Elk Grove Zoning Ordinance, and that such violation or violations must be corrected in advance of the conduct of the enterprise; or

(c) With respect to an enterprise required by Chapter 4.10 to obtain a Special Business License, the Special Business License has not been issued; or,

(d) Pursuant to Business and Professions Code Section 16100 subdivision (c), when the applicant or enterprise is a "contractor", as that term is defined in Section 7026, et seq., of the Business and Professions Code, and the as determined by the City Manager the applicant has failed to provide sufficient proof that he or she holds a State of California Contractor's License presently valid, effective, not suspended, and in good standing.

Unless issued to a Temporary Concession not operated from a fixed location, a General Business License issued under this Chapter shall authorize the holder thereof to operate or conduct a business enterprise only on such property the address of which is stated on the license. In the event the licensee ceases to use the property for the business, activity or enterprise listed, the License shall have no further force or effect and becomes void.

4.06.090 CONDITIONS. Upon recommendation by the City Manager or the Community Services Director, the City Manager may issue the General Business License upon such conditions as are necessary to ensure safety and prevent the enterprise from disturbing the peace and tranquility of the neighborhood in which it is located. Such conditions may include the following:

(a) With respect to minor and correctable violations of the City of Elk Grove Zoning Ordinance, that the holder of the License correct the violation within a prescribed period of time;

(b) Limitations upon hours or days of operation; when required in order to prevent disturbance of the peace and quiet of a neighborhood caused by the enterprise or the patrons thereof at a particular location;

(c) The provision of adequate off-street parking to prevent the enterprise from inconveniencing neighbors or causing traffic disruptions at a particular location;

(d) The installation of on-site improvements required to prevent operation of the enterprise from disturbing its neighbors at a particular location; or

(e) Other conditions related to operations or improvements demonstrated under the particular circumstances to be necessary in order to prevent hazards, disturbance of the peace, quiet or safety of the neighborhood or other nuisance.

Such conditions may be imposed at the time a General Business License is initially issued, upon renewal of the License, or at any time during the term of the License.

4.06.095 PROCEDURE FOR IMPOSITION. Any condition imposed pursuant to the provisions of Section 4.06.090, together with the written reasons therefor, whether established at the time of issuance, at the time of renewal or during the term of a general business license, shall be served upon the applicant or holder in a written notice.

The conditions shall become effective fifteen (15) days following the date of service of the notice thereof except if an appeal is filed within the time and in the manner prescribed, the conditions shall not become effective until the appeal is finally determined.

4.06.100 CONTENTS AND DISPLAY OF LICENSES. The General Business License shall include but not be limited to a complete description of the enterprise for which it is issued, the date of issuance and date of expiration, and a description of any and all conditions upon which the license has been issued. The License shall be conspicuously posted at the place of business in full public view.

4.06.105 APPLICATION FOR RENEWAL. Not later than forty-five (45) days prior to expiration of the term of a General Business License, the City Manager shall transmit to the licensee by mail an application for renewal. The application for renewal shall be on such a form, and include such information, as prescribed and required by the City Manager, including the following:

(a) A description of any change in the type of business conducted on the premises since the last License was issued; and

(b) A description of any and all improvements which the applicant has made upon the premises since the last License was issued.

The application for renewal shall be filed with the City Manager not later than the date of expiration of the immediately preceding License. The City Manager may provide an option for businesses to renew and pay business license fees on the City's website in a manner consistent with the process specified herein for paper-based transactions. As a condition of processing a business license renewal electronically, the Licensee consents to the use of electronic means of notice and expressly acknowledges that his or her submission of his electronic signature shall be enforceable in any proceeding as if the renewal was submitted with a manual signature consistent with Civil Code section 1633.1 et seq.

4.06.110 PROCESSING AND ISSUANCE - RENEWAL. An application for renewal shall be investigated and processed in the manner prescribed by Section 4.06.080. The City Manager shall act upon the application for renewal not later than thirty days after the date a valid application is filed unless the applicant has filed with him or her, before expiration of the 30 days, written notice of a request for extension of the time within which action is taken on the application for renewal by the City Manager on grounds that such additional time is required by the applicant to prepare and present plans or other information, obtain zoning variances or other permits, remodel the premises or make other corrections necessary to comply with the City of Elk Grove Zoning Ordinance or for other similar reasons. The City Manager may, pursuant to such a notice request, extend the time within which action is required by the City Manager on the application to such a period as the he or she deems reasonable and appropriate to accomplish the corrections. The City Manager shall act upon the application for renewal within the 30 day period, or the extended period of time, as applicable, by issuing the renewed license unless:

(a) One or more of the conditions identified in Section 4.06.085 apply; or,

(b) The City Manager finds in writing that one or more conditions applicable to the preceding license at the same location have been violated, and it is determined pursuant to the provisions of Section 4.06.090 that such conditions shall also be applicable to the renewed license.

With respect to any application for renewal which is filed on or before the date of expiration of the immediately preceding License, the City Manager shall extend the term of the immediately preceding License, without charge, during the period of any investigation required in order to determine whether the License should be renewed.

4.06.115 UNDETECTED VIOLATIONS. Under Sections 4.06.085 and 4.06.110 the City Manager is required to issue new and renewed General Business Licenses in the absence of any identified deficiencies or violations of laws. Such action is required within limited time periods in order to promote expeditious processing of applications and reduce damaging delays to applicants in awaiting administrative determinations.

The mandates of Sections 4.06.085 and 4.06.110 may result in the issuance of General Business Licenses notwithstanding the existence of violations of the laws sought to be enforced. Therefore, neither the issuance nor receipt of a General Business License shall constitute evidence of compliance with the City of Elk Grove Zoning Ordinance, or, as required pursuant to Section 16100 of the Business and Professions Code, evidence of compliance with the licensing provisions of contractors, as contractors are defined in Business and Professions Code section 7026, or valid licensure by the Contractors State License Board, or a representation or assurance to the recipient upon which reliance is authorized or intended by the City that the enterprise for which the License is issued or the property or premises upon or in which it is housed complies with such laws.

Article 2 Denial and Revocation

4.06.200 GROUNDS FOR DENIAL. The City Manager shall deny an initial application for or application for renewal of a General Business License if any written finding of Section 4.06.085 applies.

The City Manager shall also deny an application for renewal upon a finding that one or more conditions applicable to the preceding License at the same location have been violated, if, pursuant to the provisions of Section 4.06.090, it is determined that such conditions should also be applicable to the renewed License.

4.06.205 METHOD OF DENIAL. A denial of an initial application or application for renewal of a General Business License by the City Manager shall be in writing, with the reasons stated therefor. Written notice of the denial, together with a copy of the provisions of this Chapter, shall be served upon the applicant pursuant to the provisions of Section 4.02.090.

Denial of an initial application or application for renewal of a General Business License shall relate solely to the location at which the enterprise is proposed, and shall not affect the conduct of such enterprise at another location within the City.

With respect to denial of an application for renewal or termination, the immediately preceding General Business License shall be deemed to be in full force and effect for a period of fifteen days following the date of service upon the applicant of the notice of denial or of termination. In the event the applicant files an appeal from the denial or termination in the manner and within the time prescribed by Section 4.06.210, the immediately preceding General Business License shall continue in full force and effect during the pendency of the appeal, until the date of final decision by the appellate authority.

4.06.206 REQUEST FOR EXTENSION. The denial of an initial application or application for renewal of a General Business License shall be set aside by the City Manager if the applicant has filed with the him or her a timely written notice of a request for extension of time within which action is taken on grounds that additional time is

required to prepare and present plans or other information, obtain zoning variances or other permits, remodel the premises or make other corrections for the purpose of remedying violations of the City of Elk Grove Zoning Ordinance or for other similar reasons. Such written request for extension shall be filed with the City Manager not later than fifteen days after the date of service of the notice of denial prescribed in Section 4.06.205. The City Manager shall by regulation establish reasonable periods of time to grant a licensee or applicant extension in order for the licensee or applicant to complete the tasks enumerated above in this section.

If the period of extension elapses without correction of the deficiencies for which the extension was granted, within fifteen (15) days from the last day of that period of extension, the City Manager shall deny the application pursuant to the procedure set forth in Section 4.06.205. If the deficiency for which the extension was granted is corrected, the City Manager shall issue the General Business License no later than fifteen (15) days from the last day of the period of extension as provided in Section 4.06.085 or Section 4.06.110.

4.06.210 APPEALS. The holder of a General Business License or applicant therefor may file an appeal from the following:

- (a) The denial of an initial application for or application for renewal of a General Business License pursuant to the provisions of Section 4.06.200;
- (b) The imposition of conditions at the time of issuance of an initial or renewed General Business License or during the term thereof, pursuant to the provisions of Section 4.06.095; or
- (c) The termination of a General Business License as a result of a change in ownership or a business function pursuant to the provisions of Sections 4.02.075 or 4.02.076.

Any such appeal shall be in writing, shall state the specific reasons therefor and grounds asserted for relief, and shall be filed with the City Manager not later than fifteen days after the date of service of the notices prescribed by Sections 4.02.075, 4.02.076, 4.06.095, or 4.06.205, as the case may be. If an appeal is not filed within the time or in the manner prescribed above, the right to review of the action against which complaint is made shall be deemed to have been waived.

4.06.215 APPEAL HEARING. Not later than twenty (20) days following the date of filing an appeal within the time and in the manner prescribed by Section 4.06.210, the Hearing Authority shall conduct a hearing for the purpose of determining whether the appeal should be granted. Written notice of the time, date and place of the hearing shall be served upon the appellant not later than ten (10) days preceding the date of the hearing.

During the hearing, the burden of proof shall be upon the City Manager. The provisions of the California Administrative Procedure Act (commencing at Section 11500 of the Government Code) shall not be applicable to such hearings; nor shall

formal rules of evidence in civil or criminal judicial proceedings be applicable. At the conclusion of the hearing, the Hearing Authority shall prepare a written decision which either shall grant or deny the appeal, and contains findings of fact and conclusions of law. The written decision, including a copy thereof, shall be filed with the City Manager and served by the Hearing Authority upon the appellant not later than ten (10) days following the date on which the hearing is closed.

4.06.220 FINALITY OF DETERMINATION. The decision by the Hearing Authority shall become final upon the date of filing and service with respect to any appeal from either denial of an initial application for a General Business License pursuant to Section 4.06.200 or termination of a License as a result of a change in ownership or change in function pursuant to Section 4.02.075 or 4.02.076.

With respect to an appeal from either denial of an application for renewal of a General Business License pursuant to Section 4.06.200 or from the imposition of conditions upon a License pursuant to Section 4.06.095, the decision by the Hearing Authority shall become final fifteen days following the filing and service thereof unless review of the decision by the City Council is requested either by the City Manager or appellant. Such review may be requested by filing with the Clerk of the City Council a written request for review not later than fifteen calendar days following the date of filing and service of the Hearing Authority's decision. The request for review shall state in detail the reasons therefor and error alleged in the Hearing Authority's decision, and shall have attached thereto a copy of the decision.

4.06.225 REVIEW BY CITY COUNCIL. Upon receipt by the Clerk of the City Council of the request for review, a hearing shall be scheduled before the City Council within sixty (60) days. The City Council shall be authorized to deny the introduction of evidence and decide the matter after oral argument presented during the hearing, or to admit supplementary evidence with respect to challenges or particular findings, or reject the findings and conclusions and conduct a de novo hearing. The determination by the City Council granting or denying the appeal shall be final, and shall be accompanied by findings of fact and conclusions of law, which may consist of an adoption by reference of those by the Hearing Authority. The decision of the City Council shall become final upon its filing with the Clerk of the City Council and service upon the City Manager and the applicant or licensee pursuant to Section 4.02.090 hereof. Pursuant to the granting of an appeal, the City Council shall be authorized to order the issuance, renewal or continuance of a license upon such terms and conditions as in the discretion of the City Council are deemed to be necessary and appropriate.

4.06.230 GROUNDS FOR REVOCATION. Any General Business License issued pursuant to this Chapter may be revoked during its term upon one or more of the following grounds:

(a) That the enterprise is operated in a manner or is housed on premises or within a building which violates or is in violation of City of Elk Grove Zoning Ordinance;

(b) That the holder of the License has violated one or more conditions upon which the License has been issued; or,

(c) That the enterprise is that of contractor as defined in Section 7026, et seq., of the Business and Professions Code, and the City Manager finds that the licensee possesses no State of California Contractor's License presently valid, effective, not suspended, and in good standing .

4.06.235 METHOD OF REVOCATION. The City Manager may revoke a General Business License by issuing a written notice of revocation, stating the reasons therefor, and serving same, together with a copy of the provisions of this Chapter, upon the holder of the License. The revocation shall become effective fifteen days after the date of service, unless the holder of the License files an appeal within the time and in accordance with the provisions of Section 4.06.240. If such an appeal is filed, the revocation shall not become effective until a final decision on the appeal is issued.

4.06.240 APPEAL OF REVOCATION. Within fifteen days following the date on which the notice of revocation is served, the holder of the License may file a written appeal with the City Manager, stating the reasons therefor. If such an appeal is not filed within the time and in the manner prescribed above, the right to review of the revocation shall be deemed to have been waived.

A hearing on such appeal shall be conducted by the Hearing Authority. Notice of the time, date and place of the hearing shall be served upon the appellant not later than ten (10) days before the commencement thereof. The burden of proof shall be upon the City Manager. Except as provided herein to the contrary, the hearing shall be scheduled and conducted in the manner and a decision shall be issued and served as prescribed by Section 4.06.215 and Section 4.06.220. The decision shall become final as prescribed, and be subject to review by the City Council at the request of either the City Manager or appellant, pursuant to the procedure for review prescribed by Section 4.06.220.

Any review by the City Council shall be scheduled, conducted in the manner, determined, and have the effect prescribed by Section 4.06.225. A hearing shall be held promptly but not later than sixty (60) days from the date of filing of a request for review with the Clerk of the City Council.

4.06.245 EFFECT OF REVOCATION. With respect to any enterprise required by the provisions of Chapter 4.10 of this Title to possess a Special Business License, revocation of the Special Business License shall automatically and without notice also revoke each General Business License issued for the same business at each location at which the enterprise is located.

With the foregoing exception, revocation of a General Business License shall terminate only the privilege of doing business at the location to which the License relates.

4.06.250 OTHER PROCEDURES. Any administrative remedy, including an appeal procedure, applicable to the interpretation, administration or enforcement of this Title and the City of Elk Grove Zoning Ordinance shall be exhausted. The failure to exhaust such a remedy shall constitute grounds for denial of an appeal under this Article.

4.06.255 JUDICIAL REVIEW OF ADMINISTRATIVE DETERMINATION.

An applicant for, or holder of, a General Business License may seek immediate judicial review in any court of competent jurisdiction as provided by law of any determination rendered by the City Council pursuant to Section 4.06.225 hereof upon such determination becoming final.

CHAPTER 4.10
SPECIAL BUSINESS LICENSES AND
EMPLOYEE PERMITS

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Article 1 Applicability and Issuance

4.10.000 PURPOSES. There are certain types of enterprises which require special investigation, review and regulation in order to ensure that the public health, safety and welfare is adequately protected. The necessity to conduct such investigation, review and regulation arises for reasons which include, but are not necessarily limited to, the following:

(a) the tendency of certain types of enterprises to engage, whether intentionally or unintentionally, in the promotion of crime, whether through the sale of stolen goods or otherwise;

(b) the tendency of certain types of enterprises to be placed where criminal activity occurs either by virtue of the type of clientele attracted or for other reasons;

(c) the fact that patrons of particular types of enterprises are vulnerable to fraudulent charging or other practices either because of the nature of the business, the type of service or merchandise offered, the circumstances under which the merchandise or service is purchased, or for other reasons;

(d) the fact that certain types of enterprises create health or safety risks which require special regulation; and

(e) the fact that certain types of enterprises require access to private property, particularly residential property, or frequent residential neighborhoods, generating high risks to the safety of persons and property.

Other types of enterprises provide services essential to the health, safety or welfare of the community, and require special regulation in order to insure delivery of such services in a volume, manner and quality sufficient to insure protection of the community.

The purposes of this Chapter are to establish special regulations applicable to the types of enterprises regulated hereunder, and to regulate such enterprises through a Special Business Licensing procedure in order to protect and safeguard the health, safety and welfare of the residents within the City.

4.10.005 LICENSE REQUIRED. No person shall, unless under and by authority of a valid unexpired and unrevoked Special Business License, conduct or operate within the City, whether singularly or in connection with another type of enterprise, the following:

(a) Any enterprise or activity for which a Special Business License is required by Chapter 4.15 through 4.50, inclusive;

(b) Antique Dealers - in firearms, jewelry, art objects, furniture or other valuables;

- (c) Automobile Dismantlers - and marketers of used parts for automobiles;
- (d) Automobile Repairs - when the person or firm makes calls at the home or business of the customer to make repairs;
- (e) Circuses and Carnivals - including the maintenance of animals for display to, riding by or petting by children;
- (f) Sales of Concealable Firearms - including gunpowder;
- (g) Home Repair Services - consisting of services related to the repair or maintenance of single family residential dwellings, mobilehomes, or gardens by persons who are not licensed to perform such services by the State of California, including businesses offering energy-saving appliances, equipment, or services, whether in connection with solar, wind or other power;
- (h) Purchase or Sale of Metals - including precious and scrap metals;
- (i) Auto Towing - consisting of persons who engage in the business of towing automobiles which require repair, are abandoned on public rights of way, or are parked illegally;
- (j) Repossession or Storage of Automobiles - or any other thing of value;
- (k) The Operator of Each Booth - in a bazaar, flea market, farmer's market, or other similar type of auction established for the purpose of selling merchandise, including food, for private gain;
- (l) Private Security Companies;
- (m) Tree Trimmers;
- (n) Motorcycle Sales - including the sale of new and used parts;
- (o) Wrecking Yards - including automobile dismantling and the buying and selling of automobiles of scrap metal or parts;
- (p) Dating and Introduction Services;
- (q) Swimming Pool Cleaning Services;
- (s) Janitorial, Maid, or Carpet Cleaning Services;
- (t) Pool Halls - one pool table or more is a pool hall;
- (u) Itinerant Food Vendors;
- (v) Movie and Television Productions;

(w) Dance Clubs, Halls, and Public Dances.

A person shall be deemed to operate or conduct an enterprise or activity and violate this Section and, if applicable, corresponding prohibitions in Chapters 4.15 through 4.50, inclusive, if the person, without a Special Business License in effect, supervises, inspects, directs, organizes, manages or controls or is in any way responsible for or in charge of the enterprise or activity for which the License is required.

Notwithstanding the foregoing businesses required to obtain a Special Business License, the City will accept on a reciprocal basis a Special Business License or Employee Permit from the County of Sacramento for businesses that are based outside of the City but deliver mobile-based business services to the residents of the City including, but not limited to, Carpet Cleaners, Janitorial or Maid Service, Lawn Care or Tree Trimming, Auto Towing and Repossession, Mobile Auto Repair, Taxicabs, Massage, Private Security, and Home Repair.

4.10.010 NUMBER OF LICENSES REQUIRED. If a person conducts or operates more than one of the types of enterprises described by Section 4.10.005, a separate Special Business License shall be required for each type of enterprise which the person operates or conducts.

A person who operates or conducts more than one store, office, outlet or other branch of a particular type of enterprise described by Section 4.10.005 shall not be required to obtain more than one Special Business License for that type of enterprise, regardless of the number of stores, offices, outlets or branches operated or conducted.

4.10.015 BUSINESS LOCATION. Except as otherwise expressly provided, a Special Business License shall be required for each particular type of enterprise described by Section 4.10.005 which is operated or conducted within the City, whether or not the enterprise is operated at a fixed location within the City.

An enterprise shall be deemed to be operated or conducted within the City if representatives of the enterprise offer or sell goods or services or provide services within the City, whether the enterprise is operated from a fixed location within another jurisdiction, and whether the enterprise has a fixed location at all.

4.10.020 SPECIAL REGULATIONS. Certain of the types of enterprises described by Section 4.10.005 are subjected to special regulations governing their operations. These regulations are set forth in Chapters 4.15 through 4.50. Except as otherwise provided, the provisions of this Chapter shall be fully applicable to the enterprises identified by Chapters 4.15 through 4.50.

The provisions of this Chapter shall be independently applicable to any enterprise described by Section 4.10.005 which are also regulated under the provisions of Chapter 4.06. The issuance of a General Business License to an enterprise described by Section 4.10.005 shall not excuse the enterprise from the requirement that a Special Business License be obtained pursuant to the provisions of this Chapter. The

issuance of a Special Business License shall not be deemed to relieve the holders of a requirement, under Chapter 4.06, that a General Business License be obtained. A Special Business License shall not be deemed to authorize operation of an enterprise business at a particular location, if a General Business License is required and there is no such License in full force and effect.

4.10.025 APPLICATION FILING. All applications for Special Business Licenses shall be filed with the City Manager. The City Manager shall receive any fee required for the application, assure that the application is complete, and refer the application to the Chief of Police for processing, investigation, review and action. The City Manager shall verify pursuant to Section 16100 of the Business and Professions Code that before the City issues a special business license to an enterprise as a “contractor,” as that term is defined in Section 7026, Article 2, Chapter 9, Division 3 of the Business and Professions Code, that the applicant or licensee is licensed by the State of California, Contractors' State License Board.

4.10.030 APPLICATION CONTENTS. The application for a Special Business License shall be filed on a form and contain such information as is prescribed by the City Manager and the Chief of Police, including the following:

- (a) A complete description of the type, nature and extent of the enterprise to be conducted and for which application is made;
- (b) The address of each location from which the enterprise for which application is made will be operated;
- (c) The name and address of the person who owns the enterprise for which application is made;
- (d) Such information as is necessary to permit the determinations prescribed by Section 4.10.040(c);
- (e) Identification of each type and location of enterprise conducted by the owner within the City;
- (f) Whether or not the applicant or enterprise is a “contractor”, as that term is defined in Division 3, Chapter 9, Article 2, Section 7026, et seq., of the Business and Professions Code, and if such contractor is licensed as a contractor by the State of California, Contractors' State License Board, with a license in good standing, and the License Number and Class thereof;
- (g) Such other and further information as is deemed necessary to administer the provisions of this Chapter; and
- (h) An affirmation under penalty of perjury that the information contained in the application is true and correct.

4.10.035 INVESTIGATION. The Chief of Police shall conduct such investigation of the background of the owner or owners and persons managing or supervising the enterprise as is deemed appropriate. The Chief of Police shall evaluate each application to determine whether the operation of the enterprise would involve an unreasonable risk to the health, safety or general welfare of the public. Those persons described by Section 4.10.040(c) shall be fingerprinted and photographed; and consideration shall be given to the criminal record, if any, and character of the owner and other persons connected with the enterprise, the business responsibility of the firm and the owner, and the manner in which the owner intends to conduct the enterprise.

4.10.040 ISSUANCE. The Chief of Police shall issue the Special Business License within ninety (90) days after the date of application unless either

(a) The Chief of Police finds in writing that the applicant fails to provide information in connection with the application requested by the Chief of Police as a basis for enabling the Chief of Police to make his or her determination;

(b) The Chief of Police finds in writing that any of the material statements made in the application or any information submitted supplementary thereto is incorrect or untrue;

(c) The Chief of Police finds in writing that any of the following persons has been convicted of a crime and the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under California Penal Code Section 1203.4; or has done any act involving dishonesty, fraud or deceit with intent to substantially injure another; and the Chief of Police concludes that by reason of the crime or act there is a substantial risk that the applicant would not conduct the enterprise in a law abiding manner or in a manner which does not subject patrons of the enterprise to risk of harm or criminal, deceitful or otherwise unethical practices:

(1) A general or limited partner of a partnership which possesses an ownership interest in the enterprise;

(2) A joint venturer in a joint venture which possesses an ownership interest in the enterprise and if one or more of the joint venturers is a partnership or corporation, those partners, directors or stockholders to whom the requirements of this Section would apply if the partnership or corporation were the sole owner of the enterprise;

(3) A sole proprietor when the enterprise is a sole proprietorship;

(4) An owner of more than one-half of one percent of the voting shares of stock when a commercial corporation possesses an ownership in the enterprise;

(5) A director, when either a commercial or non-profit corporation possesses an ownership in the enterprise;

(6) A member of a management committee when a partnership or joint venture possesses an ownership interest in the enterprise;

(7) A member of a governing body or other Board or committee to which management is entrusted, when an unincorporated association possesses an ownership interest in the enterprise; or,

(8) A president, general manager, vice president, chief assistant manager, secretary, treasurer or any officer with equivalent or similar authority employed or retained by the firm possessing an ownership interest in the enterprise.

Notwithstanding the foregoing, an application shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under California Penal Code Section 4852.01 et seq., or, that the person has been convicted of a misdemeanor, if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under California Penal Code Section 4852.01 et seq.;

(d) The Chief of Police makes any finding in writing authorized as a basis for denial of the License by Chapters 4.15 through 4.50, or finds in writing that the applicant does not satisfy any requirement applicable to the enterprise for which application is made established by Chapters 4.15 through 4.50; or,

(e) The Chief of Police finds in writing that when the applicant or enterprise is a "contractor," as that term "contractor" is defined in Division 3, Chapter 9, Article 2, Section 7026, et seq., of the Business and Professions Code, the applicant has failed to provide sufficient proof, as determined by the Chief of Police, that the applicant is licensed to engage in the business as a contractor, by the State of California, Contractors' State License Board, and that the license is presently valid, effective, not suspended, and in good standing.

If an application does not show on its face a basis for denial, the Chief of Police may, in his or her sole discretion, issue a Temporary Special Business License for a period not to exceed ninety days, pending processing and investigation of the application and final determination thereof.

4.10.045 CONDITIONS. The Chief of Police may issue a Special Business License upon such conditions relating to method or manner of operation of the enterprise as he or she deems necessary to adequately protect members of the public in their patronage or dealings with the enterprise, or to reduce the incidence, detect the commission of, or identify perpetrators of crime. Such conditions may be imposed at the time a Special Business License is initially issued, upon renewal of the License, or at any time during the term of the License.

Any condition imposed pursuant to the provisions of this Section, whether established at the time of issuance, at the time of renewal or during the term of a Special Business License, shall be embodied, together with the reasons therefor, in a

written notice which is served upon the applicant or holder. The condition shall become effective fifteen days following the date of service of the notice thereof except if an appeal therefrom is filed within the time and in the manner prescribed, the condition shall not become effective until the appeal is finally determined.

4.10.050 CONTENT AND DISPLAY OF LICENSES. The Special Business License shall contain but not be limited to a complete description of the enterprise, authorized by the License, the name of the enterprise so licensed, the name and address of the owner or owners of the enterprise, the address of each location of the business covered by the License, and any conditions upon which the License is issued. The License shall be conspicuously posted at each location of the enterprise in full public view.

4.10.055 CHANGES IN STATUS. During the term of any Special Business License issued hereunder, in addition to the information required by Section 4.02.070, the holder of the License shall file in writing with the Chief of Police any changes in or new locations of the enterprise so licensed. The Chief of Police shall issue an amended License which shows any changed or new locations of the enterprise so licensed.

4.10.060 RENEWAL OF LICENSES. Not later than forty-five (45) days prior to expiration of the term of a Special Business License, the City Manager shall transmit to the licensee by mail an application for renewal. The application for renewal shall be in such form and include such information as is prescribed and required by the City Manager and the Chief of Police.

The application for renewal shall be filed with the City Manager not later than the date of expiration of the term of the immediately preceding License. The Chief of Police shall perform such investigation and examination of the applicant as he or she deems appropriate. The Chief of Police shall extend the term of the immediately preceding License during the period of any investigation or examination required in order to determine whether the License should be issued.

The Chief of Police shall act upon the application for renewal not later than thirty (30) days after the date a valid application is filed. The renewed License shall be issued unless:

(a) The Chief of Police finds in writing that one or more of the conditions identified in Section 4.10.040 apply;

(b) The Chief of Police finds in writing that the Licensee has violated any term, condition, requirement, or prohibition imposed by this Chapter, Chapter 4.02, or Chapters 4.15 through 4.58 of Title 4 which are applicable to the License or the holder, or any administrative regulations promulgated thereunder, or any other applicable law; or,

(c) The Chief of Police finds in writing that one or more conditions applicable to the preceding License have been violated.

4.10.065 EMPLOYEE PERMITS. With respect to certain types of enterprises described by Section 4.10.005, protection of the public health, safety and welfare require that personnel retained by the enterprises to perform specified functions or duties be of good moral character, not have been convicted of particular criminal offenses, and, in certain instances, possess minimum skills necessary to insure public safety. Personnel required to possess such minimum qualifications are identified by the provisions of Chapters 4.15 through 4.50. The procedures set forth in this Chapter relating to Employee Permits shall be applicable to all personnel required by Chapter 4.15 through 4.50 to possess minimum qualifications which are subject to review by the Chief of Police.

4.10.070 PERMIT REQUIRED. Whenever under the provisions of Chapters 4.15 through 4.50, personnel of a particular enterprise are required to meet minimum qualifications or possess a permit or license, it shall be unlawful for a person to perform the duties or functions specified and unlawful for the holder of a Special Business License to permit the person to perform such duties or functions unless the person has first applied for and obtained an Employee's Permit.

4.10.075 APPLICATION FILING. Applications for an Employee's Permit shall be filed with the City Manager. The City Manager shall receive any fee required for the application, assure that the application is complete, and refer the application to the Chief of Police for processing, investigation, review and action.

4.10.080 APPLICATION CONTENTS. The application for an Employee's Permit shall be filed on a form and contain such information as is prescribed by the Chief of Police, including the following:

- (a) The name, current residential address and e-mail address, if any, of the applicant;
- (b) The name and address of the business which has retained the services of the applicant for which the Permit is required; and
- (c) A description of the duties or function which the applicant is to perform for the business.

4.10.085 INVESTIGATION. The Chief of Police shall conduct such investigation of the background of the applicant for an Employee's Permit as is necessary in order to determine whether the minimum qualifications which have been prescribed are satisfied and as otherwise deemed appropriate. Such investigation shall include the fingerprinting and photographing of the applicant.

4.10.090 ISSUANCE OF PERMIT. Except as hereinafter provided, the Chief of Police shall issue the Employee's Permit within thirty (30) days after the date the application is filed unless he or she finds in writing that the applicant is disqualified for the Permit under regulations prescribed by Chapters 4.15 through 4.50. If the Chief of Police's investigation has not been completed by the date issuance of the Permit is required, but that portion of the investigation which has been completed has disclosed

no basis for denial of the Permit, the Chief of Police shall issue a Temporary Employee's Permit, the term of which shall extend no longer than one hundred twenty (120) days from the date of issuance. A Temporary Employee's Permit shall expire upon either the date of expiration of its term, the date of issuance of an Employee's Permit, or the date of service of notice that an Employee's Permit has been denied. While in force and effect, a Temporary Employee's Permit shall otherwise be accorded the same status as an Employee's Permit.

4.10.095 INCIDENTS OF EMPLOYEE PERMITS. An Employee's Permit shall not be transferable or assignable from one person to another. The Permit shall contain such information as the Chief of Police requires, including the permit holder's name and address, the name and address of the enterprise or enterprises retaining his or her services for which the Permit is issued, the expiration date of the Permit, a description of the duties or functions which the Permit authorizes to be performed, and a physical description of the Permit holder.

The holder of an Employee Permit shall carry same on his or her person at all times services authorized by the Permit are being performed, and shall display the Permit for inspection upon request by any peace officer.

Applications for renewal shall be filed, processed and Permits issued in the manner and pursuant to the standards and procedures prescribed by Sections 4.10.075 through 4.10.090.

Article 2 Denial and Revocation

4.10.100 GROUNDS FOR DENIAL - LICENSES. The Chief of Police shall deny an initial application for a Special Business License if written findings in Section 4.10.040 are made.

The Chief of Police shall deny an application for renewal of a Special Business License if any of the written findings described by Section 4.10.060 are made.

4.10.105 GROUNDS FOR DENIAL - PERMITS. The Chief of Police may deny an initial application for or application for renewal of an Employee Permit if the Chief of Police finds in writing that the applicant therefor is disqualified for the Permit under the provisions of Chapters 4.15 through 4.50.

4.10.110 METHOD OF DENIAL. A denial of an initial application or application for renewal of either a Special Business License or Employee Permit by the Chief of Police shall be in writing, with the reasons stated therefor. Written notice of the denial, together with a copy of the provisions of this Chapter and any provisions of Chapters 4.15 through 4.50 which are applicable to the License or Permit, shall be served upon the applicant pursuant to the provisions of Section 4.02.080.

Denial of an initial application or application for renewal of a Special Business License shall prohibit operation of the enterprise at any location within the City.

With respect to denial of an application for renewal of a Special Business License or Employee Permit or termination of a Special Business License pursuant to Section 4.02.070, the License immediately preceding Special Business License or the Permit immediately preceding the Employee Permit shall be deemed to be in full force and effect for a period of fifteen days following the date of service upon the applicant of the notice of denial or termination. In the event the applicant files an appeal from the denial or termination in the manner and within the time prescribed by Section 4.10.115, the immediately preceding Special Business License or Employee Permit shall continue in full force and effect during the pendency of the appeal, until the date of final decision by the appellate authority.

4.10.115 APPEALS. The holder of a Special Business License or Employee Permit or applicant therefor may file an appeal from the following:

(a) The denial of an initial application for or application for renewal of a Special Business License or Employee Permit pursuant to the provisions of Sections 4.10.100 or 4.10.105;

(b) The imposition of conditions at the time of issuance of an initial or renewed Special Business License or during the term thereof, pursuant to the provisions of Section 4.10.045; or

(c) The termination of a Special Business License as a result of a change in ownership, pursuant to the provisions of Section 4.02.070.

Any such appeal shall be in writing, shall state the specific reasons therefor and grounds asserted for relief, and shall be filed with the Chief of Police not later than fifteen days after the date of service by the Chief of Police of the notices prescribed by Sections 4.02.070, 4.10.045 or 4.10.110, as the case may be. If an appeal is not filed within the time or in the manner prescribed above, the right to review of the action against which complaint is made shall be deemed to have been waived.

4.10.120 APPEAL HEARING. Not later than thirty (30) days following the date of filing an appeal within the time and in the manner prescribed by Section 4.10.115, the Hearing Authority shall conduct a hearing for the purpose of determining whether the appeal should be granted. Written notice of the time, date and place of the hearing shall be served upon the applicant not later than ten (10) days preceding the date of the hearing.

During the hearing, the burden of proof shall be upon the Chief of Police. The provisions of the California Administrative Procedure Act (commencing at Section 11500 of the Government Code) shall not be applicable to such hearing; nor shall formal rules of evidence in civil or criminal judicial proceedings be applicable. At the conclusion of the hearing, the Hearing Authority shall prepare a written decision which either grants or denies the appeal, and contains findings of fact and conclusions. Notice of the written decision, including a copy thereof, shall be filed with the Chief of Police

and served upon the appellant not later than ten (10) days following the date on which the hearing is closed.

4.10.125 FINALITY OF DETERMINATION. A decision by the Hearing Authority pursuant to Section 4.10.120 shall become final fifteen (15) days following the filing and service thereof unless review of the decision by the City Council is requested either by the Chief of Police or appellant. Such review may be requested by filing with the Clerk of the City Council a written request for review not later than fifteen (15) calendar days following the date of service of the Hearing Authority's decision. The request for review shall state in detail the reasons therefor and error alleged in the Hearing Authority's decision, and shall have attached thereto a copy of the decision.

4.10.130 REVIEW BY CITY COUNCIL. Upon receipt by the Clerk of the request for review, a hearing shall be scheduled promptly before the City Council but no later than sixty (60) calendar days following the date of filing of the notice of appeal. The City Council shall be authorized to deny the introduction of evidence and decide the matter after oral argument presented during the hearing, or to admit supplementary evidence with respect to challenges or particular findings, or reject the findings and conclusions and conduct a de novo hearing. The determination by the City Council granting or denying the appeal shall be final, and shall be accompanied by findings of fact and conclusions, which may consist of an adoption by reference of those by the Hearing Authority. Pursuant to granting an appeal, the City Council shall be authorized to order the issuance of a license or permit upon such terms and conditions as in the discretion of the City Council are deemed to be necessary and appropriate.

4.10.135 GROUNDS FOR REVOCATION AND SUSPENSION - LICENSES. Any Special Business License issued pursuant to this Chapter may be suspended for not longer than one year or revoked during its term if the Chief of Police finds in writing that one or more of the following grounds exist:

(a) That information in the latest application was untrue as provided in Section 4.10.040(b);

(b) That the Chief of Police has acquired information supporting a finding that one of the persons listed in Section 4.10.040(c) has a new criminal conviction or a criminal conviction previously undisclosed;

(c) That the holder of the License has violated one or more conditions imposed pursuant to Section 4.10.045; or

(d) That the holder of the License has violated any term, condition or requirement or prohibition established by this Chapter, Chapter 4.02, or Chapters 4.15 through 4.54 which are applicable to the License or the holder, or any administrative regulation promulgated thereunder, or any other applicable law.

4.10.140 GROUNDS FOR REVOCATION AND SUSPENSION - PERMITS. Any Employee Permit issued pursuant to this Chapter may be suspended for not more

than one year or revoked during its term if the Chief of Police finds in writing the existence of grounds for revocation prescribed by Chapters 4.15 through 4.50.

4.10.145 METHOD OF REVOCATION OR SUSPENSION. The Chief of Police may commence proceedings for the suspension or revocation of a Special Business License or Employee Permit by issuing a written notice of suspension or revocation. The notice shall state the reasons for suspension or revocation and shall be served, together with a copy of the provisions of this Chapter and any provisions of Chapters 4.15 through 4.50 which are applicable to the License or Permit, upon the holder of the License or Permit. Except as provided below, the suspension or revocation shall become effective fifteen (15) days after the date of service unless the holder files an appeal within the time and in accordance with the provisions of Section 4.10.150. If such an appeal is filed the suspension or revocation shall not, except as provided below, become effective until a final decision on the appeal is issued.

A Special Business License or Employee Permit may be temporarily suspended pending expiration of the time for appeal or exhaustion of an appeal pursuant to the commencement of proceeding for the suspension or revocation of the License or Permit, if the Chief of Police finds that such temporary suspension is necessary in order to protect against a serious and immediate threat to the health or safety of the public caused by exercise of the License or Permit. In the event the Chief of Police orders a temporary suspension, the notice of suspension or revocation shall be delivered personally to each place of business licensed or to which the Permit relates, served upon the Licensee or Permittee, and shall contain the following:

- (a) The finding justifying the temporary suspension;
- (b) The time, date and place at which the Licensee or Permittee may appear in advance of the commencement of the temporary suspension for the purpose of responding to the Chief of Police to the charges in the notice; and
- (c) The time and date on which the temporary suspension commences, which shall not be earlier than twenty-four (24) hours following the time and date of delivery of the notice.

4.10.150 APPEAL OF REVOCATION OR SUSPENSION. Within fifteen (15) days following the date on which the notice of suspension or revocation is served, the holder of the Special Business License or Employee Permit may file a written appeal at the office of the Chief of Police stating the specific reasons therefor and grounds asserted for relief. If such an appeal is not filed within the time and in the manner prescribed above, the right to review of the suspension or revocation shall be deemed to have been waived.

A hearing on such appeal shall be conducted by the Hearing Authority within (30) days of the filing of such a notice of appeal. Notice of the time, date, and place of the hearing shall be served upon the appellant not later than ten (10) days before the commencement thereof. The burden of proof shall be upon the Chief of Police. The

hearing shall be conducted in the manner and a decision shall be issued and served as prescribed by Section 4.10.120. The decision shall become final as prescribed and be subject to review by the City Council at the instance of either the Chief of Police or appellant, pursuant to the procedure for review prescribed by Section 4.10.125. Any review by the City Council shall be scheduled, conducted in the manner, determined and have the effect prescribed by Section 4.10.130.

4.10.155 EFFECT OF REVOCATION OR SUSPENSION. The revocation of a Special Business License or Employee Permit shall terminate the right of the holder of the License or Permit to engage in the enterprise authorized by the License or perform the service authorized by the Permit, as the case may be, anywhere within the City for a period of five (5) years following the effective date of revocation. At the conclusion of such period, the former holder may file a written application for issuance of a new License or Permit with City Manager. Upon investigation by the Chief of Police and a new recommendation that must be reviewed by the City Council, the License or Permit may be granted or denied by the City Council. The City Council may, in its sole discretion, grant or deny the application pursuant to such terms and conditions as it may prescribe, and may, in addition to other matters, consider factors relating to the rehabilitation of the applicant in making its determination.

In the event of revocation of a Special Business License, neither the spouse, domestic partner, child, brother, sister or parent of the holder of the revoked License, nor a person possessing an ownership interest in the enterprise for which the License was revoked or who was an employee thereof, shall be entitled to issuance of a Special Business License for the enterprise except upon filing and review of a new written application filed with City Manager, investigation by the Chief of Police, and a new recommendation of the Chief of Police that must be reviewed by the City Council. The Chief of Police may recommend grant of the application to the City Council with such conditions in order to ensure that the person whose conduct constituted the basis for the revocation does not exercise any control or influence over the enterprise or the person to whom the license is issued or the Chief of Police may recommend denial of the application. The City Council may deny the application or grant it with such conditions, in its sole discretion, it deems necessary to protect the public health, safety, and welfare.

The suspension of a Special Business License or Employee Permit shall terminate the right of the holder of the License or Permit to engage in the enterprise authorized by the License or perform the service authorized by the Permit, as the case may be, anywhere within the City for a period of up to one (1) year following the effective date of the suspension. At the conclusion of the suspension, the license or permit is subject to the normal applicable renewal process.

Article 3

Additional Special License Requirements

Division 1 - Dances

4.10.300 DEFINITIONS. As used In this Division the following terms shall be ascribed the following meanings:

(a) "Dance club" means any club or association of persons which conducts dancing for its members or bona fide guests more often than once a month, and to which the public is not admitted.

(b) "Club dance" means any dance held by a dancing club.

(c) "Public dance" means a gathering of persons in or upon any premises where dancing is permitted with or without charge therefor, and to which premises the public is admitted.

(d) "Public dance hall" means a place where dancing is conducted, whether for profit or not for profit, and at which the public is allowed to dance, with or without charge.

4.10.305 LICENSE REQUIRED. No person shall operate a public dance, club dance, dancing club or a public dance hall in the City unless under and by authority of a valid, unexpired and unrevoked Special Business License issued pursuant to the provisions of this Chapter and Division authorizing public dances, club dances, a dance club, or public dance hall. In addition, such business is also required to apply for and obtain a Conditional Use Permit from the City Planning Department.

4.10.310 ISSUANCE. The Chief of Police shall issue the Special Business License unless, in addition to the grounds prescribed by Section 4.10.040, the City Planning Department finds in writing that it cannot make the appropriate findings and mitigation measures to justify the issuance of the Conditional Use Permit for the proposed club dance or dancing club.

4.10.315 HOURS. The Chief of Police may grant written permission for any dance hall, public dance or club dance to remain open between two a.m. and six a.m. on each New Year's Day. With the foregoing exception, and except as provided below, it shall be unlawful for the owner, operator, proprietor or sponsor of a public dance, club dance or public dance hall to authorize or conduct dancing at any time between the hours of two a.m. and twelve noon.

The City Council finds that the crime of operating a motor vehicle while under the influence of alcohol occurs with serious frequency at and immediately following two a.m., when bars close. For the purpose of reducing the incidence of such crime by delaying the departure of intoxicated persons until they have sobered, the Chief of Police shall, upon written request, issue or amend a Special Business License for a

public dance, club dance or public dance hall, or issue written permission if no such License is required, authorizing the conduct of dancing between two a.m. and four a.m., if the Chief of Police finds the following:

(a) That the establishment where the dancing is conducted sells alcoholic beverages for on-site consumption in compliance with a license so authorizing issued by the California Alcoholic Beverage Control Board;

(b) That the establishment where the dance is conducted will remain unlocked and available for routine and special inspections by law enforcement authorities during the extended dancing hours;

(c) That no alcoholic beverages are either sold or consumed on the premises during the extended dancing hours; and

(d) That the establishment where the dancing is conducted serves, during the extended dancing hours, a sit-down or buffet meal which is either prepared in an on-site kitchen or provided by a catering service.

The above requirements shall constitute on-going conditions of the authorization to conduct dancing during the extended hours, conditions of any Special Business License which has been issued, and the violation thereof shall constitute grounds for revocation of the permission and of any License.

4.10.320 EXEMPTION. Dances held by fraternal organizations, lodges, veterans' organizations, church groups, farm associations, for the members thereof or bona fide guests by schools for the students thereof, or by student groups under the supervision and control of the school authorities, shall be conducted in compliance with Section 4.10.315, but may be conducted without a Special Business License and shall not otherwise be subject to the provisions of this Division.

Division 2 - Poolhalls

4.10.330 LICENSE REQUIRED. No person shall operate a poolhall without possessing a valid, unexpired and unrevoked Special Business License authorizing the poolhall issued pursuant to the provisions this Chapter and Division.

4.10.335 POOLHALL. As used in this Division, the term "poolhall" shall mean any place where one or more billiard, pool or combination tables are maintained, and where a charge is made for use of such tables by members of the general public.

4.10.340 MINORS PROHIBITED. Except as hereinafter provided, it shall be unlawful for an operator of a poolhall to permit any person who is under the age of eighteen years to be present in a poolhall at a time when pool or billiards are being played; and unlawful for a person under the age of eighteen years to be present in a poolhall at a time when pool or billiards are being played.

A person who is under the age of eighteen years may be present in a poolhall at a time when pool or billiards are being played if:

(a) The person is accompanied in the poolhall by his or her parent or legal guardian; or

(b) A written consent signed by the parent or legal guardian authorizing such presence is filed with the operator of the poolhall.

Division 3 - Movie and Television Productions

4.10.350 PURPOSES. It is not uncommon for motion picture productions to necessitate or otherwise result in the disruption of motor vehicle traffic, the unusual utilization of public facilities, the employment of actual or potentially dangerous explosives or other activity which could endanger public safety, the creation of noise which disturbs the public quiet or convenience, the attraction of crowds of sightseers, or other circumstances which require the commitment of public resources in order to ensure adequate protection of the health, safety and welfare of the community.

The purposes of this Division are to provide for the licensing of motion picture productions in order to ensure that necessary public resources are provided at the times and in the manner required to protect the health, safety and welfare; that the Licensee bears the cost of such public resources; and that the motion picture productions are otherwise conducted under conditions and in a manner which avoids risk to the health, safety or welfare of the community.

4.10.355 DEFINITIONS. As used in this Division, the following terms shall have the following meaning:

"MOTION PICTURE PRODUCTION." The terms "Motion Picture Production" shall mean and include any activity attendant to staging or filming or videotaping of commercial motion pictures or television shows, programs, or advertising.

"STILL PHOTOGRAPHY." The terms "Still Photography" mean and include all activity attendant to staging or making commercial still photographs.

4.10.360 CITY MANAGER. The City Manager or his or her designee is charged with the responsibility of administering the regulations imposed by this Division, and exercising the authority conferred thereby. Such authority shall include the power and duty to issue Special Business Licenses authorizing motion picture productions, promulgate administrative regulations, and otherwise perform the duties and exercise the authorities conferred herein.

To these ends, the City Manager shall be vested with the same powers and authorities in relation to motion picture productions and the issuance and administration of Special Business Licenses therefor, as are vested in the Chief of Police under Chapter 4.02 and Chapter 4.10. Any reference to the "Chief of Police" shall be deemed

to be a reference to the City Manager or his designee in relation to motion picture productions.

4.10.365 LICENSE REQUIRED. No person shall use any public or private property, facility or residence within the City for a motion picture production unless under and by authority of a valid, unexpired and unrevoked Special Business License authorizing the motion picture production issued pursuant to the provisions this Chapter and Division.

4.10.370 EXCEPTIONS. The provisions of this Division shall not be applicable to the following:

(a) Reporters, photographers or cameramen in the employ of a newspaper, news service, television station or similar entity engaged in the on-the-spot recording of news events concerning those persons, scenes or occurrences which will be published, telecast or broadcast;

(b) Any motion picture production at a studio located within the City;

(c) Commercial still photography.

4.10.375 PROCESSING OF APPLICATION. Upon receipt of a fully completed application, the City Manager shall provide copies thereof to the Chief of Police, the Chief of any Fire Protection District having jurisdiction over the geographical territory in which the motion picture production is to occur, and any other official whose jurisdiction or authority would be affected by the motion picture production. Each of these officials shall determine whether, with regard to their specific areas of responsibility, any conditions are necessary in order to ensure that the proposed motion picture production does not endanger the public health or safety, whether the commitment of any public resources (including staffing) is necessary in order to minimize disruption caused by or risk to the public health or safety resulting from the motion picture production, and, if so, the estimated cost thereof. Each such official shall submit to the City Manager within fifteen (15) calendar days following the date of filing of a completed application his or her written findings, determinations and requirements.

4.10.380 ISSUANCE. Notwithstanding the provisions of Section 4.10.040, the City Manager shall act upon the application not later than thirty (30) calendar days following the date of filing of the application, and the provisions of Section 4.10.040(c) shall not constitute grounds for denial of a Special Business License to conduct a motion picture production.

The City Manager shall issue the Special Business License within thirty (30) calendar days after the date on which the application is filed unless, in addition to the grounds prescribed by Section 4.10.040, either the Director of Public Works, the Chief of Police or the Chief of any Fire Protection District with jurisdiction over the territory in which the motion picture production is proposed finds in writing that the production would constitute a hazard to public safety, and that there are no conditions upon which the License could be issued which would eliminate the hazard.

4.10.385 CONDITIONS. Pursuant to the provisions of Section 4.10.045, the City Manager may issue a Special Business License authorizing a motion picture production upon conditions which relate to the following:

(a) The time, place or manner of conducting the motion picture production, for the purpose of reducing disruption of traffic, disruption of public services, disruption of the public peace or quiet, or the minimization of any hazard to the public safety which could result from the production;

(b) The deposit of such cash amounts as may be necessary to cover the costs of any public resources (including personnel) required to be provided by the City or any Fire Protection District with jurisdiction over the territory in which the production is proposed, required in order to facilitate the production or reduce the disruption of traffic, public peace and quiet or safety hazards arising therefrom;

(c) If the motion picture production involves a potential risk of a safety hazard to the public, a requirement that the Licensee enter into an agreement indemnifying the City and any Fire Protection District with jurisdiction over the area where the production will occur, and, in their capacities as such, their officers, employees and agents, against any liability which may arise out of or result from the production, secured by liability insurance in such amount as is required by the Risk Management Office of the Department of Personnel Management and in such form and by such an insurer as may be required by the City Attorney.

4.10.390 DISRUPTION OF PRODUCTION.

(a) No person, after first being warned to cease the conduct, shall engage in conduct intentionally designed to disrupt motion picture or television production undertaken pursuant to a license issued under the authority of this chapter.

(b) For purposes of this section conduct which disrupts motion picture or television production includes, but is not limited to:

(1) Creating or causing audible interference to the recording of sound;

(2) Interfering with the ability of a production to achieve consistent light levels by shining or reflecting light onto a set or at a camera or by utilizing some other artificial means to adversely affect lighting;

(3) Interfering with the entrance or egress of production equipment or personnel;

(4) Placing any obstacles at any location where production is occurring.

Division 4 - Itinerant Food Vendors

4.10.400 LICENSE REQUIRED. No person shall operate lunch wagons, ice cream wagons or any other vehicle for the sale of food upon the streets within the City for the purpose of selling food within residential neighborhoods or commercial centers, unless under and by authority of a valid, unexpired and unrevoked Special Business License authorizing such activity issued pursuant to the provisions of this Chapter and this Article.

Licensees shall comply with the prohibitions contained in Section 4.54.020.

4.10.405 DEFINITION - "ITINERANT FOOD VENDOR." An itinerant food vendor is any person who sells food from a lunch or ice cream wagon, cart, or other vehicle while parked in residential neighborhoods or commercial centers.

4.10.410 EMPLOYEE PERMIT REQUIRED. No person shall, as an employee or other person performing services for an owner or proprietor, engage in Itinerant Food Vending without possessing a valid, unexpired and unrevoked Employee Permit issued pursuant to the provisions of this Chapter and this Article.

4.10.415 APPLICATION FOR PERMIT. In addition to the matters prescribed by Section 4.10.080, an application for an Employee Permit to provide services identified by Section 4.10.400 shall contain a list of each conviction of the applicant, plea of guilty or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged and the offense of which the applicant was convicted.

4.10.420 ISSUANCE OF PERMIT. Upon receipt of an application for an Employee Permit to perform services as an Itinerant Food Vendor, the Chief of Police shall conduct such investigation pursuant to Section 4.10.085 as is deemed necessary. The Chief of Police shall issue the Permit unless he or she finds pursuant to Section 4.10.090 any of the following:

(a) That the application fails to contain information required by the Chief of Police or Section 4.10.415, or is otherwise incomplete;

(b) That information contained in the application is false or otherwise inaccurate; or

(c) That the applicant has been convicted of a crime and the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under California Penal Code Section 1203.4; or has done any act involving dishonesty, fraud or deceit with intent to substantially benefit him or herself, or another, or substantially injure another; and the Chief of Police concludes that by reason of the crime or act there is a substantial risk that the applicant would not perform his or her duties in a law-abiding manner or in a manner which does not subject patrons to risk of harm or criminal, deceitful or otherwise unethical practices.

Notwithstanding the foregoing, an application shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under California Penal Code Section 4852.01 et seq., or that the person has been convicted of a misdemeanor if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under California Penal Code Section 482(a).

4.10.425 REVOCATION OF PERMITS. An Employee Permit may be suspended or revoked pursuant to Section 4.10.140 upon any of the following grounds:

- (a) Violation of any of the duties, requirements or prohibitions contained in this Division;
- (b) Violation of any of the duties, requirements or prohibitions set forth in any administrative regulations issued pursuant to Section 4.02.085;
- (c) Misrepresentation of a material fact contained in the application; or
- (d) That since issuance or renewal of the Permit the Chief of Police has acquired information supporting a finding under Section 4.10.420(c) in relation to the holder of the Permit.

CHAPTER 4.15

TAXICABS

Sections:

- 4.15.000 Purposes.
- 4.15.005 Definitions.
- 4.15.010 Application of Chapter.
- 4.15.015 Licenses and Permits Required.
- 4.15.020 Owner Operators.
- 4.15.025 Term of License.
- 4.15.030 Equipment Standards, Certificate, and Inspection.
- 4.15.035 Taximeter Accuracy and Certificate.
- 4.15.040 Rates and Charges.
- 4.15.045 Displays within Taxicabs.
- 4.15.050 Taxicab Markings and Identification.
- 4.15.055 Taxicab Equipment.
- 4.15.060 Passenger Services.
- 4.15.065 Administrative Regulation of Practices.
- 4.15.070 Duties of Special Business License Holders.
- 4.15.075 Specific Requirements for Taxicab Business -
Special Business License.
- 4.15.080 Applications for Special Business Licenses.
- 4.15.082 Issuance or Renewal of Special Business Licenses.
- 4.15.085 Contents of Licenses - Supplementary Information.
- 4.15.090 Applications for Employee Permits.
- 4.15.095 Issuance or Renewal of Employee Permit.
- 4.15.097 Employee Permit Void Upon Termination of Employment.
- 4.15.099 Employee Permit - Controlled Substance and Alcohol Testing,
Reporting Test Results.
- 4.15.100 Revocation or Suspension of Special Business Licenses.
- 4.15.105 Revocation or Suspension of Employee Permits.

4.15.000 PURPOSES. Taxis are an integral component of the public transportation system within the City of Elk Grove. They provide vital and necessary transportation services to the local and traveling business community, tourists, the elderly and handicapped, and others. Unethical business practices, deception of the traveling public, criminal conduct, or conditions which threaten the safety of passengers would damage the image of the City, impair tourism and harm the economic development and well being, deprive the public of vitally necessary transportation, require the commitment of inordinate financial resources to law enforcement, and otherwise be detrimental to the health, safety and welfare of the residents of the City.

Pursuant to the provisions of Section 5353(g) of the Public Utilities Code and Section 53075.5 of the Government Code, the purposes of this Chapter are to insure that the taxi industry delivers transportation services to the public in a lawful, ethical, safe and convenient manner for the protection and promotion of the health, safety, welfare and convenience of the residents of the City.

4.15.005 DEFINITIONS. Unless the provision or the context otherwise requires, the definitions set forth in this Section govern the construction of this Chapter 4.15.

(a) "Taxicab" - shall mean every motor-propelled vehicle, except sight-seeing and interurban buses, which is designed for carrying not more than eight persons excluding the driver, which is used solely or mainly for the transportation of passengers for compensation over the public streets of the City, irrespective of whether the operations extend beyond the boundaries of the City, and between such points and over such route as may be directed by the passenger.

(b) "Taximeter" - shall mean and embrace any instrument or device attached to a vehicle and designed or intended to measure mechanically the distance traveled by such vehicle, to record the time the vehicle is in waiting, and to indicate upon such record by figures or designs the fare to be charged in dollars and cents.

(c) "Taxicab Business" - shall mean the practice of owning or possessing an ownership interest in one or more taxicabs or providing direction, management or control, for the purpose of providing, assisting in the provision of, or coordinating the provision of taxicab services to members of the general public.

4.15.010 APPLICATION OF CHAPTER. Except as otherwise specifically provided, the provisions of this Chapter and Chapter 4.10 shall not apply to the operation of taxicabs transporting passengers: from a point outside the City to a destination within the City; or, en route from a point outside the City to a destination outside the City.

4.15.015 LICENSES AND PERMITS REQUIRED. Except as provided by Section 4.15.010, within the City: no person shall operate or conduct a Taxicab Business unless under and by authority of a valid, unexpired, and unrevoked Special Business License authorizing such Taxicab Business issued pursuant to the provisions of Chapters 4.02, 4.10, and 4.15; and, no person shall operate a taxicab without a valid,

unexpired, and unrevoked Employee Permit issued pursuant to the provisions of Chapters 4.02, 4.10, and 4.15.

4.15.020 OWNER OPERATORS. A person who owns or leases as lessee or possesses another ownership interest in a taxicab and who operates the taxicab, shall be required to qualify for and obtain an Employee Permit, and, unless the taxicab is covered by a Special Business License issued to another person, a Special Business License.

4.15.025 TERM OF LICENSE. The term of a Special Business License authorizing a Taxicab Business, and an Employee Permit, shall be one year.

4.15.030 EQUIPMENT STANDARDS, CERTIFICATE, AND INSPECTION.

(a) A taxicab shall be in compliance with applicable equipment standards provisions of the California Vehicle Code or any administrative regulations pertaining to safety issued by the Chief of Police pursuant to the provisions of Section 4.02.085.

(b) The holder of a Special Business License shall provide to the Chief of Police for each taxicab a State of California certificate of compliance or other writing, issued by a State of California certified examiner or examiners, dated not more than twelve months preceding the date of application or renewal of the License, whichever is applicable, and evidencing that the taxicab complies with prevailing lamp and brake equipment standards as provided in paragraph (a) of this Section. The certificate shall be maintained within the taxicab and shall be available for inspection upon request by any authorized representative of the City at any time. The Chief of Police shall accept (in lieu of a State of California certificate of compliance or other writing, issued by a State of California certified examiner or examiners), a certificate or other writing issued by the City or County of Sacramento, dated not more than twelve months preceding the date of application or renewal of the Special Business License, whichever is applicable, verifying compliance with any and all vehicle safety standards enforced by the City or County of Sacramento which are also enforced by the City of Elk Grove.

(c) It shall be unlawful for the holder of an Employee Permit to operate, and unlawful for the holder of a Special Business License to authorize, direct or otherwise allow operation of a taxicab which is not in compliance with paragraph (a) of this Section; or, which is not covered by an unexpired certificate required by paragraph (b) of this Section. When in possession and control of a taxicab, it shall be unlawful for the operator to fail to provide, upon request, to an authorized representative of the City an unexpired certificate as required by this paragraph (b) of this Section.

(d) The Chief of Police shall, in the Chief of Police's sole discretion, have the authority to require inspections of taximeters, lamps, brakes, and emission control, or other vehicle equipment, to verify compliance of the taxicab with applicable provisions of the California Vehicle Code, this Chapter, or any administrative regulation pertaining to safety issued by the Chief of Police pursuant to the provisions of Section 4.02.085. If it is found that the taxicab or equipment is in such condition that its operation is in

violation of the State Vehicle Code, the Chief of Police shall, in accordance with Section 24004 of the State Vehicle Code, prohibit the use of such taxicab, and the holder of the Special Business License Permit and the holder of the Employee Permit shall not use such taxicab, until such time as it has been brought into compliance with the State Vehicle Code. Continued use of the vehicle while in such violation of the State Vehicle Code shall be grounds for suspension and revocation of the Special Business License.

4.15.035 TAXIMETER ACCURACY AND CERTIFICATE.

(a) Each taximeter utilized in a taxicab shall at all times be of a type authorized by, comply in relation to accuracy with, and be operated and maintained in compliance with any and all statutes and administrative regulations of the State and any administrative regulations issued by the Chief of Police pursuant to the provisions of Section 4.02.085 and Section 4.15.065. The City will accept a certificate of inspection and testing of taximeters performed by the City or County of Sacramento and may demand a copy of such current inspection certificate. However, taximeters utilized in a taxicab shall, at any time, be subject to inspection and testing by the City or its delegate to determine compliance with the requirements of this Section.

(b) It shall be unlawful for any person holding an Employee Permit to operate a taxicab, and unlawful for any person holding a Special Business License to authorize, direct or otherwise allow operation of a taxicab, containing a taximeter which is not in compliance with or is utilized in violation of any and all statutes and administrative regulations of the State and any administrative regulations issued by the Chief of Police.

(c) The holder of a Special Business License shall provide to the Chief of Police for each taxicab a certificate or other written evidence issued by Sacramento County Department of Weights and Measures, or issued by a State of California registered device repairman, indicating that the taximeter has been tested not more than twelve months preceding the Special Business License application or renewal date, whichever is applicable, and certifying the accuracy of the taximeter attached to the taxicab.

4.15.040 RATES AND CHARGES. Each person holding a Special Business License shall file with the Chief of Police a written schedule, as prescribed by the Chief of Police, showing all rates and charges to be imposed in connection with services offered by taxicabs covered by the License. No rate or charge shown on such a filed schedule shall be increased, and no rate or charge not shown on such schedule shall be imposed, earlier than the day following the date upon which a new schedule of rates and charges showing the increase or additional rate or charge is filed with the Chief of Police. No rate or charge not shown on such schedule shall be imposed. Each change in a rate or charge shall be the subject of a new schedule which comprehensively shows all rates and charges, and the filing of supplementary schedules or amendments to schedules which do not show all rates and charges shall not constitute compliance with the requirements of this Section.

Each person holding a Special Business License or Employee Permit shall file with the Chief of Police, within ten calendar days following the receipt of written request by the Chief of Police, such written explanation of rates and charges identified in a filed schedule as is requested by the Chief of Police.

It shall be unlawful for any holder of an Employee Permit to charge or impose, and unlawful for the holder of any Special Business License to authorize, direct, or otherwise allow the charging or imposition of, a rate or charge for service in excess of those prescribed by or of a type which is not shown on a schedule which has been filed with the Chief of Police, and to charge or impose any rate from that schedule prior to the day after such schedule has been filed with the Chief of Police.

4.15.045 DISPLAYS WITHIN TAXICABS. It shall be unlawful for any person holding an Employee Permit to operate a taxicab, and unlawful for any person holding a Special Business License to authorize, direct, or otherwise allow operation of a taxicab, unless there is displayed within the taxicab in a location which may be viewed by any and all passengers, the following:

- (a) A copy of the valid, unexpired and unrevoked Employee Permit held by the operator of the taxicab;
- (b) A rate schedule identical to the rate schedule filed with the Chief of Police pursuant to Section 4.15.040 showing all rates and charges which may lawfully be levied or imposed; and
- (c) The register display of any taximeter which is utilized.

4.15.050 TAXICAB MARKINGS AND IDENTIFICATION.

(a) Each taxicab shall be equipped with a top light containing light or lights which are affixed to the roof of the taxicab. The top light shall be illuminated in non-daylight hours when the taxicab is available for hire. The word "taxicab", "taxi", "cab", the business name of the owner, or the words identifying the vehicle as a taxicab shall be visible on the top light.

(b) Each taxicab covered by a Special Business License shall be painted with a uniform color scheme applicable to all taxicabs covered by the License and a business shall have the exclusive right to the color scheme used by its taxicabs within the jurisdiction of the County of Sacramento. The Chief of Police can review and require changes to any color scheme if he or she finds that such color scheme is too similar to that of another taxicab business and is likely to mislead or confuse the public as to the proper operator of a taxicab.

(c) There shall be displayed on each exterior side of a taxicab in full view of prospective customers the following:

(1) The business name and telephone number of the holder of the Special Business License for the taxicab, in letters not less than two inches in height and width; and

(2) A rate schedule in the following format:

FIRST MILE: (fee)*

ADD'L MILES: (fee/mi.)* *Subject to time clock

All letters and numbers in the first two lines of the above format shall be not less than one-and-one-half inches in height and width. The third line of the above format shall be in letters not less than three-quarters of an inch in height and width. In letters not less than one-and-one-half inches in height and width and adjacent to the schedule required above, any additional types of fees to be charged and the amount of such fees, may be stated. The fees shall be identical to the ones filed with the Chief of Police pursuant to Section 4.15.040.

(d) It shall be unlawful for the holder of any Employee Permit to operate a taxicab, and unlawful for the holder of a Special Business License to authorize, direct, or otherwise allow the operation of a taxicab, which does not comply with the requirements of this Section.

4.15.055 TAXICAB EQUIPMENT.

(a) Each taxicab shall be equipped with an operative two-way radio dispatch system approved by the Federal Communications Commission for commercial use; and, an operative taximeter which is in compliance with the requirements of Section 4.15.035.

(b) It shall be unlawful for the holder of any Employee Permit to operate a taxicab, and unlawful for any holder of a Special Business License to authorize, direct, or otherwise allow operation of a taxicab, which does not contain an operative radio dispatch system, and a taximeter, as required above in paragraph (a) of this Section.

4.15.060 PASSENGER SERVICES. It shall be unlawful for any person who holds an Employee Permit to do, and unlawful for any person who holds a Special Business License to authorize, direct, or otherwise allow the operator of a taxicab to do, any of the following:

(a) Transport a greater number of passengers in a taxicab than the rated seat capacity of the taxicab;

(b) Fail to answer all calls received for taxicab services in the order of receipt of the calls;

(c) Refuse, upon request, to give a passenger of a taxicab a written receipt showing the fare due, and the miles and minutes employed;

- (d) Drive passengers of a taxicab via indirect or circuitous routes for the primary purpose of obtaining higher fares or fees;
- (e) Refuse to provide taxicab service on the basis of the short length of the prospective ride;
- (f) Pick up additional passengers without the prior consent of any passenger who is already in the taxicab;
- (g) Knowingly fail to report to the holder of the Special Business License for the taxicab all property of value left by a passenger in the taxicab within twenty-four hours of discovery of such property;
- (h) Fail to throw the flag of the taxicab's taximeter to the non-recording position at the termination of each and every service;
- (i) Fail to call attention of the passenger of a taxicab to the amount registered on a taximeter at the termination of each and every service; or,
- (j) Throw the flag of a taximeter in a recording position when the taxicab is not actually engaged.

4.15.065 ADMINISTRATIVE REGULATION OF PRACTICES. Pursuant to administrative regulations issued under the provisions of Section 4.02.085, the Chief of Police shall be authorized to prohibit specified types and methods of calculating fees or other business practices in connection with the provision of taxicab services, and impose specific duties, obligations or prohibitions in connection with the provision of taxicab services, when the Chief of Police determines that such regulations are necessary to protect the public against deceptive, fraudulent, misleading, discriminatory, or other similar detrimental acts or omissions associated with the delivery of taxicab services.

4.15.070 DUTIES OF SPECIAL BUSINESS LICENSE HOLDERS. It shall be the duty and responsibility of each person who holds a Special Business License to:

- (a) Fully advise and inform all operators of taxicabs covered by the License of the provisions of this Chapter, any and all administrative regulations issued hereunder, and any and all conditions upon which the Special Business License is issued; and,
- (b) Direct, control and supervise operators of taxicabs covered by the License for the purpose of identifying, correcting and prohibiting future or repeated violations of the provisions of this Chapter, any administrative regulations issued hereunder, or any conditions upon which the Special Business License is issued.

4.15.075 SPECIFIC REQUIREMENTS FOR TAXICAB BUSINESS - SPECIAL BUSINESS LICENSES. Each person who holds a Special Business License shall during the entire term of the License:

(a) Maintain or be associated with an office situated within the geographical boundaries of the City where some person in charge can be contacted in person or by telephone weekdays from 8:00 a.m. to 5:00 p.m.;

(b) Maintain a two-way radio dispatch system approved by the Federal Communications Commission for commercial use which is in contact with all taxicabs covered by the License during all times the taxicabs are in service;

(c) Maintain in full force and effect at no cost to the City a comprehensive automobile and general liability insurance policy in an amount no less than \$350,000 single limit per occurrence; issued by an insurer rated A-VII or better by the A.M. Best's Insurance Guide, or an insurer approved by the City's Risk Manager; naming the City, and in their capacities as such its officers, employees and agents as insureds; covering all losses and damages as specified in this paragraph; stipulating that the policy will operate as primary insurance and that no other insurance effected by the City or other named insured will be called on to contribute to a loss covered thereunder; and providing that no cancellation, change in coverage, or expiration by the insurance company or the insured shall occur during the term of the License, without thirty (30) days written notice to the City's Risk Manager from the insurance company prior to the effective date of such cancellation or change in coverage. Such service shall be by registered mail.

Notwithstanding the provisions of Section 4.02.100, violation of this paragraph by the holder of a Special Business License shall constitute a misdemeanor as provided by Section 1.01.190;

(d) Assume the defense of, and indemnify and hold harmless, the City and in their capacities as such, its officers, employees and agents from and against all actions, claims, losses, damages, liability, costs and expenses of every type and description, including, but not limited to, attorney's fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the acts or omissions of the Licensee or the Licensee's agents, officers or employees, directly or indirectly arising from the operation of a taxicab. The foregoing is not intended to and shall not be construed to limit any responsibility or liability to which the Licensee may be subjected to under other laws;

(e) In the event of cancellation, expiration, or change in insurance coverage resulting in non-compliance with paragraph (c) of this Section, the Licensee shall notify the City of the cancellation, expiration, or change within three (3) days after its effective date by submitting a written notice to the City's Risk Manager. The giving of notice as provided herein shall not stay the temporary suspension of the Special Business License pursuant to Section 4.15.100(b), which suspension shall remain in effect until required insurance is reinstated, or as otherwise provided in Section 4.15.100.

In addition to any other requirements of this Chapter and Chapters 4.02 or 4.10, a Special Business License shall not be issued to any person who fails to demonstrate

to the satisfaction of the City's Risk Manager fulfillment of the requirements specified in this Section.

4.15.080 APPLICATIONS FOR SPECIAL BUSINESS LICENSES. In addition to the matters prescribed by Section 4.10.030 or 4.10.060, as applicable, an application for a Special Business License, or an application for the renewal of a Special Business License, to engage in the Taxicab Business shall contain the following:

(a) The name, business address and telephone number of the applicant, and if the applicant is not a natural person, a copy of the articles of incorporation, by-laws, partnership agreement or other written instrument by which the entity is established;

(b) A description of the manufacturer, model and model year, the vehicle identification number, the state vehicle license number, and the name and address of each person who is a registered owner, possessor of a leasehold interest, and possessor of any other ownership or security interest in each taxicab to be covered by the License;

(c) The serial number of each taximeter to be utilized in a taxicab, as required by Section 4.15.055(a), together with the State vehicle license number of the taxicab to which the taximeter is assigned;

(d) The serial number of each radio system to be utilized in a taxicab, as required by Section 4.15.055(a);

(e) A description of the color scheme by which each taxicab will be identified, as required by Section 4.15.050(b);

(f) A copy of certificates or other writings as required by Sections 4.15.030 and 4.15.035;

(g) A copy of the policy or policies of insurance required by Section 4.15.075(c);

(h) The written schedule of all rates and charges for hire of the taxicab as required by Section 4.15.040;

(i) The address and telephone number, and name of the person responsible for operation of the business office required by Section 4.15.075(a);

(j) The address and telephone number, and name of the person responsible for operation of the radio dispatch system required by Section 4.15.075(b).

4.15.082 ISSUANCE OR RENEWAL OF SPECIAL BUSINESS LICENSES. Upon receipt of an application for a Special Business License, or an application for the renewal of a Special Business License, the Chief of Police shall conduct such investigation pursuant to Section 4.10.035 or 4.10.060 as applicable, and as deemed necessary. The Chief of Police shall issue a Special Business License, or renewal,

unless the Chief of Police finds pursuant to Sections 4.10.040 or 4.10.060, as applicable, or unless the Chief of Police finds in writing any of the following:

- (a) The applicant or license holder has failed to comply with the requirements specified in Sections 4.15.030; 4.15.035, 4.15.040, 4.15.045, 4.15.050, or 4.15.055;
- (b) The applicant or license holder has failed to comply with the requirements specified in Section 4.15.075;
- (c) The license holder or applicant has authorized, directed, or otherwise allowed operation of a taxicab for which the insurance coverage required by Section 4.15.075 is not in effect;
- (d) The applicant or holder of a license has submitted a false declaration regarding testing for a controlled substance, alcohol, or both, required by this Chapter;
- (e) The applicant or license holder has failed to notify the Chief of Police of the termination of employment of the holder of an Employee Permit within three (3) days of such termination;
- (f) The applicant or license holder has authorized, directed, or otherwise allowed a person or employee without a valid Employee Permit to operate a taxicab;
- (g) The applicant or license holder has failed to comply with any condition, requirement, or prohibition of this Chapter; or that there exists any basis established by Chapters 4.02, 4.10 or this Chapter for the denial or revocation of a Special Business License application or renewal, as applicable.

4.15.085 CONTENTS OF LICENSES - SUPPLEMENTARY INFORMATION.

Each Special Business License shall consist of a certificate which identifies the name and address of the applicant, the date of issuance and the date of expiration. Each such License shall have attached thereto a listing of the state vehicle license number, manufacturer, model, model year, vehicle identification number, of each taxicab which the License covers, and the serial number of each taximeter which the License covers.

During the term of any such License, the holder thereof shall immediately provide in writing to the Chief of Police changes in vehicles and taximeters to be covered by the License.

4.15.090 APPLICATIONS FOR EMPLOYEE PERMITS. In addition to the matters prescribed by Section 4.10.080, an application for an Employee Permit, or an application for the renewal of an Employee Permit, to operate a taxicab shall contain the following:

- (a) The number of a valid California driver's license issued to the applicant, and the date of license expiration;

(b) A statement of whether the applicant's California driver's license has ever been revoked or suspended, and, if so, the reason or reasons for such revocation or suspension;

(c) A list of each criminal conviction of the applicant, whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which the applicant was convicted;

(d) A list of the applicant's physical or mental disabilities or incapacities. With respect to each such disability or incapacity, the applicant shall state whether the same would interfere with the proper management and control of a motor vehicle;

(e) A declaration by a taxicab employer that the applicant is employed by or has an offer of employment by that employer to operate a taxicab, or a declaration that the applicant is a self-employed independent driver;

(f) A declaration by a taxicab employer that the applicant who is employed by or has an offer of employment with the employer, or by the applicant if the applicant is a self-employed independent driver, that the applicant has been tested for controlled substances (and alcohol for permit renewal) in accordance with Government Code section 53075.5 and the results thereof are negative;

(g) If the applicant is a self-employed independent driver, test results from the controlled substance (and alcohol for permit renewal) test shall be reported to the Chief of Police in accordance with Government Code section 53075.5 and are to be made a part of the application;

(h) The name of the taxicab business which the applicant is employed by or has an offer of employment from, or if the applicant is a self-employed independent driver, the name of the taxicab business the applicant is doing business as or leases the taxicab vehicle from;

(i) A statement as to whether the applicant is or ever has been addicted to the use of alcohol or any controlled substance as defined by the California Health and Safety Code;

(j) A list of all prescription medicine which the applicant takes on a regular or episodic basis;

(k) Such other information as may be required by the Chief of Police to further the purposes of this Chapter, Chapter 4.02, or Chapter 4.10.

4.15.095 ISSUANCE OR RENEWAL OF EMPLOYEE PERMIT. Upon receipt of an application for an Employee Permit, or the application for the renewal of an Employee Permit, the Chief of Police shall conduct such investigation pursuant to Section 4.10.085 as is deemed necessary. The Chief of Police shall issue the Permit or renewal of the Permit pursuant to Section 4.10.090 unless the Chief of Police finds in

writing grounds to deny as provided in Section 4.10.090 or the Chief of Police finds in writing any of the following:

(a) That the application fails to contain information required by the Chief of Police or Section 4.15.090, or is otherwise incomplete;

(b) That the applicant fails to submit or refuses to submit to fingerprinting or photographing;

(c) That information contained in the application is false or otherwise inaccurate;

(d) That the applicant has a physical or mental disability or incapacity; or takes medication; or uses alcohol or any controlled substance as defined in the California Health and Safety Code; or has been convicted of a crime (including forfeiture of bail), and the time for appeal has elapsed, or which an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under California Penal Code Section 1203.4; or has done any act involving dishonesty, fraud or deceit with intent to substantially benefit him or herself, or another, or substantially injure another; and, the Chief of Police concludes that by reason of the crime, act, disability, incapacity, or impairment from a substance consumed, the applicant would not operate the taxicab in a law abiding manner or in a manner which does not subject members of the traveling public to risk of harm or criminal, deceitful or otherwise unethical practices. Notwithstanding the foregoing, an application for a Permit, or a renewal, shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under California Penal Code Section 4852.01 et seq.; or, that the person has been convicted of a misdemeanor, if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person under California Penal Code Sections 4852.01, et seq. Conviction of a moving traffic violation shall constitute grounds for denial of the Permit, or renewal, if the Chief of Police concludes that by reason of such traffic violation conviction there is a substantial risk that the applicant would not operate the taxicab in a law abiding manner or in a manner which does not subject members of the traveling public to risk of harm;

(e) That the applicant's California driver's license has been revoked or suspended;

(f) That the applicant is not employed, or has no offer of employment as a taxicab driver, or is not a self-employed independent taxicab driver;

(g) That the applicant has tested positive for controlled substances, (or for permit renewal, controlled substances and alcohol), in accordance with Government Code section 53075.5;

(h) That the applicant refuses or fails to submit to a controlled substance, alcohol test, or both, as required by Government Code section 53075.5; or,

(i) One or more of the grounds for Permit revocation or suspension exists pursuant to Section 4.15.100.

4.15.097 EMPLOYEE PERMIT VOID UPON TERMINATION OF EMPLOYMENT. The Employee Permit shall become void upon termination of employment of the holder of an Employee Permit by the holder of a Special Business License. If the holder of the Employee Permit is a self-employed independent operator, the Employee Permit shall become void on the date upon which the holder of the Permit no longer owns, or has a leasehold interest in a taxicab vehicle, or when the taxicab operated by the holder of the Permit is no longer covered by the holder of the Special Business License. A holder of an Employee Permit shall return his or her Employee Permit to the Chief of Police within three (3) days after the occurrence of any of the events described in this paragraph.

The holder of the Special Business License employing the holder of the Employee Permit, if applicable, shall notify the Chief of Police within three (3) days upon termination of the holder's employment.

4.15.099 EMPLOYEE PERMIT - CONTROLLED SUBSTANCE AND ALCOHOL TESTING, REPORTING TEST RESULTS.

(a) (1) All initial applicants and renewal applicants for an Employee Permit shall take and pass with negative test results a controlled substance test, and an alcohol test and as otherwise required, by this Chapter or Government Code section 53075.5. The test or tests, as applicable, for an Employee Permit shall be taken no more than thirty days preceding the date the application for the Employee Permit is filed, or the date the application for renewal is filed, or the date the application for the renewal is filed if the Employee Permit was allowed to expire.

(2) When test results of a self-employed independent applicant or holder of an Employee Permit are positive for alcohol, a controlled substance, or both, the Chief of Police shall report such results to the taxicab leasing company, if any, on record with the Chief of Police. When test results of an applicant or holder of an Employee Permit, who is employed by or has an offer of employment by a taxicab employer, are positive for alcohol, a controlled substance, or both, the employer shall report such results to the Chief of Police.

(3) Any holder of an Employee Permit whose Employee Permit has been suspended or revoked for positive test results of a controlled substance, alcohol, or both, for a test required by this Chapter or Government Code section 53075.5, shall not be reinstated as a driver of a taxicab or as a Permit holder, nor shall a new Permit be issued, until the requirements for rehabilitation and return-to-duty in accordance with Government Code section 53075.5 are satisfied.

(b) The Chief of Police, upon reasonable suspicion to believe that the holder of an Employee Permit has violated the prohibitions of Government Code section 53075.5 for alcohol, a controlled substance, or both, shall require the holder of such

Permit to take a controlled substance, alcohol test, or both, in accordance with Government Code Section 53075.5. Such reasonable suspicion shall be based upon specific, contemporaneous, articulable observations concerning appearance, behavior, speech or body odors of the holder. The observations may include indications of the chronic and withdrawal effects of controlled substances. Alcohol testing may be required if such observations are made during, just preceding, or just after the period of the day that the holder is required to operate the taxicab.

Such reasonable suspicion testing as is required by the Chief of Police shall be taken by the holder of the Permit within five (5) days after the Chief of Police gives notice of the requirement. Notice shall be given to the holder of the Permit, and to the holder's employer if the holder is not self-employed. Notice shall be deemed effective upon depositing the notice in the United States mail, first class, postage pre-paid, and addressed to the holder of the Permit and the holder's employer, if applicable, at the last address on record with the Chief of Police. Notwithstanding the provision of Section 4.10.145 to the contrary, the Chief of Police shall temporarily suspend an Employee Permit effective upon the Chief of Police making a finding in writing pursuant to this Section requiring reasonable suspicion testing and the holder of the Permit fails to take the test. The prior 24 hour notice provision of Section 4.10.145, to the holder of the Employee Permit, shall not be required prior to such temporary suspension. The Chief of Police shall within 24 hours of the commencement of such temporary suspension serve the notice in the manner and as otherwise required by Section 4.10.145 and shall thereafter permit the holder of the Permit to respond to the Chief of Police as required by Section 4.10.145. The temporary suspension shall continue until the holder of the Employee Permit submits to such required testing, or pending expiration of the time for appeal or exhaustion of an appeal pursuant to the commencement of a proceeding for the suspension or revocation of the Permit, whichever occurs first.

4.15.100 REVOCATION OR SUSPENSION OF SPECIAL BUSINESS LICENSES. A Special Business License shall be revoked or suspended pursuant to the grounds set forth in Section 4.10.135 or upon a finding in writing of one or more of the following grounds: (a) Upon receipt by the Chief of Police of written notice from an insurer of cancellation, expiration or change in insurance coverage resulting in non compliance with Section 4.15.075(c), or, upon receipt of notice from the holder of the Special Business License pursuant to section 4.15.075(e), whichever occurs first; or, that the holder of a Special Business License has operated a taxicab for which the insurance coverage as required by Section 4.15.075(c) was not in effect.

Notwithstanding the provision of Section 4.10.145 to the contrary, the Chief of Police shall temporarily suspend a Special Business License effective upon the Chief of Police making a finding pursuant to this Section 4.15.100(a) in writing. The prior 24 hour notice provision of Section 4.10.145, to the holder of the Special Business License and the place of business thereof, shall not be required prior to such temporary suspension. The Chief of Police shall within 24 hours of the commencement of such temporary suspension serve the notice in the manner and as otherwise required by Section 4.10.145 and shall thereafter permit the holder of the License to respond to the Chief of Police as required by Section 4.10.145. Such temporary suspension shall

continue until the Chief of Police receives written notice from an insurer indicating compliance with the requirements of Section 4.15.075(c); or, pending expiration of the time for appeal or exhaustion of an appeal pursuant to a proceeding for the suspension or revocation of the License; whichever occurs first;

(b) The holder of a Special Business License has failed to notify the Chief of Police of cancellation, expiration, or change of insurance as required by Section 4.15.075(e);

(c) The holder of a Special Business License has submitted a false declaration regarding controlled substance, alcohol testing, or both, required by this Chapter;

(d) The holder of a Special Business License has allowed a person, an employee, or holder of an Employee Permit to operate a taxicab knowing that the operator tests positive, as required by Government Code section 53075.5 or this Chapter, for a controlled substance, alcohol, or both;

(e) The holder of a Special Business License has allowed a person or an employee without a valid Employee Permit to operate a taxicab;

(f) The holder of a Special Business License has failed to notify the Chief of Police of the termination of an employee holding an Employee Permit pursuant to Section 4.15.097; or,

(g) Any other failure of the holder of a Special Business License to comply with any condition, requirement, or prohibition of this Chapter or Chapters 4.02 or 4.10; or, a finding of grounds for denial of the License, or the denial of a renewal, pursuant to Section 4.10.100; or, a finding made pursuant to Section 4.15.082.

4.15.105 REVOCATION OR SUSPENSION OF EMPLOYEE PERMITS. An Employee Permit shall be revoked or suspended pursuant to Section 4.10.140 upon any of the following findings in writing:

(a) The holder of the Employee Permit has violated any of the duties, requirements or prohibitions set forth in any administrative regulations issued pursuant to Section 4.02.085 or 4.15.065;

(b) The holder of the Employee Permit has misrepresented a material fact contained in the application for the Permit, or renewal;

(c) That since issuance of the Permit, or renewal, the Chief of Police has acquired information supporting a finding prescribed by Section 4.15.095(d) in relation to the holder of the Employee Permit;

(d) That the holder of the Employee Permit operated a taxicab with an invalid, suspended or revoked California driver's license;

(e) That the holder of the Employee Permit has tested positive for any controlled substance, or alcohol, or both, pursuant to a test taken in accordance with Government Code section 53075.5;

(f) That the holder of the Employee Permit, or his or her employer, has submitted a false declaration regarding testing for a controlled substance, or alcohol, or both, pursuant to a test required by Government Code section 53705.5;

(g) The holder of the Employee Permit has operated a taxicab in an unsafe manner without regard for the safety and welfare of passengers, pedestrians, other drivers, or property. Factors to be considered in reaching this finding are that the holder of the Employee Permit has suffered a conviction of one or more moving violations of the California Vehicle Code, or, by conduct which has placed any passenger, motorist, pedestrian, or property at unreasonable or unnecessary risk for physical harm, damage to property, or deceitful or fraudulent practices.

(h) That the holder of the Employee Permit refuses or fails to submit to testing for a controlled substance, alcohol, or both, as required by Government Code section 53075.5 or this Chapter; or,

(i) Any other failure of the holder of the Employee Permit to comply with any duty, condition, requirement, or prohibition of this Chapter or Chapters 4.02 or 4.10; or, a finding made pursuant to section 4.15.095.

CHAPTER 4.16

MEDICAL CANNABIS DISPENSARIES

Sections:

- 4.16.000 Purpose.
- 4.16.005 Definitions.
- 4.16.010 Special Business License and Employee Permit Required.
- 4.16.015 Notice to Community of Application for Business License.
- 4.16.020 Conditional Use Permit Required.
- 4.16.025 Business Hours of Dispensaries.
- 4.16.030 Prohibited Ancillary Activities.
- 4.16.035 Prompt Removal of Solid Wastes.
- 4.16.040 License Application.
- 4.16.045 Maintenance of Certifications and Plans.
- 4.16.050 Confidentiality of Plans.
- 4.16.055 Applications for Employee Permits.
- 4.16.060 Issuance or Renewal of Employee Permit.
- 4.16.065 Employee Permit Void on Termination.
- 4.16.100 Suspension or Revocation.

4.16.000 PURPOSE. The People of the State of California passed Proposition 215, The Compassionate Use Act of 1996, which protects patients and physicians who prescribe marijuana for medical treatment. The Legislature of the State of California passed SB 402 which was designed to provide greater certainty regarding the medical use of marijuana and establishes use procedures and voluntary identification/registration cards to qualified patients. The City of Elk Grove does not condone the use of marijuana. However, the City recognizes that the People of the State of California by passing Proposition 215, and the Legislature of the State of California by passing SB 402, have provided for the medical use of marijuana, and with that in mind, the City Council wishes to insure that the adverse impacts from the medical use of marijuana are minimized in the City of Elk Grove. On March 25, 2004, the Elk Grove Planning Commission held public hearings on the proposed amendment to the City Code, and recommended that the City Council approve the proposed amendment. On April 7, 2004, the City Council held a public hearing on the proposed amendment to the City Code, at which time public testimony was taken and duly considered. The City Council finds that the revised Code is consistent with the goals, policies, implementation programs and land use designations specified in the City's General Plan, as required by Government Code Section 65860. The establishment of Medical Cannabis Dispensaries is contemplated by Health & Safety Code sections 11362.5 et seq. Medical Cannabis Dispensaries create adverse secondary effects, including but not limited to, an increase in driving under the influence of marijuana in the community in which they exist, increase illegal drug trafficking near their location, and increased burglaries and/or robberies at their locations.

4.16.005 DEFINITIONS.

(a) "Medical Cannabis Dispensary" means a business enterprise where Qualified Patients or Primary Care Givers receive dispensation of limited doses of medical grade cannabis to use in the alleviation of pain and suffering associated with certain illness.

(b) "Qualified Patient" means a person whose primary care provider has issued a prescription to allow the person to purchase medical grade cannabis for consumption for the principal purpose of alleviating pain and suffering associated with certain serious illness.

(c) "Primary Caregiver" means family member or paid caregiver for a Qualified Patient who is authorized to receive medical cannabis for the purpose of giving doses to the Qualified Patient.

(d) "Confidentiality Plan" means an approved written plan containing policies and procedures of a Medical Cannabis Dispensary intended to assure maintenance of the privacy of Qualified Patients and Primary Caregivers.

(e) "Security Plan" means an approved written plan containing policies and procedures of a Medical Cannabis Dispensary intended to assure the secure handling and storage of cannabis.

4.16.010 SPECIAL BUSINESS LICENSE AND EMPLOYEE PERMIT

REQUIRED. No person shall operate or conduct a Medical Cannabis Dispensary unless under and by authority of a valid, unexpired, and unrevoked Special Business License authorizing such Medical Cannabis Dispensary issued pursuant to the provisions of Chapters 4.02, 4.10, and 4.16; and, no person shall be employed by a Medical Cannabis Dispensary without a valid, unexpired, and unrevoked Employee Permit issued pursuant to the provisions of Chapters 4.02, 4.10, and 4.16.

4.16.015 NOTICE TO COMMUNITY OF APPLICATION FOR BUSINESS

LICENSE. At least thirty (30) days prior to the approval of the associated business license, applicants must provide proof to the City verifying that all residents and property owners within 1,000 feet of such uses have been notified in writing by U.S. mail of the applicant's intent to open such a business.

4.16.020 CONDITIONAL USE PERMIT REQUIRED. In addition to the general and special business licensing requirements of this Title, each applicant for a Special Business License for a Medical Cannabis Dispensary shall be required to obtain a conditional use permit from the Elk Grove Planning Commission as provided in the City of Elk Grove Zoning Code.

4.16.025 BUSINESS HOURS OF DISPENSARIES. The City Council finds that it is not in the public interest for a Medical Cannabis Dispensary to operate before or after normal school hours. A Medical Cannabis Dispensary shall not be open before 9:00 a.m. and shall not be open after 3:00 p.m.

4.16.030 PROHIBITED ANCILLARY ACTIVITIES.

(a) No licensee for a Medical Cannabis Dispensary shall allow any of the following ancillary activities to take place on-site:

- (1) The use of cannabis by any person;
- (2) The cultivation of cannabis anywhere on the property;
- (3) The sale and/or display of drug paraphernalia or any implement that may be used to administer medical cannabis. The licensee shall maintain full compliance with Health & Safety Code sections 11014.5 and 11364 et seq. and Sections 4.54.200 et seq. of this Code.
- (4) Alcohol shall not be provided, stored, kept, located, sold, dispensed or used anywhere on the property.

(b) In addition to any other conditions imposed by City Staff in the Conditional Use Permit for the Medical Cannabis Dispensary, the foregoing prohibitions in subsection (a) shall also be included in the Conditional Use Permit.

4.16.035 PROMPT REMOVAL OF SOLID WASTES. The City Council finds that the conduct of a Medical Cannabis Dispensary generates solid waste in which there

is a risk of the presence of cannabis in the waste stream. Every licensee of a Medical Cannabis Dispensary shall provide for removal of all solid waste from the property at least twice each day the dispensary is in operation at times at least three (3) hours apart. No solid waste shall be allowed to remain on site during time that the Medical Cannabis Dispensary is not open to the public.

4.16.040 LICENSE APPLICATION. In addition to the requirements of Section 4.10.030 for an application for a Special Business License, an application for a Medical Cannabis Dispensary shall include all of the following additional certifications and plans a copy of which shall be maintained by the City:

(a) List of Cannabis Suppliers: The applicant shall list the names and addresses of all suppliers of cannabis products;

(b) Certification of No Interstate Commerce: The applicant shall certify that cannabis dispensed for medical purposes is produced within the State of California and has not crossed state lines;

(c) Safety and Security Plan: The applicant shall submit for approval from the Chief of Police a written Safety and Security Plan for the safe and secure storage and distribution of cannabis, which Plan shall include a hard-wired monitored alarm system;

(d) Confidentiality Plan: The applicant shall submit for approval from the Chief of Police a written Confidentiality Plan for preserving the confidentiality of all Qualified Patients, and Primary Care Givers to whom medical cannabis is dispensed by the licensee.

4.16.045 MAINTENANCE OF CERTIFICATIONS AND PLANS.

(a) Copies of Certifications and Plans: During the term of a Special Business License for a Medical Cannabis Dispensary, the licensee shall maintain on the premises a current copy of the approved List of Cannabis Suppliers, the Certification of No Interstate Commerce, the Safety and Security Plan, and the Confidentiality Plan and they shall be made available for inspection by representatives of the City on demand during business hours.

(b) Amendment of Certifications or Plans: At any time during the term of a Special Business License for a Medical Cannabis Dispensary, should there be a proposed change in suppliers of cannabis or a change in any element of the Safety and Security or Confidentiality Plans, the licensee shall file a request with the Chief of Police for an amendment of the license to allow the new or different cannabis supplier or change in a plan. Upon investigation by the Chief of Police pursuant to Section 4.10.035, the proposed amendments may be granted or denied by the Chief of Police stating in writing the reasons thereof. The approved amended list of suppliers or plans shall be kept on file with the Chief of Police. Appeal of the denial of any proposed amendment of the license will be pursuant to same procedure specified for the denial of an initial application or renewal of a special business license pursuant to Sections 4.10.110 to 4.10.130.

4.16.050 CONFIDENTIALITY OF PLANS.

The City Council finds that the public interest served in preserving the confidentiality of a Safety and Security Plan for a Medical Cannabis Dispensary and not disclosing the plan to the general public far outweighs the public's interest in disclosure of such Safety and Security Plan.

The City Council finds that there is an important security public interest served in preserving the confidentiality of a Confidentiality Plan for a Medical Cannabis Dispensary by not disclosing the Plan to the general public that far outweighs the public's interest in disclosure of such Confidentiality Plan. Further, the City Council finds there is an important privacy interest in not disclosing such Confidentiality Plans that far outweighs the public's interest in disclosure of such Confidentiality Plans.

4.16.055 APPLICATIONS FOR EMPLOYEE PERMITS. In addition to the matters prescribed by Section 4.10.080, an application for an Employee Permit, or an application for the renewal of an Employee Permit, to work in a Medical Cannabis Dispensary, shall contain the following:

(a) A list of each criminal conviction of the applicant, whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which the applicant was convicted;

(b) A list of the applicant's physical or mental disabilities or incapacities. With respect to each such disability or incapacity, the applicant shall state whether the same would interfere with the proper management and control regulated substances;

(c) A declaration by a Medical Cannabis Dispensary employer that the applicant is employed by or has an offer of employment by that employer to work in the Medical Cannabis Dispensary;

(d) A declaration by the Medical Cannabis Dispensary employer that the applicant, who is employed by or has an offer of employment with the employer, has been tested for controlled substances (and alcohol for permit renewal) in accordance with Government Code section 53075.5 and the results thereof are negative;

(e) The name of the Medical Cannabis Dispensary business which the applicant is employed by or has an offer of employment from;

(f) A statement as to whether the applicant is or ever has been addicted to the use of alcohol or any controlled substance as defined by the California Health and Safety Code;

(g) Such other information as may be required by the Chief of Police to further the purposes of this Chapter, Chapter 4.02, or Chapter 4.10.

4.16.060 ISSUANCE OR RENEWAL OF EMPLOYEE PERMIT. Upon receipt of an application for an Employee Permit, or the application for the renewal of an Employee Permit, the Chief of Police shall conduct investigation pursuant to Section 4.10.085. The Chief of Police shall issue the permit or renewal of the permit pursuant to Section 4.10.090 unless the Chief of Police finds in writing grounds to deny as provided in Section 4.10.090 or the Chief of Police finds in writing any of the following:

- (a) That the application fails to contain information required by the Chief of Police or Section 4.10.045(a), or is otherwise incomplete;
- (b) That the applicant fails to submit or refuses to submit to fingerprinting or photographing;
- (c) That information contained in the application is false or otherwise inaccurate;
- (d) That the applicant has a physical or mental disability or incapacity; or takes medication; or uses alcohol or any controlled substance as defined in the California Health and Safety Code; or has been convicted of a crime (including forfeiture of bail), and the time for appeal has elapsed, or which an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under California Penal Code section 1203.4; or has done any act involving dishonesty, fraud or deceit with intent to substantially benefit him or herself, or another, or substantially injure another; and, the Chief of Police concludes that by reason of the crime, act, disability, incapacity, or impairment from a substance consumed, there is a substantial risk that the applicant would not work in a Medical Cannabis Dispensary in a law abiding manner or in a manner which does not subject members of the public to risk of harm or criminal, deceitful or otherwise unethical practices.

Notwithstanding the foregoing, an application for a permit, or a renewal, shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under California Penal Code Section 4852.01 et seq.; or, that the person has been convicted of a misdemeanor, if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person under California Penal Code sections 4852.01, et seq. Conviction of a moving traffic violation shall constitute grounds for denial of the Permit, or renewal, if the Chief of Police concludes that by reason of such traffic violation conviction the applicant would not work in the Medical Marijuana Dispensary in a law abiding manner or in a manner which does not subject members of the public to risk of harm; or

- (e) One or more of the grounds for permit revocation or suspension exists pursuant to this Chapter.

14.16.065 EMPLOYEE PERMIT VOID ON TERMINATION. The Employee permit shall become void upon termination of employment of the holder of an Employee Permit by the holder of a Special Business License. A holder of an Employee Permit shall return his or her Employee Permit to the Chief of Police within three (3) days after termination of employment.

The holder of the Special Business License employing the holder of the Employee Permit shall notify the Chief of Police within three (3) days upon termination of the holder's employment.

4.16.100 SUSPENSION OR REVOCATION. Failure to comply with any of the requirements of this Chapter or with any condition set forth in the conditional use permit for the property shall be grounds for the suspension or revocation of the license under Sections 4.10.145 to 4.10.155.

CHAPTER 4.20

CARDROOMS

Sections:

- 4.20.000 Statement of Purpose.
- 4.20.005 Definition - Cardroom.
- 4.20.010 Definition - Gaming or Gambling.
- 4.20.015 License Required.
- 4.20.020 Qualifications - Use.
- 4.20.025 Number of Licenses Limited.
- 4.20.030 Employee Permits.
- 4.20.035 Application for Permits.
- 4.20.040 Issuance of Permit.
- 4.20.045 Suspension and Revocation of Permits.
- 4.20.050 Bond.
- 4.20.055 Responsibility of Licensee.
- 4.20.060 Records and Audit.
- 4.20.065 Temporary Suspension.
- 4.20.070 Temporary Suspension - Notice of Suspension and Appeal.
- 4.20.075 Conducting a Cardroom or Operating as a Cardroom Manager or Dealer After Temporary Suspension.
- 4.20.085 Table Operation Fee.
- 4.20.090 Hours of Operation.
- 4.20.095 Games Permitted.
- 4.20.100 Equipment - Separation.
- 4.20.105 Minors Prohibited.
- 4.20.110 Bets Limited - Notice.
- 4.20.115 Notice of Table Rent.
- 4.20.120 Credit Prohibited.
- 4.20.125 Display of Licenses and Permits.
- 4.20.130 Protection of Patrons.
- 4.20.135 Exclusion or Ejection from a Cardroom.
- 4.20.140 Conflicts.
- 4.20.145 Severability.

4.20.000 STATEMENT OF PURPOSE. The regulatory provisions of Sections 4.20.020 and 4.20.025 are necessary to ensure that cardrooms are operated reasonably for the protection of public health, safety, and welfare and to conform to State mandated requirements set by The Gaming Registration Act found in the Business and Professions Code commencing with Section 19800, et seq. Although many operators are highly reputable, others are creative in avoiding the letter of the law. Gaming brings with it the elements of enjoyment and entertainment for its patrons but also undesirable elements such as compulsive gambling, cheating, dishonesty, and other possible criminal violations and peace disturbances.

If all licensees were reputable and vigilant, regulatory supervision would be almost perfunctory. Such is the case with many existing licensees. Others, however, require exhaustive monitoring and enforcement. Integrity is a difficult commodity to ascertain in advance of licensure. Thorough screening of applicants prior to licensure is desirable. Pursuant to Sections 4.10.035 and 4.10.040, the Chief of Police conducts a thorough investigation into the background of applicants and their entities in order to assure that licensure will not set the stage for fraud or deceit. Such investigation is particularly difficult when applicants have no local track record. Accordingly, two years residence or two years business operation within this City is required before an applicant is eligible to apply for a cardroom license and this requirement is found in Section 4.20.020. A two-year period for the observation of an individual's or business entity's ethical practices or lack thereof is a more realistic period of time for such assessment as opposed to a one-year residency requirement.

Section 4.20.025 would limit the number of cardroom licenses issued to one for each 75,000 residents of the City thus limiting the expansion of gambling within this community to a level where such gambling will be a source of local entertainment and recreation for local citizens while preventing this community and City from becoming a mecca for professional gamblers and gamblers from other jurisdictions. A "casino" type atmosphere where gambling becomes the major industry or attraction of a community or mecca for gamblers from all jurisdictions is detrimental to the development of this community as such increased and unrestrained gambling creates greater law enforcement problems compromising the ability of law enforcement to totally control the criminal and peace disturbance effects thereof. Limiting the number of licenses and cardrooms to one for each 75,000 residents assists in the accomplishment of these goals as opposed to permitting a greater number of licenses with a limitless number of cardrooms that may be operated per license.

The two-year residency requirement and the restriction in the number of cardroom licenses available would allow City energies to be more efficiently allocated. Pre-license screening would be supplemented with the objective track record of each applicant. The number of cardrooms would remain at a manageable level for the Chief of Police without creating a monopoly for existing cardrooms. The volume of unstable or illegally run cardroom operations would be more effectively curtailed.

Accordingly, City Council finds that a two year residence or operation prerequisite for a Special Business License and a limitation of one cardroom per 75,000

residents of the City will eliminate many of the above-mentioned problems without undue burden on stable and reputable cardrooms. The purpose therefore of Sections 4.20.020 and 4.20.025 is to protect the health, safety, and welfare of the citizens within the City, to assure that City expenditure is efficiently allocated, and to provide legitimate cardrooms where citizens of this City can safely enjoy the entertainment provided by reputable cardrooms.

4.20.005 DEFINITION - CARDROOM. As used in this Chapter the term “Cardroom” means any place where gaming is conducted and to which the public is invited to participate.

4.20.010 DEFINITION - GAMING OR GAMBLING.

(a) As used in this Chapter the term “Gaming” or “Gambling” means any game of chance played with cards, dice, or any device for currency, money, check, credit, or other thing of value which is not prohibited and made unlawful by Penal Code Chapter 9 (commencing with Section 319) or Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code or by this Chapter.

(b) “Gaming” or “Gambling” for purposes of this Chapter does not mean the following:

(1) The game of bingo conducted pursuant to and regulated by Chapters 4.21, 4.22, and 4.23;

(2) Any lottery game conducted and regulated by the California State Lottery;

(3) Parimutuel wagering on horseraces regulated by the California Horse Racing Board;

(4) Games played with cards in private homes or residences in which no person makes money for operating the game, except as a player.

4.20.015 LICENSE REQUIRED. No person shall operate or conduct a cardroom in the City unless under and by authority of a valid, unexpired, and unrevoked Special Business License authorizing a Cardroom issued pursuant to the provisions of Chapter 4.10 and this Chapter.

4.20.020 QUALIFICATIONS - USE.

(a) If the applicant for a Special Business License to operate a Cardroom is a sole proprietor, the proprietor shall have been a resident of the City for at least two (2) years immediately preceding the filing of an application for the License and shall have met the requirements set by the State Department of Justice pursuant to The Gaming Registration Act (commencing with Business and Professions Code Section 19800, et seq.) prior to filing the application for the license. If the applicant is a partnership, corporation, or other business entity owned by more than one individual, the business

entity shall have engaged in a business within the City continuously for at least two years immediately preceding the filing of the application and shall have met the requirements set by the State Department of Justice pursuant to The Gaming Registration Act (commencing with Business and Professions Code Section 19800, et seq.) prior to filing an application for a license.

(b) The Special Business License issued pursuant to this Chapter shall be placed in use at the designated location no later than ninety (90) days following the issuance thereof and the Special Business License shall remain in use thereafter for the term of the License. Failure to place such license in use at the designated location within the ninety (90) day period provided herein, or to maintain the License in use during the term of the License, shall be grounds for revocation of the License by the Chief of Police. For purposes of this Subdivision of this Section "in use" shall mean that at the location designated in the License the business of a Cardroom shall be in operation and that games as provided in Section 4.20.095 shall be conducted therein.

For purposes of revocation under this Subdivision of this Section, temporary closure of the Cardroom for necessary remodeling, rebuilding, repair, improvements, or other necessary and reasonable activity required to operate or improve the operation of the Cardroom when such activities are undertaken by the Licensee in a good faith effort to complete the activity within a reasonable period of time, shall not be grounds for revocation.

The Licensee shall cooperate with the Chief of Police by providing him or her the necessary information and documentation upon demand by the Chief of Police in order to allow a determination of whether the Licensee comes under the provisions of this Subdivision of this Section requiring revocation of the License. Failure of the Licensee to cooperate with the Chief of Police pursuant to the provision of this Subdivision of this Section shall be grounds for the revocation of the Special Business License to operate the Cardroom. The procedure for notice of revocation, revocation, and appeal of revocation shall be the same as is provided in Chapter 4.10 for the revocation of Special Business Licenses.

4.20.025 NUMBER OF LICENSES LIMITED.

(a) The number of licenses issued shall be limited to one for each 75,000, or fraction thereof, residents of the City, as determined by the last Federal Census or as determined by the latest population estimate of the Department of Finance of the State of California.

(b) In the event there are more applications for Special Business Licenses to operate Cardrooms than the limitation in subdivision (a) of this Section allows, the qualified applicant or applicants to whom a License is issued shall be selected by the Chief of Police in the order the applications were filed with the City Manager. Once all available number of licenses are issued, no applications will be accepted or considered until such time as an additional license becomes available. When the additional license becomes available, applications will then be taken and will be considered as provided

herein upon the timely filing of a new application therefor. For purposes of this subdivision of this Section, the unrevoked, valid, and unexpired License of a Cardroom Licensee who has filed a timely application for renewal of the License is not considered an additional license available for issuance until the license renewal application has been denied and the appeal thereof, if any, has become final.

(c) Notwithstanding the provisions of Section 4.10.010, a Licensee shall operate no more than one Cardroom in the City and shall hold no more than one Special Business License issued pursuant to this Chapter to operate that Cardroom; and no more than one Cardroom shall be located within a single structure or at a single location.

4.20.030 EMPLOYEE PERMITS.

(a) No person shall work in a Cardroom as a manager or cardroom dealer, and no person who holds a Special Business License authorizing operation of a Cardroom shall employ any person as a cardroom manager or cardroom dealer unless such person possesses a valid Employee Permit issued pursuant to the provisions of Chapter 4.10 and this Chapter.

(b) Notwithstanding the provisions of Section 4.10.095, an Employee Permit as a cardroom manager or cardroom dealer shall authorize the permittee to operate as a cardroom manager or cardroom dealer in any Cardroom possessing an unrevoked, unexpired, and valid Special Business License issued pursuant to this Chapter authorizing the operation of such Cardroom within the City. Notwithstanding the provisions of Section 4.10.095, the Employee Permit shall not include the name and address of the Card room for which the Employee Permit is issued as the Employee Permit authorizes the permittee to operate within any Cardroom as indicated above.

(c) Upon demand by the Chief of Police, the Cardroom shall provide the Chief of Police with the full name and the residence address of persons operating as cardroom managers or cardroom dealers in the Cardroom.

4.20.035 APPLICATION FOR PERMITS. In addition to the matters prescribed by Section 4.10.080, an application for an Employee Permit to serve as a cardroom manager or cardroom dealer shall contain a list of each criminal conviction of the applicant, pleas of guilty, or pleas of nolo contendere. The list shall, for each such conviction or pleas, set forth the date of arrest, the offense charged, and the offense of which the applicant was convicted.

4.20.040 ISSUANCE OF PERMIT. Upon receipt of an application for an Employee Permit to serve as a cardroom manager or cardroom dealer, the Chief of Police shall conduct such investigation pursuant to Section 4.10.085 as he or she deems necessary. The Chief of Police shall issue the permit unless he or she finds pursuant to Section 4.10.090 any of the following:

(a) That the application fails to contain information required by the Chief of Police or Section 4.20.035, or is otherwise incomplete;

(b) That information contained in the application is false or otherwise inaccurate;

(c) That the applicant has been convicted of a crime and the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under California Penal Code Section 1203.4; or has done any act involving dishonesty, fraud or deceit with intent to substantially benefit him or herself, or another, or substantially injure another; and the Chief of Police concludes that by reason of the crime or act there is a substantial risk that the applicant would perform his or her duties as a cardroom manager or dealer in an unlawful manner or in a manner which subjects patrons of the Cardroom to risk of harm or criminal, deceitful or otherwise unethical practices.

Notwithstanding the foregoing, an application shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under California Penal Code Section 4852.01, et seq., or that the person has been convicted of a misdemeanor if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under California Penal Code Section 4852.05, or;

(d) That the applicant has violated or is in noncompliance with any of the provisions and requirements of this Chapter or other applicable law or administrative rule or regulation.

(e) That the applicant is disqualified from holding a state gambling license for any of the reasons specified in the Gambling Control Act, Business & Professions Code Sections 19850 and 19914.

(f) That the State of California objects to the issuance of the permit pursuant to the Gambling Control Act, Business and Professions Code sections 19850 and 19912.

4.20.045 SUSPENSION AND REVOCATION OF PERMITS.

(a) An Employee Permit may be revoked or suspended pursuant to Section 4.10.140 upon any of the following grounds:

(1) Violation of any of the duties, requirements or prohibitions set forth in any administrative regulations issued pursuant to this Chapter, Chapter 4.02 or 4.10;

(2) Misrepresentation of a material fact contained in the application for the permit;

(3) The Chief of Police has acquired information supporting a finding prescribed by Section 4.20.040(c) in relation to the holder of the permit; or

(4) The holder of the permit has violated any term, condition or requirement or prohibition established by this Chapter which is applicable to the holder of the permit.

(b) An Employee Permit may be temporarily suspended pending expiration of the time for appeal or exhaustion of an appeal pursuant to Section 4.10.145, as applicable.

4.20.050 BOND. Before issuing a Special Business License under the provisions of this Chapter, the City Council shall require the applicant, as a condition to the issuance of the Special Business License, to post with the City a cash bond in the sum of Two Thousand Dollars (\$2,000) or a surety bond in the same amount furnished by a corporate surety authorized to do business in the State payable to the City. The bond shall guarantee that the Licensee shall redeem all chips for cash, and the bond shall be kept in full force and effect by the Licensee throughout the term of the License.

The provisions of this Section shall not be applicable to card games played or held by fraternal and veterans organizations, benefit associations, churches and other non-profit organizations operating the games for charitable purposes for participation by their members or bona fide guests.

4.20.055 RESPONSIBILITY OF LICENSEE. The holder of a Special Business License issued pursuant to this Chapter and Chapter 4.10 shall be financially and otherwise responsible for the operation of the Cardroom and for the conduct of any manager or other employee connected with the operation of the Cardroom. All employees of the Cardroom shall be identified by a name tag measuring no smaller than one inch by three inches and the tag shall be worn in plain view on the upper body of the employee.

4.22.060 RECORDS AND AUDIT.

(a) The Licensee shall keep full and accurate records of the income and expenses received and disbursed in connection with the operation, conduct, promotion, suspension, and any other phase of the Cardroom enterprise and card games which are authorized by this Chapter. The records shall be of such types and maintained in such manner as may be prescribed by the Chief of Police. Upon demand, the Chief of Police or any other authorized representative of the City shall have the right to examine and audit such records at any reasonable time and the license holder shall fully cooperate by making such records available.

(b) The records described in subdivision (a) of this Section shall be subject to disclosure only pursuant to any suspension, revocation, or other proceedings conducted under this Chapter, Chapter 4.02 or 4.10; any civil or criminal investigation conducted by the Chief of Police, the District Attorney, the Grand Jury or the City Counsel. For all other purposes, the records shall be kept confidential by the Chief of Police, as custodian of those records.

4.20.065 TEMPORARY SUSPENSION.

(a) The Chief of Police shall have the authority to temporarily suspend the Special Business License and to order the Licensee to immediately cease and desist any further operation of the Cardroom pending expiration of the time for appeal or exhaustion of an appeal pursuant to the provisions of Section 4.10.145 if the Chief of Police finds that such temporary suspension is necessary in order to protect against a serious and immediate threat to the health or safety of the public caused by exercise of the License and one of the following occurs:

(1) The Licensee is operating the Card room in a manner which is a serious and immediate threat to the health or safety of the public;

(2) The Licensee is in violation of any of the provisions of this Chapter, Chapter 4.02, Chapter 4.06, Chapter 4.10, administrative regulations adopted pursuant to those Chapters, the Penal Code of the State of California, or any applicable law, rule or regulation; or,

(3) The Chief of Police makes a finding pursuant to Section 4.10.040(c) and that by reason of the crime or act the patrons of the Cardroom and the public are subject to the immediate risk of harm or criminal, deceitful or otherwise unethical practices.

4.20.070 TEMPORARY SUSPENSION - NOTICE OF SUSPENSION AND APPEAL.

(a) The temporary suspension shall be effective no sooner than 24 hours following the time and date of delivery of the notice thereof as provided in Section 4.10.145. The procedures for notice, for service of such notice, and for response by the Licensee prior to the commencement of the temporary suspension shall be as prescribed in Section 4.10.145.

(b) The appeal by the holder of a Special Business License of the revocation or suspension of its license pursuant to Section 4.10.135, whose license has been temporarily suspended, shall be as provided in Section 4.10.150.

4.20.075 CONDUCTING A CARDROOM OR OPERATING AS A CARDROOM MANAGER OR DEALER AFTER TEMPORARY SUSPENSION. It shall be unlawful for the holder of a Special Business License to operate a Cardroom after temporary suspension of the Special Business License pursuant to Sections 4.20.065 and 4.20.070, and it shall be unlawful for the holder of a Cardroom Employee Permit to operate as a cardroom manager or dealer in a Cardroom after temporary suspension pursuant to Section 4.20.045 and Section 4.10.145 and such violation shall be punishable as a misdemeanor.

4.20.085 TABLE OPERATION FEE.

(a) In addition to any application or renewal license fees imposed by the City pursuant to Chapters 4.06 and 4.10 upon the business of a Cardroom, such Cardroom shall be charged a quarterly table operation fee for each card table operated by the Licensee or to be operated by the applicant. The amount of this quarterly fee shall be as prescribed from time to time by resolution of the City Council and shall be based upon the cost to the City of enforcement and administration of this Chapter as provided by Section 4.02.060.

Exempted from this quarterly fee are additional tables used for promotional or tournament play except that pursuant to Section 4.20.100(a) the total number of regular tables and promotional or tournament tables in use shall not exceed seven (7) tables. Such promotional or tournament play and the use of such additional tables for such promotions and tournaments shall not exceed four days in any calendar month. The Chief of Police shall be notified seven days in advance of the promotional or tournament events and shall be notified of the duration and dates of such events.

(b) The quarterly table operation fee shall be paid quarterly by the applicant or Licensee to the City Manager. The first quarterly fee shall be due at the filing of the initial application for a Special Business License to conduct a Cardroom. Thereafter, the quarterly due dates for payment of the quarterly table operation fee shall be on January 1, April 1, June 1, and September 1; except, if any of these days falls on a Sunday or a City holiday, the quarterly due date for payment shall be the day after such Sunday or City holiday. The quarterly table operation fee shall be delinquent if not received or postmarked on or before the quarterly due date for payment as such quarterly due date is defined above. Prior to the beginning of each quarter, the Licensee shall notify the Chief of Police as to the number of tables to be operated for that new quarter and shall pay to the City Manager the table operation fee accordingly. In the event that the Licensee reduces the number of tables in operation during a quarter, the City shall not rebate any of the previously paid table operation fee for that quarter. In the event that the Licensee desires to increase the number of tables in operation during a quarter, the Licensee shall pay to the City Manager the appropriate table operation fee for that entire quarter regardless of when the additional table(s) are added.

(c) On the denial by the Chief of Police of an application or a renewal of a Special Business License to conduct a Cardroom the quarterly table operation fee paid by the applicant or Licensee at the time of filing the initial application or the renewal shall be rebated to the applicant or Licensee by the City Manager. The rebate shall not be made by the City Manager until the appeal period on the denial has elapsed or, if an appeal is filed, until a final decision upholding the denial has been made and the appeal has become final in the administrative or judicial process, whichever is applicable.

If the applicant's or Licensee's appeal of the denial is granted, the applicant or Licensee shall owe and pay the appropriate table operation fee to the City Manager prior to the issuance of the Special Business License.

4.20.090 HOURS OF OPERATION.

(a) Except as otherwise provided hereinafter in subdivision (b) of this section, the Licensee may operate a Cardroom twenty-four (24) hours a day and seven (7) days a week.

(b) Applicants for a Cardroom license to operate a Cardroom after the effective date of this ordinance, shall be required to secure a use permit as approved by the appropriate authority in accordance with the requirements of the Zoning Code of the City of Elk Grove. Operation of the Cardroom shall thereafter be in accordance with the hours set by the use permit.

4.20.095 GAMES PERMITTED.

(a) The only gambling permitted in a Cardroom in the City is Draw Poker, Lowball, Panguingue, Hold'em, and Seven Card Stud. The permitted games shall be played only in the following manner:

(1) "Draw Poker" and "Lowball" are played with a standard 52 card deck, with joker options. Each player is dealt five cards face down, prior to any betting. After receiving their cards, players determine whether to stop playing that hand (fold) or to place their bets. Following the first round of betting, players have the option of keeping their originally dealt cards or discarding non-desired cards and replacing them with a like number of cards drawn from the deck (the "draw"). Following the "draw," there is a second round of betting. The goal in "Draw Poker" is to garner the betting pool or common pot with the highest ranking poker hand. The goal in "Lowball" is to garner the betting pool or common pot with the lowest ranking poker hand. Acceptable variations of "Draw Poker" include the dealing of seven cards instead of five and the splitting of the pot between the player holding the highest ranking hand and the player holding the lowest ranking hand.

(2) "Panguingue" is played with 6 to 12 decks of cards with the eights, nines, tens, and jokers removed. Each player is dealt 10 cards and the purpose of the game is to meld sets and sequences of cards with certain cards having special values. Each player, in turn, draws either a card from the top of the remaining deck or from the top of an adjacent discard pile. This sequence of play continues until one player goes out with a total meld of eleven cards, including the card just drawn.

(3) "Hold'em" is played with one standard deck of cards. Each player is dealt a pre-determined number of "hole" cards face down. After the initial deal, there is a round of betting. Then three "community" cards are dealt face up in the center of the table. There is another round of betting. A fourth card is dealt face up in the center of the table. There is a third round of betting. Then a fifth card is dealt face up in the center of the table. There is a final round of betting. Players use any of the five "community" cards and a pre-determined minimum number of their "hole" cards to make the best five card poker hand. Acceptable variations of "Hold'em" include the low and high/low versions.

(4) "Seven Card Stud" is played with one standard deck of cards. Each player is dealt two cards face down and one card face up. There is a round of betting. Players are dealt one up card followed by a round of betting. Players are again dealt one up card followed by a third round of betting. Those players electing to remain in the game are dealt another up card followed by a fourth round of betting. Finally, the remaining players are dealt one down card for a total of seven cards-three down and four up. A fifth and final round of betting occurs. Each remaining player selects five of his seven cards to form the best five card hand. Acceptable variations of "Seven Card Stud" include the low and high/low versions.

(b) Written rules for each card game offered by a Cardroom pursuant to subdivision (a) of this Section shall be provided to any patron upon request. The Licensee shall file with the Chief of Police a written copy of the rules to each card game played in the Cardroom. Any deviation or change in the rules of any card game or any new card game from that on file with the Chief of Police shall require the approval of the Chief of Police prior to offering the card game to patrons. The Chief of Police shall review the new card game or any deviation or change in the rules and shall within ninety (90) days approve the game provided it conforms with the requirements of subdivision (a) of this Section and this Chapter; and, if the game is patented, the Licensee shall obtain written permission from the patent-owner prior to offering the game to patrons and prior to acquiring the approval of the Chief of Police to conduct the game.

(c) Except as provided in subdivision (a) of this Section, all other gaming (including, but not limited to, gaming played with cards, dice, or any device for money) not otherwise prohibited by the California Penal Code is prohibited. Nothing herein contained in this Chapter shall be construed to permit the licensing of any gambling declared illegal by the Penal Code.

4.20.100 EQUIPMENT- SEPARATION.

(a) No Cardroom shall maintain more than seven card tables. Chairs shall be provided for all card players. No more than twelve players shall be permitted to play at any time at any one table. Authorized games shall not utilize dominoes, tiles, dice, spinning wheels, electronic player-controlled machines or any other device other than the standard decks of playing cards traditionally used for playing such games, poker chips, and the optional dealer shoes.

(b) Each licensed Cardroom shall be maintained separate and apart from any other room or business operated in the building, but may be connected by a door.

4.20.105 MINORS PROHIBITED. No person under the age of twenty-one (21) years shall be permitted to frequent a Cardroom or to engage in any card game conducted therein.

4.20.110 BETS LIMITED - NOTICE. No player shall be permitted to wager or raise a wager more than Forty Dollars (\$40). Other than seated players actively participating in the game, no person shall be permitted to place a wager on any card

game, and a player shall only place a wager on his or her own card hand. Back-line betting or side-betting is prohibited. No player shall be permitted to bet with cash money, markers, or anything other than poker chips. Notice of all the provisions and restrictions provided in this Section shall be posted in a conspicuous place in the Cardroom.

4.20.115 NOTICE OF TABLE RENT. The Licensee shall post in a conspicuous place in the Cardroom notice of the amount of table rent to be charged for each table and notice of the total number of tables permitted to be in operation during the particular quarter.

4.20.120 CREDIT PROHIBITED. No Cardroom shall extend credit to any patron in order for the patron to participate in a card game.

4.20.125 DISPLAY OF LICENSES AND PERMITS. A copy of the Special Business License applicable to the Cardroom premises and the Employee Permit of any person employed as a manager or dealer shall be posted and exhibited while in force in some conspicuous place on the Cardroom premises.

4.20.130 PROTECTION OF PATRONS.

(a) Whenever it appears to the Chief of Police that security personnel are necessary to protect the health and safety of the public, the Chief of Police shall have the authority to require that a Cardroom provide uniformed security personnel on the premises and the parking lot used by the Cardroom for its patrons and employees. The Chief of Police shall determine the necessity for the requirement for security personnel based on the propensity for peace disturbances or criminal activity in the geographic area in which the Cardroom is located, based upon criminal activity or peace disturbances on Cardroom premises, based upon the particular time of day, or any other factors which affect the health and safety of the public and Cardroom patrons. The Chief of Police shall notify the Licensee, in writing, as to time periods, days of the week during which security is required, the number of security officers, and the location where such officers are to be provided (whether in the parking lot or on the premises). Upon receiving the written notice of security requirements, the Licensee shall conform to those requirements within forty-eight (48) hours of service thereof and shall maintain those requirements in full force and effect until such time as the Chief of Police deems they are no longer necessary.

(b) Between the hours of 2:00 a.m. and 6:00 a.m., the Licensee shall not knowingly permit the consumption of alcoholic beverages on the premises or in the parking lot which the Cardroom uses for its patrons.

(c) The Licensee shall not knowingly permit any obviously intoxicated person to participate in any card game.

(d) The Licensee shall not knowingly permit any illegal activity to occur on the premises or in the parking lot used by the Cardroom for its patrons or employees.

Illegal activity includes, but is not limited to, narcotics violations, bookmaking, illegal gambling, loansharking, receiving stolen property, or prostitution.

(e) The Licensee shall permit the Chief of Police, the City Manager, Fire Department or any other authorized public official to inspect the premises at any time during the hours of operation.

4.20.135 EXCLUSION OR EJECTION FROM A CARDROOM.

(a) Pursuant to Business and Professions Code Section 19845, the Licensee shall be permitted to exclude or eject from the Licensee's Cardroom, any individual who has engaged in or been convicted of bookmaking, sale of controlled substances, or illegal gambling activities, or whose presence in or about the Cardroom would be inimical to the interests of legitimate gaming. The Licensee shall not exclude or eject any person on the grounds of any protected class under state law including, but not limited to, race, color, creed or sex. Any individual who is excluded or ejected from any Cardroom and who refuses to leave the premises is subject to arrest for trespassing under Section 9.80.010.

(b) Pursuant to Section 19844 of the Business and Professions Code, any individual who is excluded or ejected from any Cardroom may apply to the Chief of Police for a hearing on the question of whether subdivision (a) of this Section is applicable. The hearing shall be held within 30 days after filing of the request for hearing with the Chief of Police or at such time as the applicant and Chief of Police may agree. If, upon the hearing, the Chief of Police determines that the rule of exclusion or ejection as provided in subdivision (a) of this Section does not or should not apply to the applicant, the Chief of Police shall notify all Cardrooms licensed by the City pursuant to this Chapter of such determination. If the Chief of Police determines that such exclusion or ejection was proper, the Chief of Police shall make an order to that effect which shall be a final administrative order. Such order shall be subject to review by any court of competent jurisdiction in accordance with law.

(c) Pursuant to Section 19846 of the Business and Professions Code, notwithstanding any other provision of law, no Cardroom which ejects or excludes any individual based upon the provisions of subdivision (a) of this Section shall be subject to civil liability if such ejection or exclusion was based upon a reasonable and good faith belief that subdivision (a) of this Section applied to the individual in question.

4.20.140 CONFLICTS.

(a) If any section, subdivision, clause, phrase or portion of this Chapter conflicts with any section, subdivision, clause, phrase or portion of an express provision of the City of Elk Grove Zoning Code, or conditions of a use permit of the Zoning Code, or other administrative approvals issued under the Zoning Code, then the City of Elk Grove Zoning Code, conditions of the use permit under the Zoning Code, or the administrative approvals issued under the Zoning Code shall prevail.

(b) If any section, subdivision, clause, phrase or portion of this Chapter conflicts with any section, subdivision, clause, phrase or portion of The Gaming Registration Act (Business and Professions Code commencing with Section 19800, et seq.) as required by the State of California, then The Gaming Registration Act shall prevail.

4.20.145 SEVERABILITY. If any section, subdivision, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

CHAPTER 4.21

BINGO GAMES

Sections:

- 4.21.000 Statement of Purpose.
- 4.21.005 Bingo Prohibition.
- 4.21.010 Definition of "Bingo."
- 4.21.015 Definition of "Bingo Game."
- 4.21.017 Definition of a "Bingo Session."
- 4.21.020 Definition of "Security."
- 4.21.025 Definition of "Member."
- 4.21.027 Prohibition of Member Participation in Staffing Bingo Games.
- 4.21.030 Chief of Police.
- 4.21.035 Organizations Eligible For License.
- 4.21.040 Contents of the Application.
- 4.21.045 Bingo Manager.
- 4.21.050 License Fee.
- 4.21.055 Issuance of License.
- 4.21.060 Posting of License.
- 4.21.065 Profits - 23701(d) Organizations.
- 4.21.070 Proceeds - Other Organizations.
- 4.21.075 Records - Compliance Examination and Inspection.
- 4.21.080 Retention of Records.
- 4.21.083 Limitation of Involvement in Bingo.
- 4.21.085 Prohibition of Financial Interest in Bingo.
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- 4.21.100 Attendance Limited to Occupancy Capacity.
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- 4.21.115 Location of Games.
- 4.21.120 Limitation of Bingo Hours and Sessions.
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- 4.21.130 Temporary Suspension of Licensee Pending Opportunity for Hearing.
- 4.21.135 Notice of Temporary Suspension and Appeal - Appeal of Underlying Suspension or Revocation.
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- 4.21.155 Purchases from Bingo Suppliers.
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- 4.21.165 Regulation of Games and Equipment.
- 4.21.167 Computerized Equipment.
- 4.21.170 False or Misleading Advertising.
- 4.21.175 Receipt of Profit by a Person and Penalty for Violation of This Chapter.
- 4.21.180 Discontinuance of Bingo Games.

4.21.000 STATEMENT OF PURPOSE. Past enforcement experience in other jurisdictions has demonstrated the following:

(a) City time, effort and expense to regulate and monitor bingo are increasing significantly. State and City laws demand a technical accounting of proceeds. As volume increases, the City's ability to audit, and enforce state and local law is compromised. Although many operators are highly efficient and reputable, others are inefficient and creative in avoiding the letter of the law.

(b) If all licensees were efficient and reputable, regulatory supervision would be almost perfunctory. Such is the case with many existing licensees. Others, however, require exhaustive monitoring and enforcement. Integrity is a difficult commodity to ascertain in advance of licensure. Thorough screening of applicants prior to licensure is desirable. Pursuant to Sections 4.10.035 and 4.10.040, the Chief of Police conducts a thorough investigation into the background of applicants, and their organizations, in order to assure that licensure would not set the stage for fraud and deceit. Such investigation is particularly difficult when applicants have no local track record.

(c) Both newly chartered and out of the jurisdiction charities have proven to be problematic. Several have folded within months of licensure due to financial collapse. While some financial failure may be innocently explained, others are clearly bankrupted by the misappropriation of charitable proceeds. Whether innocent or criminal causes underlie these failures, short-lived charities monopolize an inordinate amount of City expense, which never ripens to benefit any charity.

A one year operational prerequisite would allow City energies to be more efficiently allocated. Pre-license screening would be supplemented with the objective track record of each applicant. The number of unstable or pretextual organizations would be reduced.

Accordingly, it is the finding of the City Council that a twelve month operational prerequisite would eliminate many of the above problems, without undue burden to stable and reputable charities. The purposes of this Chapter are to protect the health, safety and welfare of the citizens within the City, to assure that City expenditure is efficiently allocated, and to safeguard legitimate charitable purposes.

The purpose for allowing an eligible organization to conduct bingo games in the City is to provide that organization an additional source of revenue to further the purpose for which that organization was created. A licensee organization conducting bingo games without generating a profit from those games does not fulfill the purpose for which bingo is permitted.

Organizations with a proven track record demonstrating that the game can produce a certain level of profits for charitable purposes, as opposed to proceeds going largely to overhead expenses of the game, should be allowed to conduct further games on various days of the week.

The purpose of requiring a separate license for separate functions of bingo operations, such as a bingo parlor license, a bingo supplier license, and a license for the actual conduct of the games, is to ensure that each function is conducted by a separate and independent person or entity. Such regulation aids in assuring the integrity of the game and in minimizing the problems of undue influence being used against an organization that is licensed to conduct bingo. Recent history has shown that nonprofit organizations are not beyond exercising undue influence against smaller organizations and channeling some of the monies meant for charitable purposes into the private accounts of dishonest members. Further, requiring separation of functions lessens the opportunity for fraud, collusion, and self-dealing.

The purpose of requiring those organizations licensed to conduct bingo games to pay amounts owed to the bingo parlor before the next day of bingo operation and to pay the bingo supplier within thirty days of the invoice date or ten days of the statement date, whichever occurs later, is a direct effort to preclude the parlor or the supplier from acquiring a financial interest in the games. The existence of a debtor-creditor relationship is inimical to the integrity of the bingo games. In the realm of gaming, and bingo is gaming, debts owed to the parlor or supplier by the organization licensed to conduct bingo can be used by the parlor or supplier to exert undue influence on the conduct of the games, and to increase the overhead expenses charged to these organizations. Organizations indebted to the parlor or supplier are thus placed in a position of sharing profits with the parlor or supplier to the detriment of the charitable purpose.

4.21.005 BINGO PROHIBITION. No person shall operate a bingo game in the City without possessing a valid, unrevoked and unexpired Special Business License issued pursuant to the provisions of this Chapter and City Regulations adopted pursuant to this Chapter, and except in conformance with Section 326.5 of the California Penal Code, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation.

4.21.010 DEFINITION OF "BINGO." As used in this Chapter, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conform to numbers or symbols selected at random. The game of bingo shall include cards having numbers or symbols that are concealed and preprinted in a manner providing for the distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend as follows: "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." Although "cards" colloquially may refer to a cardboard card, it is permissible for a "card" to be a sheet of paper with multiple card faces preprinted on it and is included herein within the definition of "card."

The game of bingo includes the use of an electronic bingo aid in conjunction with bingo cards to assist a bingo player participating in bingo games to identify a winning card, when used under the conditions set forth in Section 4.21.167(b). The term "electronic bingo aid" is defined as any mechanical, electronic, or computerized aid,

(including related hardware and software), that is interfaced with or connected to equipment that allows a player to store, display, and mark bingo card faces programmed into the device. This definition of electronic bingo aid includes the individual hand held or table top unit or component used by a player, the related equipment and system with which the hand held or table top unit is interfaced with, and all other related systems, equipment, software, hardware, and circuitry, that together comprise the electronic bingo aid.

Definitions, powers, conditions and restrictions set forth in this Chapter are intended to comply with and implement applicable California Constitution and Penal Code provisions. To the extent that any provision of this Chapter is substantially the same as that contained in Section 326.5 of the Penal Code, and violation thereof is a violation of that Penal Code section and punishable thereunder, such provision of this Chapter is explanatory only.

4.21.015 DEFINITION OF "BINGO GAME."

(a) The total value of prizes awarded during the conduct of any bingo game shall not exceed \$250 in cash or kind, or both, for each separate game which is held. A bingo game starts when the first ball or number symbol is called and ends when the first ball and all succeeding balls or number symbols are returned to the cage or blower. Each progressive play in a series which continues to utilize and count any number symbols called and utilized in a previous part of this progression shall be deemed part of the same bingo game, even if a separate prize is awarded for each part of the progression. The cumulative prizes awarded for a "progressive" or other similar bingo game shall not exceed \$250 in cash or kind or both.

(b) It shall be unlawful for any person to establish, provide or authorize the establishment or provision of a prize or prizes in violation of the provisions of this Section, and a violation of the provisions of this Section shall constitute grounds for revocation of a Special Business License authorizing the operation of bingo games issued pursuant to the provisions of this Chapter and Chapter 4.10.

4.21.017 DEFINITION OF A "BINGO SESSION." A bingo session shall not exceed six (6) hours in duration. A session begins when the first game starts.

4.21.020 DEFINITION OF "SECURITY." Security shall mean the person(s) who protects bingo players, bingo licensees, and volunteers from exposure to danger. The security person(s) shall be prohibited from the sale or the distribution of bingo materials or otherwise participating in non-security activities before, during, and after the bingo session. However, this provision does not preclude security from accompanying the licensee with the session's net proceeds to a night depository immediately after the session.

4.21.025 DEFINITION OF "MEMBER."

(a) Each licensee shall have written policies incorporated in its constitution, articles, by-laws, or other regulations setting forth the manner in which a person may

become a bona fide member of the organization. Absent any such written policies, it shall be presumed that the organization has no members who may operate or staff bingo games within the meaning of Section 326.5 of the Penal Code.

(b) The licensee shall keep a full and accurate list of its members. The Chief of Police or any other authorized representative of the City is entitled to examine and investigate such list at any reasonable time, and the licensee shall cooperate in making such records available upon demand of the Chief of Police.

4.21.027 PROHIBITION OF MEMBER PARTICIPATION IN STAFFING BINGO GAMES. A volunteer or member shall not participate in the staffing of bingo games if the Chief of Police makes a finding that such volunteer or member:

(a) Has violated any applicable prohibition or requirement of this Chapter or Title or applicable administrative regulations adopted pursuant to this Chapter or Title; or has been convicted of a crime, and the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under California Penal Code Section 1203.4; or,

(b) Has done any act involving dishonesty, fraud or deceit with intent to substantially benefit him or her or another, or substantially injure another;

(c) And, that by reason of the violation, crime, or act, there is a substantial risk the member may perform his or her duties of staffing the bingo game in an unlawful manner or in a manner which subjects patrons of the bingo game to risk of harm or criminal, deceitful or otherwise unethical practices.

Notwithstanding the foregoing, a member shall not be prohibited from staffing a bingo game solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under California Penal Code Section 4852.01 et seq., or that the person has been convicted of a misdemeanor if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person under California Penal Code Section 4852.05.

4.21.030 CHIEF OF POLICE. The Chief of Police is charged with the responsibility of administering the regulations imposed by this Chapter and exercising the authority conferred thereby. Such authority shall include the power and duty to issue Special Business Licenses authorizing bingo games, promulgate and enforce administrative regulations, and otherwise perform the duties and exercise the authorities conferred herein.

4.21.035 ORGANIZATIONS ELIGIBLE FOR LICENSE. Organizations which are exempted from the payment of the bank and corporation tax by Section 23701(a), 23701(b), 2370(d), 23701(e), 23701(f), 23701(g), and 237011 of the Revenue and Taxation Code, mobile home park associations and senior citizens organizations shall be eligible to apply for and receive a Special Business License to conduct bingo games in the City pursuant to the provisions of the California Constitution, Section 326.5 of the Penal Code, and the provisions of this Chapter only if the proceeds of such games are

used for charitable purposes and only if the applicant has owned or leased property or occupied donated property within the City that has been used by the applicant for the performance of the charitable purposes for which the applicant is organized for at least twelve (12) consecutive months immediately preceding the filing of such application. The required consecutive twelve month period need not be as an organization that is exempt from the payment of bank and corporation tax. With the foregoing exceptions, no other person shall be qualified or eligible to receive such a license.

4.21.040 CONTENTS OF THE APPLICATION. In addition to the matters prescribed by Section 4.10.030, an application for a Special Business License to conduct bingo games shall contain the following:

(a) The names and signatures of at least two officers, including the presiding officer of the organization who will be primarily responsible for conducting bingo games. In the event of any change in persons holding such offices, the licensee shall within ten (10) days of change notify the Chief of Police, in writing, of such change, specifying the name, address, date of birth, and telephone number of such officer(s);

(b) A description of the property on which bingo games will be conducted, including the street number, whether owned or leased, applicant's current use of the premises, and the occupancy capacity of the property;

(c) A copy of the deed, lease or other written instrument by which the applicant will acquire entitlement to occupy the premises where the bingo games will be conducted, and a description of all uses which the applicant will make of the premises;

(d) A statement of the specific charitable purpose(s) for which the applicant is organized;

(e) Proposed day(s) of the week and hours for conduct of bingo games;

(f) Such proof as may be required by the Chief of Police that the applicant is eligible and qualified to receive a Special Business License under Section 4.21.035. If eligibility is based on an exemption from payment of the bank and corporation tax, the application shall be accompanied by a certificate of determination of exemption under the applicable Section of the Revenue and Taxation Code, or a letter of good standing from the Exemption Division of the Franchise Tax Board showing such exemption;

(g) A statement that the applicant agrees to conduct bingo games in strict accordance with the provisions of Section 326.5 of the Penal Code, this Chapter, City Regulations adopted pursuant to this Chapter, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation and agrees that the license may be revoked by the Chief of Police upon violation of any such provisions; and

(h) The application shall be signed by the applicant under penalty of perjury.

4.21.045 BINGO MANAGER. Concurrently, with the filing of an application, each applicant shall file a statement specifying the name, address, e-mail address, if any, telephone number and birth date of one or more persons who shall manage, supervise and be responsible for the conduct of all bingo games by the applicant. Such person(s) shall be known as the bingo manager(s), shall sign the statement accepting such responsibility and shall be present on the premises at all times during which bingo games are conducted. In the event any other person is designated as the bingo manager by any licensee, the licensee shall within ten (10) days of such designation file a new statement containing all of the data specified in this Section.

4.21.050 LICENSE FEE. Each holder of a Special Business License to conduct bingo games shall, pursuant to the authority conferred by Section 326.5 of the California Penal Code, pay to the Chief of Police a fee prescribed by City Council paid upon application for a Special Business License or the application for renewal thereof. A bingo monitoring fee, prescribed by a Resolution of the City Council, for law enforcement and public safety costs incurred by the City that are directly related to bingo activities shall be imposed and shall be collected monthly by the City and such additional fee shall not exceed the actual costs incurred in providing the service.

4.21.055 ISSUANCE OF LICENSE. The Chief of Police shall issue a Special Business License for bingo games unless one or more of the findings prescribed by Section 4.10.040 are made, or the Chief of Police makes one or more of the following findings in writing:

- (a) The bingo games will be a fraud on the public;
- (b) The bingo games will be conducted at a location or in a manner or the proceeds thereof will be accounted for or expended in a manner which violates, or the applicant has violated, Section 326.5 of the Penal Code, this Chapter, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation;
- (c) The identity of the applicant or proposed method or methods of conducting bingo games are contrary to the provisions of Section 326.5 of the California Penal Code, this Chapter, City Regulations adopted under this Chapter, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation;
- (d) The applicant will be maintaining an inadequate system of record keeping and accounting relating to the conduct of the games and disposition of the proceeds therefrom;
- (e) The application does not conform to the requirements, terms, and conditions of this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation; or,
- (f) The applicant holds a current license under Chapters 4.22 or 4.23.

4.21.060 POSTING OF LICENSE. The Special Business License shall be conspicuously posted at the location of the bingo games.

4.21.065 PROFITS - 23701(d) ORGANIZATIONS. With respect to organizations exempt from payment of the bank and corporation tax by Section 23701(d) of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account, and shall not be commingled with any other fund or account. Such profits shall be expended only for the charitable purposes stated in the application for bingo license or in the Articles of Incorporation of such organization. These profits shall not be used for the private gain of any individual.

4.21.070 PROCEEDS -OTHER ORGANIZATIONS.

(a) With respect to organizations licensed under this Chapter which are not exempt from payment of the bank and corporation tax by Section 23701(d) of the Revenue and Taxation Code, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. These proceeds shall not be used for the private gain of any individual. The proceeds shall be expended only for the charitable purposes stated in the application for bingo license or in the Articles of Incorporation of such organization, except as follows:

- (1) Such proceeds may be used for prizes;
- (2) A portion of such proceeds, not to exceed twenty percent (20%) of the proceeds before the deduction for prizes, or two thousand dollars (\$2,000) per month, whichever is less, may be used for rental of property, overhead, the purchase of bingo equipment, administrative expenses, security equipment and security personnel; and,
- (3) Such proceeds may be used to pay license fees.

(b) A licensee shall be deemed to violate Section 326.5(k)(2) of the California Penal Code and Subdivision (a)(2) of this Section if expenses during any particular month exceed two thousand dollars (\$2,000). If expenses do not exceed two thousand dollars (\$2,000) per month, the twenty percent (20%) limitation shall be applied annually at the conclusion of each twelve (12) months of operation.

4.21.075 RECORDS - COMPLIANCE EXAMINATION AND INSPECTION.

(a) The licensee shall keep full and accurate records of the income received and expenses disbursed in connection with its operation, conduct, promotion, supervision, and any other phase of bingo games. Such records are to include but are not limited to: ledgers and accounts relating to inventory, proceeds, expenditures, and the distribution of all profits derived from bingo games, and any other records as are necessary to determine or establish compliance with the provisions of this Chapter, City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or

regulation. The records shall be of such types and maintained in such manner as may be prescribed by the Chief of Police; and when not so prescribed, shall be of such types and maintained according to the requirements of generally accepted principles of accounting.

(b) The Chief of Police or any other authorized representative of the City shall have the right to inspect, conduct a compliance examination, review, audit, or photocopy, bingo licensee records as described in subdivision (a) of this Section at any reasonable time and the license holder shall fully cooperate by making such records and photocopies thereof available to the Chief of Police upon demand. The licensee shall deliver the records for the purpose of a compliance examination, review, audit, inspection, or for photocopy to the office of the Chief of Police during reasonable hours upon demand of the Chief of Police.

(c) Compliance examinations shall be conducted by the Chief of Police of bingo licensee records described in subdivision (a) of this Section not less frequently than annually, for each twelve (12) months of each licensee's operation.

(d) If the organizational structure of the licensee is such that an umbrella organization disburses bingo proceeds to member organizations, the records described in subdivision (a) of this Section which are subject to examination, review, audit, inspection, or photocopy shall include both the bingo records of the umbrella organization and its member organizations. For purposes of this Section, an umbrella organization is defined as a nonprofit, income tax exempt, charitable organization which is organized for the purpose of providing financial support to other nonprofit, income tax exempt, charitable organizations.

4.21.080 RETENTION OF RECORDS. The licensee shall keep and preserve the records described in Section 4.21.075(a) for the following period of time, whichever occurs later:

(a) Three (3) years;

(b) Until completion of a compliance examination; or

(c) Until the administrative or judicial appeal process, whichever is applicable, is final, if the license has been suspended, revoked, or a renewal denied.

4.21.083 LIMITATION OF INVOLVEMENT IN BINGO. The bingo licensee shall not allow another person, sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture or other individual or entity to organize, manage, supervise, conduct, control or otherwise participate in or influence either the operation of its bingo game or the promotion thereof.

4.21.085 PROHIBITION OF FINANCIAL INTEREST IN BINGO.

(a) No individual, corporation, partnership, or other entity except the bingo licensee shall hold a financial interest in the conduct of any bingo game. A financial

interest includes, but is not limited to, situations in which a bingo licensee maintains accounts payable to a parlor licensee for parlor rents and other costs beyond the next day of bingo operation; or, maintains accounts payable to a bingo supplier beyond thirty (30) days of the invoice date or ten (10) days of the statement date, whichever occurs later. For purposes of this subdivision of this Section "invoice date" is defined as the date of delivery of such supplies and "statement date" is defined as the date within thirty (30) days of the delivery of supplies.

(b) A licensee that has not paid its supplier account(s) or parlor account(s) within the period provided in subdivision (a) of this Section shall not purchase additional supplies from any supplier or rent or incur other costs from any parlor until all accounts are brought into compliance with the required payment periods provided in subdivision (a) of this Section.

4.21.090 EXCLUSIVE OPERATION BY LICENSEE. Only the bingo licensee shall operate bingo games or participate in the promotion, supervision, or any other phase of the games. Bingo games shall be operated and staffed solely by members of the licensee; except that the licensee may retain or employ an off-duty law enforcement officer or security personnel at such bingo games. Such members shall not receive a profit, wage, salary, or compensation from bingo proceeds or bingo profits for services rendered from any bingo game. The term "compensation" as used in this Section includes, but is not limited to, cash, bingo paper, pull tabs, coupons, redeemable vouchers, discounts, or payment in kind. Neither the provisions of Section 326.5(b) & (h) of the Penal Code nor those of this Section shall be deemed violated if a bingo licensee reimburses members staffing the games for the actual and necessary costs which they incur in providing services associated with the conduct of the games.

4.21.095 STAFF MEMBER IDENTIFICATION. Any person participating in the operation, conduct or staffing of any bingo game shall wear on his or her outside clothing, in plain view, an identification insignia or badge measuring not less than 2 1/2 inches by 3 1/2 inches in size and specifying the name and title of such person and the name of the licensee organization.

4.21.100 ATTENDANCE LIMITED TO OCCUPANCY CAPACITY.

(a) 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 the game is conducted as determined by the fire department or district having jurisdiction in accordance with applicable laws and regulations.

(b) It is unlawful for a licensee to knowingly authorize or permit, and unlawful for any person to, reserve seats or space where bingo games are conducted.

4.21.105 LICENSING OF PREMISES. The license issued under this Chapter 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 for the conduct of bingo games by the licensee, the license shall

have no further force or effect. The bingo licensee shall file a new application, and such application shall be processed pursuant to the provisions of this Chapter, in order for the eligible organization to conduct bingo games at a new location or address.

4.21.110 OPERATING RULES. Each licensee shall formulate, publish and post in a conspicuous place at the location of the bingo games written rules by which the bingo games are conducted and which recite the prohibitions described below. It is unlawful for a licensee to knowingly authorize, permit, and unlawful for any person to do any of the following:

(a) Provide or award total prizes for each separate bingo game which exceeds two hundred fifty dollars (\$250) in cash or kind, or both;

(b) Limit attendance or participation in such games to members of the licensee or otherwise deny attendance or participation to any member of the general public who complies with the rules of the game and conducts himself or herself in an orderly and law abiding manner;

(c) Participate in a bingo game, if the participant is under the age of eighteen (18) years old;

(d) Participate in a bingo game where alcoholic beverages are consumed in the room where the bingo games are conducted or if the participant is under the influence of alcohol;

(e) Participate in bingo games, unless personally present at the location of the games at the time the games are being conducted.

In this Section "participate" is defined as including, but not limited to, the handling of bingo supplies or receipts during any bingo session.

4.21.115 LOCATION OF GAMES. A licensee shall conduct bingo games only on property owned or leased by it, or property whose use is donated to the licensee, and which property is used by the licensee for performance of the charitable purposes for which the organization is organized. Nothing in this Section shall be construed to require that the property be owned or leased exclusively by or donated exclusively to such organization. The requirements of the provisions of Section 326.5(f) of the Penal Code and those of this Section shall be deemed satisfied if the licensee conducts regular business meetings or other activities consistent with its charitable purposes, in addition to bingo games, upon the property which it owns, leases, or uses as a donee. A licensee need not use the property exclusively for activities which fulfill its charitable purposes or objectives.

4.21.120 LIMITATION OF BINGO HOURS AND SESSIONS.

(a) No bingo licensee shall conduct bingo games between the hours of 2:00 a.m. and 10:00 a.m. of the same day.

(b) Except as provided in this subdivision, no bingo licensee shall conduct more than one bingo session per week. To conduct more than one bingo session per week a licensee shall secure the permission of the Chief of Police. The licensee shall have a valid, unrevoked, and unexpired license to conduct such bingo games and shall submit a written application with information therein as required by the Chief of Police. The Chief of Police shall authorize the bingo licensee to conduct more than one session per week unless the Chief of Police makes one or more of the following findings in writing:

- (1) The bingo licensee is not an organization exempt from the payment of the bank and corporation tax as provided by Sections 23701(a), 23701(b), 238701(d), 23701(e), 23701(f), 23701(g), and 237011 of the Revenue and Taxation Code, or is not a mobile home park association, or a senior citizens organization; and, for at least two continuous years immediately preceding filing of the application for additional sessions has not existed and operated within the City. The two year consecutive period of existence and operation provided for herein, need not include exemption from payment of the bank and corporation tax;
- (2) The bingo licensee has failed, during the immediately preceding two (2) year period, to raise at least twenty-five thousand dollars (\$25,000) each year through public and private solicitations (including publicly funded grants and recreational and other fund raising activities, but exclusive of any revenue from the sponsorship of bingo games), and has failed to expend at least sixteen thousand dollars (\$16,000) during each of the preceding two (2) years on charitable causes; or, the bingo licensee has not conducted bingo games in the City for the preceding 12 months;
- (3) The bingo licensee has failed to equal or exceed, and has failed to maintain for at least 6 consecutive months, at least 75% of the average percentage Net Profit Available from bingo in the City as determined and defined by the Chief of Police from, but not limited to, bingo records of the licensee community during the previous City fiscal year;
- (4) The bingo licensee does not have enough volunteers to staff the extra sessions;
- (5) The bingo licensee's accounting records have never undergone a compliance examination by the Chief of Police or there exist uncorrected deficiencies from a compliance examination conducted by the Chief of Police;
- (6) The additional sessions will be detrimental to public safety, health or welfare; or

- (7) The licensee has failed to comply with other provisions of this Chapter, the City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation.

(c) The Chief of Police shall notify the bingo licensee in writing of the denial of a licensee's application to conduct more than one bingo session per week and shall in such notice state the reason(s) for the denial and that the licensee has fifteen (15) calendar days from the date of service of such written notice of denial to file an appeal of such denial. Upon timely request by the licensee, the appeal hearing process and related procedures shall proceed pursuant to the provisions of Section 4.10.115 through 4.10.130.

4.21.125 LOCATION RESTRICTION.

(a) Notwithstanding the permission contained in a Special Business License pursuant to Section 4.21.105, and notwithstanding any provision of this Chapter or Chapter 4.10 to the contrary, it shall be unlawful for any person who holds a Special Business License authorizing the operation of bingo games to conduct bingo games at a place which is or would by virtue of the conduct of such games be or become a bingo parlor, as defined by Section 4.22.010, unless the bingo parlor has been authorized by a valid unexpired, unrevoked Special Business License issued pursuant to the provisions of Sections 4.22.030 and Chapter 4.22.

(b) Notwithstanding any other provision of this Chapter or Chapter 4.10 to the contrary, violation of the provisions of subdivision (a) of this Section shall constitute grounds for revocation of a Special Business License authorizing the operation of bingo games issued pursuant to the provisions of this Chapter and Chapter 4.10.

4.21.130 TEMPORARY SUSPENSION OF LICENSE PENDING OPPORTUNITY FOR HEARING. The Chief of Police shall have the authority to temporarily suspend the bingo license by ordering in writing that the licensee immediately cease and desist any further operations of any bingo game pending expiration of the time for appeal or exhaustion of an appeal pursuant to the provisions and notice procedure of Section 4.10.145 if the Chief of Police finds that such temporary suspension is necessary in order to protect against a serious and immediate threat to the health or safety of the public caused by exercise of the license, and one of the following occurs:

(a) The bingo licensee is conducting a bingo game in violation of any of the provisions of this Chapter, Penal Code Section 326.5, the City Regulations adopted pursuant to this Chapter, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation;

(b) The bingo licensee has not made available for the conduct of a compliance examination, audit, review, inspection, or for photocopying, at any

reasonable time upon the demand of the Chief of Police all records necessary to determine or establish compliance with the provisions of this Chapter, City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation; or,

(c) The bingo licensee has not kept records as required by the Chief of Police, this Chapter, Penal Code Section 326.5, City Regulations adopted pursuant to this Chapter, or any other applicable State of California, City of Elk Grove or federal law, administrative rule or regulation; or, has not kept records necessary to determine compliance with applicable laws and administrative rules and regulations pursuant to generally accepted principles of accounting when such records are not prescribed to be kept in any specific manner or type by the Chief of Police, this Chapter, City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulations.

4.21.135 NOTICE OF TEMPORARY SUSPENSION AND APPEAL - APPEAL OF UNDERLYING SUSPENSION OR REVOCATION.

(a) The temporary suspension shall be effective no sooner than twenty-four (24) hours following the time and date of delivery of the notice thereof as is provided in Section 4.10.145 and the procedures for appeal and notice of temporary suspension shall be as prescribed in Section 4.10.145.

(b) Upon timely request by the licensee, the appeal hearing process and related procedures of a revocation or suspension of its license pursuant to Section 4.10.135 shall proceed pursuant to the provisions of Section 4.10.115 through 4.10.155.

4.21.140 CONDUCTING BINGO GAMES AFTER TEMPORARY SUSPENSION OR REVOCATION. Any person who continues to conduct a bingo game after temporary suspension pursuant to Section 4.21.130, or suspension pursuant to Section 4.10.135, is guilty of a misdemeanor.

4.21.150 RECEIVING BINGO PROCEEDS DURING SUSPENSION OR REVOCATION. Notwithstanding the provisions of Section 4.10.145, an organization whose license has been temporarily suspended, suspended, or revoked cannot receive bingo proceeds from any source during the period of temporary suspension, suspension, or revocation. A violation of this Section shall result in a permanent license revocation to the organization involved.

4.21.155 PURCHASES FROM BINGO SUPPLIERS. It is prohibited for bingo licensees to use bingo paper and pull tabs purchased from suppliers that are not licensed to conduct a bingo supply business by the City pursuant to Chapter 4.23.

4.21.160 INJUNCTION. The City may bring an action in a court of competent jurisdiction to enjoin a violation of Section 326.5 of the Penal Code, of this Chapter, City Regulations adopted pursuant to this Chapter, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation.

4.21.165 REGULATION OF GAMES AND EQUIPMENT. The Chief of Police may prescribe such regulations with respect to the conduct of the games and the equipment used by the licensee as deemed necessary to ensure the fairness and integrity of the games, and the accountability of the funds collected. Violation of such regulations shall constitute grounds for revocation of the Special Business License, as set forth in this Chapter and Chapter 4.10.

4.21.167 COMPUTERIZED EQUIPMENT.

(a) Except as provided in Subsection (b) of this Section, it shall be unlawful for organizations licensed under this Chapter to:

(1) Permit the use of machines, devices, or equipment that is computerized, electronic, or mechanical, in a bingo game;

(2) Operate, or allow to be played, any form of bingo in which the numbers to be called are selected by electronic means rather than by random selection of numbered balls from a pool of game balls.

(b) Electronic Bingo Aid.

(1) Purpose. The purpose of this Subsection (b) is not to permit the use of all electronic bingo aids in bingo. The purpose is to permit the bingo licensee to use an electronic bingo aid on the conditions and specifications set forth in this Subsection (b). It is contemplated that an electronic bingo aid will include individual units or components to be used by players and that these units or components will be activated by the organization licensed to conduct bingo for a player's operation. These individual player units or components are hand held or desktop devices used in conjunction with bingo cards. It is contemplated that an electronic bingo aid will permit a bingo player to input into an activated individual player unit or component randomly selected numbers called by the bingo licensee in order to match such numbers against programmed information to identify a winning card. The programmed information reflects the exact configurations of the bingo cards sold to and played by the player. The electronic bingo aid is not to alter the bingo cards. The electronic bingo aid is to be used in conjunction with bingo cards in order to assist the player identify a winning card. The electronic bingo aid is not to be used as an electronic or computerized game of bingo, or as a substitute for required bingo cards, or as a substitute for any other requirements of bingo as provided in this Chapter or Penal Code section 326.5.

(2) An electronic bingo aid may be used by bingo players in conjunction with bingo cards to assist in the identification of a winning card if the bingo licensee complies with the conditions set forth in this Section, and if the organization complies with all other required provisions of Chapter 4.21 herein and Penal Code section 326.5. Violation of any or all of such provisions and conditions shall constitute grounds for revocation, suspension, or denial of the Special Business License to conduct bingo games, pursuant to the procedures set forth in this Chapter and Chapters 4.02 and 4.10.

(3) An electronic bingo aid is permitted only as a means of assisting a player to mark, otherwise register, or record, numbers selected at random in order to identify a winning bingo card. An electronic bingo aid shall not replace or alter the bingo cards. An electronic bingo aid shall not interfere or interact with the element of chance in the game. The player shall have in his or her possession at all times during the game, bingo cards with configurations that were sold to the player by the bingo licensee for use with the electronic bingo aid that correspond exactly to such bingo card configurations programmed into the electronic bingo aid. The bingo cards and the individual unit or component of the electronic bingo aid used by the player shall be kept separate and apart and in public view on the tabletop, during the game.

(4) Players shall manually input numbers called by the bingo licensee into the individual player operated units or components of the electronic bingo aid; and, automatic daubing shall not be permitted. The portion of the electronic bingo aid system in the immediate physical possession and operation of the bingo licensee, and the individual player operated units or components of the electronic bingo aid used by a player, shall be able to identify a winning card during the game. Verification by the bingo licensee of a winning combination shall be made based on the bingo card and not solely on the electronic bingo aid. Players shall notify the game operator or caller of a winning pattern of bingo.

(5) The electronic bingo aid, including the individual player operated units or components of the electronic bingo aid, shall be enabled for play solely by the bingo licensee; and, only on the premises where the games are conducted. The electronic bingo aid shall be programmed either by the bingo licensee, or by a bingo supplier licensed pursuant to Chapter 4.23 at the direction and as specified by the bingo licensee. A copy of any change in the program of a programmed electronic bingo aid shall be submitted to the Chief of Police. The same card configurations shall be programmed into the electronic bingo aid as are sold to the player. All individual player operated units or components of the electronic bingo aid shall be rented or otherwise provided to a player solely by the bingo licensee.

(6) Prior to giving physical possession of the individual player operated unit or component of the electronic bingo aid to the player, the bingo licensee shall receive payment from the player for the number of games requested by the player that are programmed into the electronic bingo aid. The bingo licensee shall at the time of payment issue to the player: an individual player operated unit or component of the electronic bingo aid; the bingo cards sold to the player corresponding exactly to the bingo number pattern for each card face thereon that is programmed into the electronic bingo aid; and a receipt indicating, the amount paid, the number of faces and games sold to the player and activated in the electronic bingo aid, and the serial number of each card face sold to the player and activated by game.

(7) The Chief of Police shall by administrative regulation determine the maximum number of bingo card faces that may be programmed into a player operated unit or component of an electronic bingo aid during a bingo game, but such number shall in no event exceed 72 bingo card faces.

(8) Only one player operated unit or component of an electronic bingo aid may be used by a bingo player during a bingo game.

(9) A particular type of electronic bingo aid shall not be used by a bingo licensee until the bingo licensee has demonstrated the electronic bingo aid to the Chief of Police, and such electronic bingo aid has been inspected and approved by the Chief of Police.

(10) Each player electing to use the electronic bingo aid shall have an equal opportunity to do so. The bingo licensee shall distribute each player operated unit or component of the electronic bingo aid for play on a random basis; first come, first served. No particular player operated unit or component of the electronic bingo aid shall be reserved for any player. The bingo player is prohibited from selecting the player operated unit or component of the electronic bingo aid.

(11) Only a bingo supplier licensed by Chapter 4.23 may remove the electronic bingo aid from the premises where the games are conducted. Removal may be for repair or for use by another organization licensed by this Chapter to conduct bingo. A record shall be maintained by the bingo licensee of: all electronic bingo aids removed from such premises; the name of the person, and business if any, who has taken the device from such premises; the site address where taken; the return date if any; and, disposition of the electronic bingo aid.

(12) Accounting records pertaining to electronic bingo aids, including the internal accounting system of the electronic bingo aid, shall be retained as prescribed by Section 4.21.080. The electronic bingo aid system must have a dial-up capability so the Chief of Police may remotely monitor the operation and the internal accounting system of the electronic bingo aid at any time. The electronic bingo aid shall contain a point of sale accounting system that allows it to track all financial activity for the bingo session. The electronic bingo aid shall at a minimum contain and keep an accounting system that records the serial number of each bingo card or bingo face sold, the price of each card sold, and the total amount of the electronic bingo aid proceeds from each session. The accounting information must be secure and shall not be accessible for alteration. The electronic bingo aid's capabilities and information must not be lost through power failure or other disruption during the session.

(13) The bingo licensee shall not conduct bingo games where a player is required to use an electronic bingo aid. During all games, the use of an electronic bingo aid shall be at the option of the bingo player. The bingo licensee shall permit all players to play in all bingo games without the use of an electronic bingo aid.

(14) The bingo licensee shall require a player electing to use an electronic bingo aid to purchase no less than the licensee's minimum number buy-in of bingo cards for use without an electronic bingo aid.

(15) The portion of the electronic bingo aid system in the immediate physical possession and operation of the bingo licensee shall have the capability during

the game to print and may print the configurations of the bingo cards that are programmed into the electronic bingo aid. The player operated units or components of the electronic bingo aid shall not have such capability and shall not print configurations of the bingo cards.

(16) The electronic bingo aid including related circuitry shall be sealed and secured in order to prevent unauthorized removal, additions, changes, or other alterations to the data within such electronic bingo aid.

(17) The Chief of Police may, upon demand, examine and inspect the electronic bingo aid, or any player operated unit or component of the electronic bingo aid, during the conduct of the games if the Chief of Police detects or discovers any problem with such equipment that affects the integrity of the bingo game or such equipment. The bingo licensee shall immediately cooperate and comply upon the Chief of Police's demand for such examination and inspection. Such examination and inspection shall include immediate access to the electronic bingo aid, player operated units or components of the electronic bingo aid, and inspection of all associated parts and systems, as applicable; and, may involve the immediate removal of the electronic bingo aid, player operated units or components of the electronic bingo aid, or related system or parts, as applicable, from the game premises for further testing.

(18) If, at any time, the Chief of Police detects or discovers any malfunction with an electronic bingo aid, or any player operated unit or component of the electronic bingo aid, that affects the integrity of such equipment or the bingo game, the Chief of Police may order the bingo licensee to cease the use of the electronic bingo aid or a player operated unit or component of the electronic bingo aid, as applicable, immediately. The bingo licensee shall comply immediately with such Chief of Police's order.

(19) If the bingo licensee detects or discovers any malfunction or any problem or occurrence with the electronic bingo aid, or the player operated unit or component of the electronic bingo aid, that affects the security or the integrity of the bingo game or such equipment, the bingo licensee shall cease immediately the use of the electronic bingo aid or affected player operated unit or component of the electronic bingo aid, as applicable.

4.21.170 FALSE OR MISLEADING ADVERTISING. It shall be unlawful for any licensee to make or disseminate or cause to be made or disseminated before the public in this City, in any newspaper or other publication, or any advertising device, or any other manner or means whatsoever, any statement concerning any such bingo game including, but not limited to, the amount of prizes to be awarded or distributed in any game, which is untrue or misleading, and which is known or which, by the exercise of reasonable care, should be known to be untrue or misleading.

4.21.175 RECEIPT OF PROFIT BY A PERSON AND PENALTY FOR VIOLATION OF THIS CHAPTER.

(a) 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 Chapter for activities related to bingo or the bingo operation. The expenditure of any revenues or proceeds derived from bingo to pay employees, members, or contractors of licensed organizations for services associated with the planning, organization, management, operation or staffing of bingo games, or related to bookkeeping, accounting, auditing or technical advice concerning the handling or disposition of such revenues or proceeds is prohibited. A violation of this prohibition is punishable by a fine not to exceed ten thousand dollars (\$10,000) payable to the general fund of the City of Elk Grove.

(b) In addition to other applicable provisions of this Title, a violation of any of the provisions of this Chapter, City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation, shall be grounds for the Chief of Police to suspend, revoke, or deny the renewal of a Special Business License to conduct bingo games issued pursuant to the provisions of this Chapter and Chapter 4.10.

4.21.180 DISCONTINUANCE OF BINGO GAMES. Bingo licensees who discontinue conducting bingo games shall follow the accounting requirements prescribed by the Chief of Police in the City Regulations adopted pursuant to this Chapter. Their failure to do so shall result in denial of a subsequent license to conduct bingo games for two (2) years from the last day a bingo game was conducted.

CHAPTER 4.22

BINGO PARLORS

Sections:

- 4.22.000 Purpose.
- 4.22.005 Definitions.
- 4.22.010 Same - Bingo Parlor.
- 4.22.015 Same - Bingo.
- 4.22.017 Same - Bingo Session.
- 4.22.020 License Required.
- 4.22.025 Contents of the Application.
- 4.22.030 Issuance.
- 4.22.035 Employee Permits.
- 4.22.040 Application for Permits.
- 4.22.045 Issuance of Permit.
- 4.22.050 Suspension or Revocation of Permits.
- 4.22.055 Records - Compliance Examination and Inspection.
- 4.22.057 Retention of Records.
- 4.22.060 Hours of Operation.
- 4.22.065 Limitation on Parlor Owner Involvement in Bingo.
- 4.22.070 Prohibition of Financial Interest in Bingo.
- 4.22.080 Temporary Suspension of License Pending
Opportunity for Hearing.
- 4.22.085 Notice of Temporary Suspension and Appeal -
Appeal of Underlying Suspension or Revocation.
- 4.22.090 Operating and Conducting Business at the Bingo
Parlor after Temporary Suspension or Suspension.
- 4.22.100 Receipt of Profit by a Person and Penalty for Violation of this Chapter.

4.22.000 PURPOSE. In recent years, there has been a proliferation of bingo parlors in the region, resulting in multiple organizations licensed to conduct bingo in accordance with Chapter 4.21 and conducting bingo games at a single commercial location. Competition for the bingo player and the bingo dollar has increased between charitable organizations conducting bingo games. High rents and overhead and increased promotional expenditures have reduced the charitable organizations' profits derived from bingo games, thereby resulting in a substantial decrease in the profits available for charitable purposes.

The regulatory provisions of this Chapter are necessary to ensure that bingo parlors are operated subject to reasonable conditions for the protection of the public health, safety and welfare. A system of regulating bingo parlors, in conjunction with the existing regulations of organizations licensed to conduct bingo in accordance with Chapter 4.21, encourages the maximum use of bingo proceeds and profits for charitable purposes, but also limits the commercialization of bingo, particularly by criminal or otherwise undesirable elements.

The licensing regulations for bingo parlors further clarify and define the relationship between the bingo parlor and the licensed charitable organizations with respect to the operation and management of bingo games in the City.

4.22.005 DEFINITIONS. As used in this Chapter, the terms identified by Sections 4.22.010 through 4.22.017 shall be ascribed the meanings indicated.

4.22.010 SAME - BINGO PARLOR. A "bingo parlor" means a building, facility, or other improvement upon which space is leased, rented or otherwise allocated for monetary consideration to two or more organizations possessing a Special Business License pursuant to Chapter 4.21, within or upon which bingo games sponsored by the licensed organizations are conducted. A bingo parlor shall not be deemed to mean or include a building, facility, or other improvement which is owned by a public agency, within or upon which space is rented, leased or otherwise allocated for the operation of bingo games by two or more licensed organizations.

4.22.015 SAME - BINGO. As used in this Chapter, the term "bingo" shall be deemed to mean a game of chance as specifically defined in Section 4.21.010.

4.22.017 SAME - BINGO SESSION. As used in this Chapter, the term "bingo session" shall be deemed to mean the same as specifically defined in Section 4.21.017.

4.22.020 LICENSE REQUIRED. No person shall, unless under and by authority of a valid, unrevoked and unexpired Special Business License issued pursuant to the provisions of this Chapter, operate a bingo parlor in the City, whether singularly or in connection with another type of enterprise. A person shall be deemed to operate or conduct a bingo parlor and violate this Section if the person, without a Special Business License supervises, directs, organizes, controls or is in any way responsible for or in charge of a bingo parlor for which a Special Business License is required.

4.22.025 CONTENTS OF THE APPLICATION. In addition to the matters prescribed by Section 4.10.030, an application for a Special Business License to operate a bingo parlor shall contain the following:

(a) A copy of all leases, contracts or other agreements regarding the use or occupancy of the bingo parlor by and between the licensee and any organization licensed to conduct bingo games pursuant to Chapter 4.21;

(b) A description of all uses which any organization licensed pursuant to Chapter 4.21 shall make of the bingo parlor premises; and,

(c) A detailed description of the facility, services, resources and security personnel which the licensee shall provide to each organization licensed pursuant to Chapter 4.21 which shall operate or conduct a bingo game at the bingo parlor.

4.22.030 ISSUANCE. The Chief of Police shall issue a Special Business License unless:

(a) One or more of the findings set forth in Section 4.10.040 is made;

(b) The bingo parlor has violated, or will be conducted, operated or managed in a manner which violates, Penal Code Section 326.5, this Chapter, City Regulations adopted pursuant to this Chapter, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation; or,

(c) The applicant holds a current license under Chapters 4.21 or 4.23.

4.22.035 EMPLOYEE PERMITS. No person shall work in a bingo parlor as a bingo parlor manager and no person who holds a Special Business License authorizing operation of a bingo parlor shall employ any person as a bingo parlor manager unless such person possesses a valid Employee Permit or a Special Business License issued pursuant to the provisions of Chapter 4.10 and this Chapter.

4.22.040 APPLICATION FOR PERMITS. In addition to the matters prescribed by Section 4.10.080, an application for an Employee Permit to serve as a bingo parlor manager shall contain a list of each arrest resulting in either a conviction, a plea of guilty or a plea of nolo contendere. This list shall, for each such conviction, plea of guilty or plea of nolo contendere, set forth the date of arrest, the offense charged and the offense for which the applicant was convicted, or entered a plea of guilty or plea of nolo contendere.

4.22.045 ISSUANCE OF PERMIT. Upon receipt of an application for an employee permit to serve as a bingo parlor manager, the Chief of Police shall conduct such investigation pursuant to Section 4.10.085 as is deemed necessary. The Chief of Police shall issue the permit pursuant to Section 4.10.090 unless he or she finds any of the following:

(a) That the application fails to contain information required by the Chief of Police or Section 4.22.040, or is otherwise incomplete;

(b) That information contained in the application is false or otherwise inaccurate;

(c) That the applicant has been convicted of a crime and the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under California Penal Code Section 1203.4; or, has done any act involving dishonesty, fraud or deceit with intent to substantially benefit him or herself, or another, or substantially injure another; and the Chief of Police concludes that by reason of the crime or act there is a substantial risk that the applicant may not perform his or her duties as a bingo parlor manager in a law-abiding manner or in a manner which does not subject patrons of the bingo parlor to risk of harm or criminal, deceitful or otherwise unethical practices.

Notwithstanding the foregoing, an application shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under California Penal Code Section 4852.01 et seq., or that the person has been convicted of a misdemeanor if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under California Penal Code Section 4852.05; or,

(d) That the applicant has violated or is in noncompliance with any of the provisions of this Chapter, Penal Code Section 326.5, City Regulations adopted pursuant to this Chapter, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation.

4.22.050 SUSPENSION OR REVOCATION OF PERMITS. An employee permit may be revoked or suspended pursuant to Section 4.10.140 upon any of the following grounds:

(a) Violation of any of the duties, terms, conditions, requirements or prohibitions contained in this Chapter, in the City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation;

(b) Violation of any duties, terms, conditions requirements or prohibitions imposed by Chapter 4.02 or Chapter 4.10;

(c) Misrepresentation of a material fact contained in the application for the permit; or,

(d) The Chief of Police has acquired information supporting a finding as described by Section 4.22.045(c) in relation to the holder of the permit.

4.22.055 RECORDS - COMPLIANCE EXAMINATION AND INSPECTION.

(a) The parlor licensee shall keep full and accurate records of the income received and expenses disbursed in connection with its operation and conduct of a bingo parlor, and as necessary to determine or establish compliance with the provisions of this Chapter, City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation. The records shall be of such types and maintained in such manner as may be prescribed by the Chief of Police and when not so prescribed, shall be of such types and maintained according to the requirements of generally accepted principles of accounting.

(b) The Chief of Police or any other authorized representative of the City shall have the right to inspect, conduct a compliance examination, review, audit, or photocopy, parlor licensee records as described in subdivision (a) of this Section at any reasonable time and the license holder shall fully cooperate by making such records and photocopies thereof available to the Chief of Police upon demand. The licensee shall deliver the records for the purpose of a compliance examination, review, audit, inspection, or for photocopy to the office of the Chief of Police during reasonable hours upon demand of the Chief of Police.

(c) Compliance examinations shall be conducted by the Chief of Police of parlor licensee records described in subdivision (a) of this Section not less frequently than annually, for each twelve (12) months of each licensee's operation.

(d) Records described in subdivision (a) of this Section shall be subject to disclosure only pursuant to:

(1) Any suspension, revocation or other proceeding conducted under this Chapter or the City Regulations adopted pursuant to this Chapter; or,

(2) Any civil or criminal investigation conducted by the Chief of Police, the District Attorney, the Grand Jury or the City Counsel. For all other purposes, the records shall be kept confidential by the Chief of Police, as custodian of those records.

4.22.057 RETENTION OF RECORDS. The parlor licensee shall keep and preserve the records described in Section 4.22.055(a), for the following period of time, whichever occurs later:

(a) Three (3) years;

(b) Until completion of a compliance examination; or

(c) Until the administrative or judicial appeal process, whichever is applicable, is final, if the license has been suspended, revoked, or a renewal denied.

4.22.060 HOURS OF OPERATION. It shall be unlawful for any bingo parlor to operate or remain open for purposes of conducting bingo games between the hours of 2:00 a.m. and 10:00 a.m. of the same day.

4.22.065 LIMITATION ON PARLOR OWNER INVOLVEMENT IN BINGO. The licensee shall not organize, manage, supervise, conduct, control or otherwise participate in or influence either the operation of any bingo game conducted at the bingo parlor or the promotion thereof.

4.22.070 PROHIBITION OF FINANCIAL INTEREST IN BINGO. With the exception of revenue generated by any business or enterprise for which a Special Business License is required pursuant to this Chapter no licensee shall have a financial interest in the conduct of a bingo game operated in the City. A licensee shall be deemed to have a financial interest in the conduct of a bingo game including, but not limited to, the following situations:

(a) Rent or other costs for the bingo parlor is adjusted based on the profits, losses or tax exempt status of any organization licensed under Chapter 4.21;

(b) The licensee absorbs, assumes, shares or otherwise participates in the losses or profits of any bingo game conducted by any organization licensed under Chapter 4.21; or,

(c) The licensee maintains an accounts receivable for an organization licensed under Chapter 4.21 for rent amounts or other costs owed to the bingo parlor; except, for amounts owed by such organization from a previous day of bingo operation which are paid before the next day of bingo operation.

4.22.080 TEMPORARY SUSPENSION OF LICENSE PENDING OPPORTUNITY FOR HEARING. The Chief of Police shall have the authority to temporarily suspend the parlor's license by ordering in writing that the licensee immediately cease and desist any further operations of the parlor pending expiration of the time for appeal or exhaustion of an appeal pursuant to the provisions and notice procedure of Section 4.10.145 if the Chief of Police finds that such temporary suspension is necessary in order to protect against a serious and immediate threat to the health or safety of the public caused by exercise of the license, and one of the following occurs:

(a) The parlor licensee is conducting its operation in violation of any of the provisions of this Chapter, Penal Code Section 326.5, the City Regulations adopted pursuant to this Chapter, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation;

(b) The parlor licensee has not made available for the conduct of a compliance examination, audit, review, inspection, or for photocopying, at any reasonable time upon the demand of the Chief of Police all records necessary to determine or establish compliance with the provisions of this Chapter, City Regulations

adopted pursuant to this Chapter, Penal Code Section 326.5, any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation; or,

(c) The parlor licensee has not kept records as prescribed by the Chief of Police, this Chapter, Penal Code Section 326.5, City Regulations adopted pursuant to this Chapter, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation; or, has not kept records necessary to determine compliance with applicable laws and administrative rules and regulations pursuant to generally accepted principles of accounting when such records are not prescribed to be kept in any specific manner or type by the Chief of Police, this Chapter, City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation.

4.22.085 NOTICE OF TEMPORARY SUSPENSION AND APPEAL - APPEAL OF UNDERLYING SUSPENSION OR REVOCATION.

(a) The temporary suspension shall be effective no sooner than twenty-four (24) hours following the time and date of delivery of the notice thereof as is provided in Section 4.10.145 and the procedures for appeal and notice of temporary suspension shall be as prescribed in Section 4.10.145.

(b) Upon timely request by the licensee, the appeal hearing process and related procedures of the revocation or suspension of its license pursuant to Section 4.10.135 shall proceed pursuant to the provisions of Section 4.10.115 through 4.10.155.

4.22.090 OPERATING AND CONDUCTING BUSINESS AT THE BINGO PARLOR AFTER TEMPORARY SUSPENSION OR REVOCATION. Any person(s) who continues to operate and conduct the business of a bingo parlor after temporary suspension pursuant to Section 4.22.080, or suspension pursuant to Section 4.10.135, is guilty of a misdemeanor.

4.22.100 RECEIPT OF PROFIT BY A PERSON AND PENALTY FOR VIOLATION OF THIS CHAPTER.

(a) It is a misdemeanor under Section 326.5(b) of the Penal Code for any person to receive or pay a profit, wage or salary from any bingo game authorized under this Chapter. Payment received by a parlor licensee for rent or lease of a parlor facility or other costs of the parlor related to bingo from a bingo licensee licensed pursuant to Chapter 4.21 and 4.10 shall not be deemed a violation of this Section. A violation of this prohibition is punishable by a fine not to exceed ten thousand dollars (\$10,000) payable to the general fund of the City of Elk Grove.

(b) A violation of any of the provisions of this Chapter, City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation, shall be grounds for the Chief of Police to suspend, revoke, or deny the renewal of a Special Business License to conduct a bingo parlor issued pursuant to the provisions of this Chapter.

CHAPTER 4.23
BINGO SUPPLIERS

Sections:

- 4.23.000 Purpose.
- 4.23.010 Definitions.
- 4.23.015 Same - Bingo Supplier.
- 4.23.020 Same - Bingo.
- 4.23.025 License Required.
- 4.23.030 Issuance.
- 4.23.035 Records - Compliance Examination and Inspection.
- 4.23.037 Retention of Records.
- 4.23.040 Limitation on Involvement in Bingo.
- 4.23.045 Prohibition of Financial Interest in Bingo.
- 4.23.050 Required Records.
- 4.23.055 Computerized Equipment.
- 4.23.060 Temporary Suspension of License Pending
Opportunity for Hearing.
- 4.23.065 Notice of Temporary Suspension and Appeal -
Appeal of Underlying Suspension and Revocation.
- 4.23.075 Operating and Conducting Business after Temporary
Suspension or Suspension.
- 4.23.080 Receipt of Profit by a Person and Penalty for
Violation of this Chapter.

4.23.000 PURPOSE. A system of regulating bingo suppliers in conjunction with the regulation of organizations authorized to conduct bingo games pursuant to Penal Code Section 326.5 and of bingo parlors is necessary to ensure the maximum use of bingo proceeds and profits for charitable purposes and to limit the abuses stemming from increased commercialization of bingo in the City.

4.23.010 DEFINITIONS. As used in this Chapter, the terms identified by Sections 4.23.015 through 4.23.020 shall be ascribed the meanings indicated.

4.23.015 SAME - BINGO SUPPLIER. A "bingo supplier" means any person or enterprise which, for a consideration, sells, rents, supplies, provides or furnishes equipment, products, goods, paper or other items for use in the conduct of bingo games.

4.23.020 SAME - BINGO. As used in this Chapter, the term "bingo" shall be deemed to mean a game of chance as specifically defined in Section 4.21.010.

4.23.025 LICENSE REQUIRED. No person shall, unless under and by authority of a valid, unrevoked and unexpired Special Business License, sell, rent, supply, provide or furnish for a consideration, any equipment, products, goods, paper or other items for use in the conduct of bingo games. A bingo supplier shall be deemed to operate or conduct business within the City if the bingo supplier or representatives thereof sell, rent, supply, provide or furnish for a consideration, within the City, any equipment, products, goods, paper or other items for use in the conduct of bingo games, whether or not the bingo supplier operates from a fixed location within another jurisdiction.

4.23.030 ISSUANCE. The Chief of Police shall issue a Special Business License unless:

- (a) One or more of the findings set forth in Section 4.10.040 is made;
- (b) The bingo supplier sells, rents, supplies, provides or furnishes any equipment, products, goods, paper or other items for use in conjunction with or in the conduct of bingo games in a manner which violates Penal Code Section 326.5, this Chapter, City Regulations adopted pursuant to this Chapter, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation;
- (c) The applicant has a current license under Chapter 4.21 or 4.22; or,
- (d) The applicant has violated or is not in compliance with this Chapter, Section 326.5 of the Penal Code, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation.

4.23.035 RECORDS - COMPLIANCE EXAMINATION AND INSPECTION.

(a) The bingo supplier licensee shall keep full and accurate records of all inventory, income received and expenses disbursed in connection with the sale, rental,

supply, provision or furnishing of any equipment, products, goods, paper or other items for use in the conduct of bingo games, and as necessary to determine or establish compliance with the provisions of this Chapter, City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or rule or administrative regulation. The records shall be of such types and maintained in such manner as may be prescribed by the Chief of Police; and when not so prescribed, shall be of such types and maintained according to the requirements of generally accepted principles of accounting.

(b) The Chief of Police or any other authorized representative of the City shall have the right to inspect, conduct a compliance examination, review, audit, or photocopy, supplier licensee records as described in subdivision (a) of this Section at any reasonable time and the license holder shall fully cooperate by making such records and photocopies thereof available to the Chief of Police upon demand. The licensee shall deliver the records for the purpose of a compliance examination, review, audit, inspection, or for photocopy to the office of the Chief of Police during reasonable hours upon demand of the Chief of Police.

(c) Compliance examinations shall be conducted by the Chief of Police of supplier licensee records described in subdivision (a) of this Section not less frequently than annually, for each twelve (12) months of each licensee's operation.

(d) Such records shall be subject to disclosure only pursuant to:

(1) Any suspension, revocation or other proceeding conducted under this Chapter or the City Regulations adopted pursuant to this Chapter; or,

(2) Any civil or criminal investigation conducted by the Chief of Police, the District Attorney, the Grand Jury or the City Attorney. For all other purposes, the records shall be kept confidential by the Chief of Police, as custodian of those records.

4.23.037 RETENTION OF RECORDS. The supplier licensee shall keep and preserve the records described in Section 4.23.035(a), for the following period of time, whichever occurs later:

(a) Three (3) years;

(b) Until completion of a compliance examination; or

(c) Until the administrative or judicial appeal process, whichever is applicable, is final, if the license has been suspended, revoked, or a renewal denied.

4.23.040 LIMITATION ON INVOLVEMENT IN BINGO. The licensee shall not organize, manage, supervise, conduct, control or otherwise participate in or influence either the operation of any bingo game conducted in the City or the promotion thereof.

4.23.045 PROHIBITION OF FINANCIAL INTEREST IN BINGO.

(a) With the exception of revenue generated by any business or enterprise for which a Special Business License is required pursuant to this Chapter, no bingo supplier shall have a financial interest in the conduct of a bingo game operated in the City. A licensee shall be deemed to have a financial interest in the conduct of a bingo game including, but not limited, to the following situations:

(1) The price or cost of bingo supplies is adjusted by the licensee based on the profits, losses or tax exempt status of any organization licensed under Chapter 4.21;

(2) The licensee absorbs, assumes, shares or otherwise participates in the losses, or profits of any bingo game conducted by any organization licensed under Chapter 4.21; or,

(3) The licensee maintains an accounts receivable for an organization licensed to conduct bingo games pursuant to Chapter 4.21 for amounts owed to the bingo supplier for a period that exceeds thirty (30) days from the invoice date or ten (10) days from the statement date, whichever occurs later. For purposes of this subdivision of this Section "invoice date" is defined as the date of delivery of such supplies and "statement date" is defined as the date within thirty (30) days of the delivery of supplies.

(b) The licensee with knowledge that a bingo licensee licensed pursuant to Chapter 4.21 has not paid its supplier account(s) to any supplier within the required period as provided in subdivision (a) (3) of this Section shall not sell or rent supplies to such a bingo licensee until all the bingo licensee's account(s) are brought within the time period provided for within subdivision (a) (3) of this Section.

4.23.050 REQUIRED RECORDS. Licensed bingo suppliers shall maintain a complete set of records which includes detail of all activities. These records shall include, but are not be limited to the following:

(a) Pre-printed sales invoices which reflect the following information:

(1) Date of sale;

(2) The customer name, and complete business address;

(3) A description and stock number of each line item sold; and,

(4) Quantity and sales price of each line item.

(b) The original and two (2) copies of the pre-printed sales invoice shall be prepared and maintained as follows:

(1) Original issued to the customer;

- (2) A copy retained in a file by customer name; and,
- (3) A copy file in (invoice number) numerical sequence.

(c) Credit memos for returned items shall be prepared in the same detail as items described in subdivision (a) of this Section.

4.23.055 COMPUTERIZED EQUIPMENT.

(a) Except as provided in Subsection (b) of this Section, it shall be unlawful for bingo suppliers licensed under this Chapter to:

(1) Sell, rent, supply, provide or furnish machines, devices, or equipment that is computerized, electronic, or mechanical to an organization licensed to conduct bingo pursuant to Chapter 4.21, for use in a bingo game; or,

(2) Sell, rent, supply, provide, or furnish equipment for use in a bingo game in which the numbers to be called are selected by electronic means rather than by random selection of numbered balls from a pool of game balls.

(b) Electronic Bingo Aid.

(1) Purpose. The purpose of this Subsection is not to permit a licensed bingo supplier to sell, rent, supply, provide or furnish to organizations licensed to conduct bingo pursuant to Chapter 4.21 all electronic aids for use in bingo. The purpose is to permit the licensed supplier to sell, rent, supply, provide or furnish to such organizations the use of electronic bingo aids on the conditions set forth herein. It is contemplated that an electronic bingo aid will include individual units or components to be used by players and that these units or components will be activated by the organizations licensed to conduct bingo for a player's operation. These individual player units or components are hand held devices or desktop devices to be used in conjunction with bingo cards. It is contemplated that an electronic bingo aid will permit a bingo player to input into an activated individual player unit or component randomly selected numbers called by an organization licensed to conduct bingo pursuant to Chapter 4.21 in order to match such numbers against programmed information to identify a winning card. The programmed information reflects the exact configurations of the bingo cards sold to and played by the player. The electronic bingo aid is not to alter the bingo cards. The electronic bingo aid is to be used in conjunction with bingo cards in order to assist the player identify a winning card. The electronic bingo aid is not to be used as an electronic or computerized game of bingo, or as a substitute for required bingo cards, or as a substitute for any other requirements of bingo as provided in Chapter 4.21 or in Penal Code section 326.5.

(2) An electronic bingo aid to assist in the identification of a winning card or paper may be sold, rented, supplied, provided or furnished to an organization licensed pursuant to Chapter 4.21 to conduct bingo by a licensed bingo supplier if the licensed bingo supplier complies with the conditions set forth in Subsections (b)(3) through (b)(12) of this Section, and if the supplier complies with all other required

provisions of this Chapter and Penal Code section 326.5. Violation of any or all of such provisions and conditions shall constitute grounds for revocation, suspension, or denial of the Special Business License to conduct the business of a bingo supplier, pursuant to the procedures set forth in this Chapter and Chapters 4.02, and 4.10.

(3) An electronic bingo aid shall assist a player to mark, otherwise register, or record, numbers selected at random in order to identify a winning bingo card. An electronic bingo aid shall not replace or alter bingo cards. The electronic bingo aid shall be programmed either by the supplier licensee at the direction and as specified by an organization licensed to conduct bingo pursuant to Chapter 4.21, or by the organization licensed to conduct bingo. The electronic bingo aid shall be programmed only with bingo card configurations corresponding exactly to bingo card configurations used by such licensed organization. A copy of any change made by the supplier licensee in the program of a programmed electronic bingo aid shall be submitted to the Chief of Police. The electronic bingo aid shall permit licensed organizations to enable the electronic bingo aid, including the individual player operated units or components, for play on the premises where the games are conducted. The electronic bingo aid shall not interfere or interact with the element of chance in the game.

(4) The electronic bingo aid shall permit a player to use a player operated unit or component of the electronic bingo aid to manually input numbers called in a bingo game into the electronic bingo aid. Automatic daubing shall not be a feature of the electronic bingo aid. The portion of the electronic bingo aid system in the immediate physical possession and operation of the organization licensed by Chapter 4.21 to conduct the games, and the individual player operated units or components of the electronic bingo aid used by a player, shall identify winning cards during a game. The portion of the electronic bingo aid system in the immediate physical possession and operation of the organization licensed to conduct bingo shall be capable of printing a winning card for verification during the game; the individual player operated units or components shall not have this feature.

(5) A particular type of electronic bingo aid shall not be sold, rented, supplied, provided or furnished to an organization licensed to conduct bingo pursuant to Chapter 4.21 by a licensed bingo supplier until the licensed supplier has demonstrated the electronic bingo aid to the Chief of Police, and such electronic bingo aid has been inspected by, and approved by the Chief of Police.

(6) An electronic bingo aid may be removed from the place where the games are conducted solely by the supplier licensee for repair or to transfer to another organization licensed to conduct bingo pursuant to Chapter 4.21 for the conduct of bingo. The supplier licensee shall keep a record of the bingo electronic aid received; the date received; the repairs made, if any; the particular malfunction, if any; the name of the licensed organization that the electronic bingo aid or part thereof was removed; and, the date the aid or part thereof is returned to an organization if returned, or notation of what action taken if not returned.

(7) The electronic bingo aid shall have a dial-up capability so that the Chief of Police may remotely monitor the operation and internal accounting system of the electronic bingo aid at any time. The electronic bingo aid shall contain a point of sale accounting system that allows it to track all financial activity for a bingo session. The bingo supplier licensee's accounting records pertaining to electronic bingo aids shall be retained as prescribed by Section 4.23.050. An electronic bingo aid shall work with an accounting system that records, and retains for a retention period of not less than that found in Section 4.21.080, the serial number of each bingo card or face sold, the price of each card sold, and the total amount of the electronic bingo aid proceeds from each session. An electronic bingo aid's capabilities and information must not be lost through power failure or other disruption during the session.

(8) An electronic bingo aid shall have the capability to permit organizations licensed to conduct bingo to print the configurations of the bingo cards or papers that are programmed into the device; but, the individual player operated units or components shall not have this feature.

(9) The electronic bingo aid including related circuitry shall be sealed and secured in order to prevent unauthorized removal, additions, changes, or other alterations or tampering with the data within such electronic bingo aid.

(10) If the Chief of Police detects or discovers any problem with an electronic bingo aid, including the player operated electronic bingo aid unit or component, or any related system or parts, that affects the integrity of the bingo game, or such equipment, the Chief of Police may, upon demand, examine and inspect such equipment, as applicable, if it is in possession of the supplier licensee after removal from the place where the game of bingo is conducted. The Chief of Police may upon demand examine and inspect any electronic bingo aid, player operated unit or component of an electronic bingo aid, or related system or parts, for sale, rent, supply, or to be provided or furnished by the supplier licensee to an organization licensed to conduct bingo. Such examinations and inspections shall include immediate access to the electronic bingo aid, including the player operated unit or component of an electronic bingo aid, and unlimited inspection of all parts and associated systems, as applicable; and, may involve the removal of such equipment, as applicable, from the supplier licensee's premises or possession for further testing. Upon the Chief of Police's demand, the supplier licensee shall immediately comply and cooperate with the Chief of Police for such examinations, inspections, or removals.

(11) If at any time the Chief of Police detects or discovers any problem with an electronic bingo aid, or with a player operated bingo unit or component of the electronic bingo aid, or with any related system or parts, that affects the security or the integrity of a bingo game or such equipment, the Chief of Police may order the supplier licensee to cease the sale, rental, supply, or provision or furnishing of such electronic bingo aid or player operated unit or component, as applicable, to an organization licensed to conduct bingo, and the supplier licensee shall comply immediately with such Chief of Police's order.

(12) If at any time the supplier licensee detects or discovers any problem with a electronic bingo aid, or with a player operated unit or component of the electronic bingo aid, or any related system or parts, that affects the security or the integrity of a bingo game or such equipment, the supplier licensee shall cease immediately to sell, rent, supply, provide, or furnish the electronic bingo aid or player operated unit or component, as applicable, to an organization licensed to conduct bingo, and shall notify the Chief of Police, and organizations licensed to conduct bingo who have secured possession of such electronic bingo aid from such bingo supplier, of such malfunction, problem or occurrence.

4.23.060 TEMPORARY SUSPENSION OF LICENSE PENDING OPPORTUNITY FOR HEARING. The Chief of Police shall have the authority to temporarily suspend the supplier's license by ordering in writing that the licensee immediately cease and desist any further operations of the bingo supply business pending expiration of the time for appeal or exhaustion of an appeal pursuant to the provisions and notice procedure of Section 4.10.145 if the Chief of Police finds that such temporary suspension is necessary in order to protect against a serious and immediate threat to the health or safety of the public caused by exercise of the license, and one of the following occurs:

(a) The supplier licensee is conducting its operation in violation of any of the provisions of this Chapter, Penal Code Section 326.5, the City Regulations adopted pursuant to this Chapter, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation;

(b) The supplier licensee has not made available for the conduct of a compliance examination, audit, review, inspection, or for photocopying, at any reasonable time upon the demand of the Chief of Police all records necessary to determine or establish compliance with the provisions of this Chapter, City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation; or,

(c) The supplier licensee has not kept records as prescribed by the Chief of Police, this Chapter, Penal Code Section 326.5, City Regulations adopted pursuant to this Chapter, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation; or, has not kept records necessary to determine compliance with applicable laws and administrative rules and regulations pursuant to generally accepted principles of accounting when such records are not prescribed to be kept in any specific manner or type by the Chief of Police, this Chapter, City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation.

4.23.065 NOTICE OF TEMPORARY SUSPENSION AND APPEAL - APPEAL OF UNDERLYING SUSPENSION AND REVOCATION.

(a) The temporary suspension shall be effective no sooner than twenty-four (24) hours following the time and date of delivery of the notice thereof as is provided in

Section 4.10.145 and the procedures for appeal and notice of temporary suspension shall be as prescribed in Section 4.10.145.

(b) Upon timely request by the licensee, the appeal hearing process and related procedures of the revocation or suspension of its license pursuant to Section 4.10.135 shall proceed pursuant to the provisions of Section 4.10.115 through 4.10.155.

4.23.075 OPERATING AND CONDUCTING BUSINESS AFTER TEMPORARY SUSPENSION OR SUSPENSION. Any person(s) who continues to operate and conduct the business of a bingo supplier after temporary suspension pursuant to Section 4.23.065, or suspension pursuant to Section 4.10.135, is guilty of a misdemeanor.

4.23.080 RECEIPT OF PROFIT BY A PERSON AND PENALTY FOR VIOLATION OF THIS CHAPTER.

(a) It is a misdemeanor under Section 326.5(b) of the Penal Code for any person to receive or pay a profit, wage or salary from any bingo game authorized under this Chapter. Payment received by a bingo supplier for supplies purchased by a bingo licensee licensed pursuant to Chapter 4.21 shall not be deemed a violation of this Section. A violation of this prohibition is punishable by a fine not to exceed ten thousand dollars (\$10,000) payable to the general fund of the City of Elk Grove.

(b) A violation of any of the provisions of this Chapter, City Regulations adopted pursuant to this Chapter, Penal Code Section 326.5, or any other applicable State of California, City of Elk Grove, federal law, or administrative rule or regulation, shall be grounds for the Chief of Police to suspend, revoke, or deny the renewal of a Special Business License for a bingo supplier issued pursuant to the provisions of this Chapter.

CHAPTER 4.25

PAWNBROKERS, SECONDHAND DEALERS AND JUNK DEALERS

Sections:

- 4.25.000 Purposes.
- 4.25.005 License Required.
- 4.25.010 Definitions.
- 4.25.015 Display of License.
- 4.25.020 Daily Report.
- 4.25.025 Contents of Reports.
- 4.25.030 Records.
- 4.25.040 Use of English Language Required.
- 4.25.045 Time Limit for Sale.
- 4.25.050 Junk Dealer Not to Accept Pledges or Pawns.
- 4.25.055 Receipt of Goods - Prohibited Persons.
- 4.25.060 Nonapplicability of Sections.
- 4.25.065 Hours.
- 4.25.070 Construction Requirements.
- 4.25.075 Sanitation of Premises.
- 4.25.080 Separate Businesses.
- 4.25.085 Bond.
- 4.25.090 Reporting Stolen Goods.
- 4.25.095 Inspection.

4.25.000 PURPOSES. Pawnbrokers, secondhand dealers and junk dealers and collectors constitute prime vehicles for the disposal and sale of stolen property within the City. The purposes of the Chapter are to regulate the activities of such enterprises for the purpose of facilitating law enforcement's apprehension of criminals and recovery of stolen property and to curtail the trafficking of stolen property.

This Chapter is enacted pursuant to the provisions of Section 21638 of the Business and Professions Code. The provisions of this Chapter shall not be construed to require any act or omission which is expressly prohibited or prohibit any act or omission which is expressly required by the provisions of Sections 21625 through 21647 of the Business and Professions Code.

4.25.005 LICENSE REQUIRED. It is unlawful for any person to operate or conduct the business of pawnbroker, secondhand dealer, junk dealer or junk collector, unless under and by authority of a valid, unexpired and unrevoked Special Business License issued pursuant to the provisions of Chapter 4.10 and this Chapter.

Notwithstanding the provisions of Section 4.10.040(c) and Section 4.10.100, the Chief of Police shall not deny a Special Business License for the business of pawnbroker, secondhand dealer, junk collector or junk dealer on grounds enumerated by Section 4.10.040(c) unless one or more of the persons identified in Section 4.10.040(c) has been convicted of an offense described by Section 21641 of the Business and Professions Code. A License shall not be revoked on grounds prescribed by Section 4.10.135(b) unless one or more of the persons identified by Section 4.10.040(c) has been convicted of an offense described by Section 21641 of the Business and Professions Code.

4.25.010 DEFINITIONS. As used in this Chapter the following terms shall be ascribed the following meanings:

(a) "Pawnbroker" -- shall mean a person engaged in conducting, managing or carrying on the business of pawnbroking, or the business of lending money for himself or any other person upon personal property, pawns or pledges; or the business of purchasing articles from the vendors or their assignees at prices agreed upon at or before the time of such purchase.

(b) "Pawnshop" -- shall mean any room, store, building or other place in which any pawn brokering business is engaged in, carried on or conducted.

(c) "Secondhand Dealer"- shall mean a person engaged in conducting, managing or carrying on the business of buying, selling or otherwise dealing in secondhand goods, furniture, wares, coins or merchandise.

(d) "Junk Dealer" -- shall mean a person having a fixed place of business in the City, and engaged in conducting, managing or carrying on the business of buying, selling or otherwise dealing in, either at wholesale or retail, any old rags, sacks, bottles, cans, papers, metal, or other articles commonly known as junk.

(e) "Junk Collector" -- shall mean a person not having a fixed place of business in the City, who goes from house to house, or from place to place, gathering, collecting, buying, selling, or otherwise dealing in any old rags, sacks, bottles, cans, papers, metal or other articles commonly known as junk.

4.25.015 DISPLAY OF LICENSE. Every person issued a Special Business License under the provisions of this Chapter, and conducting, managing or carrying on a business or occupation at a fixed place of business, shall keep such License posted and exhibited while in force in some conspicuous part of the place of business. Every person having such License and not having a fixed place of business shall carry such License with him at all times while carrying on the business or occupation for which the same was granted. Every person having a License under the provisions of this Chapter shall produce and exhibit the same when applying for a renewal thereof and whenever requested to do so by any officer authorized to issue, inspect or collect licenses.

4.25.020 DAILY REPORT. Every pawnbroker and secondhand dealer shall send to the Chief of Police the daily electronic report in the format required by Business and Professions Code section 21628(j)(2). The report shall be sent electronically to the Chief of Police by a method and format acceptable to him or her.

Every junk dealer and junk collector shall send to the Chief of Police in an electronic format approved by the Chief of Police a daily report of all information required to be gathered by Business and Professions Code section 21606. The report shall be sent electronically by a method determined by the Chief of Police.

4.25.025 CONTENTS OF REPORTS. The contents of the reports to be sent at the close of each business day to the Chief of Police shall be as provided in Business and Professions Code section 21628 for pawnbrokers and second hand dealers and in section 21606 for junk dealers and junk collectors

4.25.030 RECORDS. Every pawnbroker and secondhand dealer shall keep a complete record of all goods, wares, merchandise or things pledged to or purchased or received by him, sold or otherwise disposed of, which shall contain all the matters required to be shown in the reports required to be made by such pawnbroker or secondhand dealer and referred to and described in Sections 4.25.020 and 4.25.025.

Every junk dealer and junk collector shall keep a record of all goods, wares, merchandise or things purchased or received by him, sold or otherwise disposed of, which record shall contain all the matters required to be shown in the reports referred to and described in Sections 4.25.020 and 4.25.025.

Every such record and all goods, wares, merchandise and things pledged to or pledged or received by any such pawnbroker, secondhand dealer, junk dealer or junk collector shall be immediately produced for inspection by any officer required to inspect such records or personal property in the performance of his official duties.

4.25.040 USE OF ENGLISH LANGUAGE REQUIRED. Every report and record required by the terms of this Chapter to be filed or kept, shall be written or printed entirely in the English language, in a clear and legible manner.

4.25.045 TIME LIMIT FOR SALE. It is unlawful for any pawnbroker, secondhand dealer, or junk dealer to sell or otherwise dispose of any article or thing, the report of which is required to be made under the provisions of Sections 4.25.020 and 4.25.025 within one week after making a report to the Chief of Police as required in Section 4.25.020. The provisions of this section shall not apply to motor vehicles duly and regularly cleared for transfer by the Department of Motor Vehicles of the state.

4.25.050 JUNK DEALER NOT TO ACCEPT PLEDGES OR PAWNS. No junk dealer or junk collector shall receive any personal property by way of pledge or pawn, nor shall the business of junk dealer and the business of pawnbroker be conducted upon the same premises.

4.25.055 RECEIPT OF GOODS - PROHIBITED PERSONS. It is unlawful for any pawnbroker, secondhand dealer, junk dealer or junk collector, to receive or purchase any property, article or thing, from any person who shall appear to be, or who is known to be, intoxicated, or from any minor, unless the minor presents the written consent of his parent or guardian, duly signed, authorizing the particular transaction, which written consent must be kept, and exhibited, upon demand, by any officer requesting the same in the performance of his official duties.

In any criminal prosecution, or proceeding for the suspension or revocation of any license for a violation of this section, proof that the defendant licensee, or his agent or employee, demanded and was shown, before receiving or purchasing any property, article or thing, a motor vehicle operator's license or a registration certificate issued under the Federal Selective Service Act, or other bona fide documentary evidence of majority and identity of the person, is a defense to the prosecution or proceeding for the suspension or revocation of any license.

4.25.060 NONAPPLICABILITY OF SECTIONS. The provisions of Sections 4.25.020 through 4.25.045 shall not apply to the receipt of, or sale of secondhand personal property which has been received as part payment for a new article if the person receiving or selling the secondhand personal property is the authorized dealer or agent of the manufacturer of the new article sold.

4.25.065 HOURS. It is unlawful for any person engaged in, conducting, managing or carrying on the business of pawnbroker, secondhand dealer, junk dealer or junk collector, or for any agent, or employee of any such person, to accept any pledge, or to loan any money upon personal property or to receive or purchase any goods, wares or merchandise, or any article or thing between midnight on Saturday and seven a.m. the following Monday, or between seven p.m. of any day other than Saturday and Sunday, and seven a.m. the following day.

4.25.070 CONSTRUCTION REQUIREMENTS. If any business or establishment required by Section 4.25.005 to possess a Special Business License is located in whole or in part in any yard, enclosure, lot, or open area, such premises as are open to public view shall be completely surrounded and enclosed by a wall, fence or barrier constructed of wood or other solid, impervious material, and so constructed as to be a continuous barrier, except for necessary openings, sufficient to prevent the ingress or egress of rats, mice, or other rodents so far as is possible. Should any part of such yard, enclosure, lot or open area abut upon any earthen embankment, the height of which shall not be less than the minimum height of the wall, fence or barrier herein provided for, such part so abutting upon the earthen embankment need not be enclosed by a wall, fence or barrier. The wall, fence or barrier shall be continuously kept and maintained in the condition required by this section. The wall, fence or barrier shall extend above the ground for at least six feet. Any and all necessary openings in such fence, wall or barrier shall be provided with suitable gates or doors. No such openings shall in any single instance be greater than is reasonably necessary.

Such gate or door shall be kept closed at all times except during the normal business hours of the business or establishment.

It is unlawful for any person to permit any such business or establishment referred to and described in this Chapter to be established, conducted, carried on or maintained unless the premises shall have been rendered rodentproof as far as reasonably possible, and continuously maintained in such condition. Each day's violation of the requirements declared and established by this Chapter shall be and constitute a separate and distinct violation and offense.

4.25.075 SANITATION OF PREMISES. If any business or establishment required by Section 4.25.005 to possess a Special Business License is located in whole or in part in a yard, enclosure, lot or open area, such premises and area shall, so far as reasonably possible, be kept clean and free from rubbish and similar loose material that might serve as a harborage for rats, mice or other rodents, and all loose metal, or parts or accessories of automobiles, and all other material kept, stored or accumulated on the premises, shall, so far as reasonably possible, be neatly and carefully piled, in such manner as to minimize and prevent as far as possible the harborage of rodents, and shall be suitably protected from water and the elements so that there can be, so far as is practicable, no accumulation of water in any article or thing stored on the premises.

4.25.080 SEPARATE BUSINESSES. If any person shall engage in, conduct, manage or carry on, at the same time, more than one of the businesses defined by Section 4.25.010, such person shall be deemed to be engaging in, conducting, managing and carrying on each such business separately and apart from the other such business, and such person shall comply in all respects with the provisions of this chapter relating to each such business, and it is unlawful for any such person to fail, refuse or neglect so to do.

4.25.085 BOND. Every junk dealer, as defined herein, shall furnish to the City a bond in the principal amount of five thousand (\$5,000) dollars guaranteeing faithful performance by the junk dealer of the terms and conditions of this Chapter.

4.25.090 REPORTING STOLEN GOODS. Every pawnbroker, secondhand dealer, junk dealer and junk collector shall immediately notify the Chief of Police by telephone when any property is offered to him for pledge or for sale under such circumstances that the pawnbroker, secondhand dealer, junk dealer or junk collector knows or should have known the property so offered for pledge or sale to have been stolen.

4.25.095 INSPECTION. The Chief of Police or the City Manager or their designees may conduct an inspection of the premises of a pawnbroker, second hand dealer, or junk dealer at any time during regular business hours for the purpose of determining that the business is being operated in compliance with all requirements under state law and the Municipal Code.

CHAPTER 4.26

JUNK TIRE STORAGE

Article I

Special Business License Required

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Article 1
Special Business License Required

4.26.000 PURPOSES. The improper storage and the careless disposal of junk tires jeopardize the public health, safety and welfare of City residents and visitors. Large numbers of these junk tires randomly placed in buildings or fields are breeding grounds for disease-carrying insects and animals. If large numbers of these junk tires are ignited by fire, those fires are extremely difficult and expensive to extinguish and the smoke from those fires presents a serious hazard to the environment. Furthermore, large numbers of junk tires carelessly strewn about offend the aesthetic sensibilities of the residents of the City.

The regulatory provisions of this Chapter are necessary to insure reasonable storage of these junk tires and thereby minimize the jeopardy to the public health, safety and welfare.

This enactment will provide criminal penalties to those who violate its requirements. It will also provide a means of enforcing abatement of the nuisance caused by the unreasonable storage of large numbers of junk tires.

This enactment does not apply to tires that do not meet the definition of "junk tires" as set forth herein. Tires that are not junk tires have economic value and are therefore not indiscriminately discarded in large quantities as are junk tires. Further, while tires other than junk tires present the same fire extinguishment problems and environmental hazards as junk tires, the City Council finds they are usually stored in a manner that minimizes these problems and hazards.

4.26.005 CITY MANAGER. The City Manager is charged with the responsibility of administering this Chapter and exercising the authority conferred thereby. Such authority shall include the power and duty to issue Special Business Licenses authorizing junk tire storage, promulgation and enforcement of administrative regulations and the performance and exercise of the duties and authorities conferred herein.

To these ends, the City Manager shall be vested with the same powers and authorities in relation to junk tire storage and the issuance and administration of Special Business Licenses therefor as are vested in the Chief of Police under Chapter 4.02 and Chapter 4.10 of this Code. Any reference to the "Chief of Police" in these sections as that reference relates to the issuance, renewal or denial of a Special Business License or as that reference relates to the appeal of a denial, revocation or suspension of a Special Business License shall be deemed a reference to the City Manager in relation to this junk tire storage ordinance.

Also, the City Manager shall be vested with the same powers and authorities in relation to abatement of violations of this junk tire storage ordinance as are vested in the Director of Public Works under Chapter 6.58 of this Code. Any reference in that Chapter to the "Director of the Department of Public Works" shall be deemed a

reference to the City Manager in relation to abatement of violations of this junk tire storage ordinance.

4.26.010 DEFINITIONS. As used in this Chapter, the following terms shall be ascribed the following meanings:

(a) "Premises" means a unit of improved or unimproved land, or any portion thereof, shown on the latest equalized City assessment roll as a parcel or as contiguous parcels. Property shall be considered as contiguous parcels even if separated by a utility easement or railroad right of way.

(b) "To store" means to leave, deposit, accumulate, abandon or discard.

(c) "Storage" means the act of storing.

(d) "Junk tire" means a not new automobile, truck or any other type of motorized vehicle tire that is not directly attached to an operational vehicle and does not meet the federal or State of California requirements for used tires or recappable casings

4.26.015 LICENSE REQUIRED. It is unlawful for any person to store five hundred (500) or more junk tires either inside or outside a building for any length of time on or about any one particular premises within the City which is owned, leased or in any manner utilized by that person unless the storage is under and by authority of a valid, unexpired, unrevoked and unsuspended Special Business License issued pursuant to the provisions of Chapter 4.10 and this Chapter.

4.26.020 NUMBER OF LICENSES REQUIRED. Notwithstanding Section 4.10.010, a person who stores five hundred (500) or more junk tires either inside or outside a building for any length of time at one or several premises throughout the City shall be required to obtain a Special Business License for each particular premises where five hundred (500) or more junk tires are stored.

4.26.025 DISPLAY OF LICENSE. Every person issued a Special Business License under the provisions of this Chapter shall keep the License posted and exhibited in a conspicuous part of the particular premises where the five hundred (500) or more junk tires are stored.

4.26.030 APPLICATION. In addition to the information required by Section 4.10.030, an application shall contain the following:

(a) All names under which the applicant has engaged, does or proposes to engage in junk tire storage;

(b) An accurate legal description, including assessment number, of the particular premises where the junk tires are to be stored;

(c) The name and street address of any person with a legal ownership interest in the particular premises where the junk tires are to be stored;

(d) The written consent of any person with a legal ownership interest in the anticipated junk tire storage premises to the storage of junk tires on those premises and to the requirements and obligations imposed on these owners by this Chapter. The written consent form shall be furnished by the City Manager and all signatures on this form shall be notarized in accordance with California law;

(e) Factual information, as specific as possible, as to the maximum number of junk tires expected to be stored on the particular premises at any one time and the number of junk tires expected to be transferred onto or off of the particular premises on a daily, weekly and monthly basis;

(f) A written statement from the Chief of the Fire Protection District with jurisdiction over the proposed junk tire storage premises discussing in detail any fire hazard that would be created by the storage of junk tires on or about the particular premises; and

(g) The name and street address within the City of an individual authorized to accept service of legal process or any notices issued pursuant to this Chapter.

4.26.035 ISSUANCE. The City Manager shall issue a Special Business License to allow storage of junk tires unless:

(a) One or more of the findings prescribed by Section 4.10.040(a) (b) and (d) are made; or

(b) The City Manager finds in writing that the use of the particular premises for junk tire storage would not be in compliance with the City of Elk Grove Zoning Ordinance and has not been approved by the City Council through any required use permit hearing process; or

(c) The City Manager finds in writing that based upon detailed information provided by the Chief of the appropriate Fire Protection District or other appropriate fire prevention experts and officials, the proposed storage of junk tires on the particular premises would constitute a dangerous fire hazard.

The requirements of Section 4.10.035 and Section 4.10.040(c) shall not be applicable to this Chapter for issuance of a Special Business License.

4.26.040 CHANGE OF INFORMATION. The applicant shall report to the City Manager any change in the information required by Section 4.26.030 within ten (10) days of the effective date of the change except that the information required by Section 4.26.030(c) shall be reported immediately. An updated written consent form pursuant to Section 4.26.030(d) shall be required immediately upon a change in the information required by Section 4.26.030(c).

Article 2 Requirements - Services

4.26.045 INSPECTIONS. Premises on which junk tires are stored pursuant to a Special Business License shall be open during regular working hours for inspection by the City Manager or his or her designated representative. Inspections shall occur as frequently as determined necessary by the City Manager but in no event shall there be less than six inspections per year of each particular premises where junk tires are stored pursuant to a Special Business License.

The refusal by a Licensee, or an officer, employee or agent thereof, to permit inspection by the City Manager, or his or her designated representative, pursuant to the authority conferred by this Section shall constitute grounds for suspension or revocation of the Special Business License.

The refusal by a Licensee, or an officer, employee or agent thereof, to permit such inspections by the Chief of the appropriate Fire District, or his designated representative, as may be reasonably necessary to insure compliance with Section 4.26.055 shall also constitute grounds for suspension or revocation of a Special Business License issued pursuant to this Chapter.

4.26.050 INDEMNIFICATION. The licensee and the legal owners of the premises where junk tires are stored pursuant to this Chapter shall indemnify, hold harmless and, upon written request, assume any and all costs of the legal defense of the City, its officers, employees and agents from all claims, losses, damages, injuries and liabilities of every kind, nature and description directly or indirectly arising from the performance of activities and operations permitted by a Special Business License issued pursuant to this Chapter.

4.26.055 FIRE PROTECTION. The licensee shall provide such fire protection measures and equipment as may be required by all applicable laws, and as the Chief of the Fire Protection District with jurisdiction over the premises where the junk tires are stored finds reasonably necessary to provide adequate fire protection to the immediate and adjacent premises. No junk tires may be stored on a particular premises pursuant to this Chapter unless and until the written statement required by Section 4.26.030(f) is obtained from the Chief of the appropriate Fire Protection District.

4.26.060 EXISTING JUNK TIRE STORAGE COMPLIANCE SCHEDULE. Any person who presently stores junk tires and who will be required to obtain a Special Business License pursuant to this Chapter upon its adoption may be granted by the City Manager a maximum of three (3) months to comply with all of the requirements of this Chapter provided that public health, safety and welfare of the City residents and visitors will not be unreasonably jeopardized thereby.

4.26.065 EMPLOYEE PERMITS NOT REQUIRED. Section 4.10.070 and related sections of Chapter 4.10 requiring employee permits for personnel of Special Business Licenses shall not be applicable to this Chapter.

Article 3 Penalties

4.26.070 FINE, IMPRISONMENT AND EXPENSES FOR COMPLIANCE.

Notwithstanding the provisions of Section 4.02.100, any person who violates any of the provisions of this Chapter, or fails to comply with any of the regulatory requirements adopted by the City Manager pursuant to this Chapter, is guilty of a misdemeanor, and upon conviction may be punished by a fine not to exceed five hundred dollars or by imprisonment not to exceed six months, or by both. In addition, each such person shall be required to pay any and all expenses necessary to bring the subject premises into compliance with this Chapter and any regulatory requirements adopted by the City Manager pursuant to this Chapter. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter, or regulatory requirements adopted by the City Manager pursuant to this Chapter, is committed, continued, or permitted by any such person, and he shall be punished accordingly.

4.26.075 INJUNCTIVE RELIEF. In addition to the penalties set forth in Section 4.26.070 and consistent with the provisions of Section 4.26.090, any storage of junk tires contrary to the provisions of this Chapter, or any regulations adopted by the City Manager pursuant to this Chapter, shall be and the same is hereby declared to be unlawful and a public nuisance. The City Manager may commence action for the abatement and removal and enjoinder of this public nuisance in the manner provided by law. The City Manager may take such other steps and may apply to such court or courts as may have jurisdiction to grant relief as will abate and remove such junk tires and restrain and enjoin any person, firm or corporation from using any premises contrary to the provisions of this Chapter.

4.26.080 REVOCATION. In addition to the grounds set forth in Section 4.10.135 and in addition to the penalties prescribed in Section 4.26.070 and Section 4.26.075, a Special Business License may be revoked during its term if the City Manager finds in writing that one or more of the following grounds exist:

- (a) Violation by the licensee of any of the terms, conditions or requirements of this Chapter;
- (b) Violation by the licensee of any administrative regulation or rule promulgated pursuant to the provisions of this Chapter;
- (c) Failure of the licensee to comply with any applicable City, State or federal law; and
- (d) Refusal of the licensee to permit an inspection pursuant to Section 4.26.045.

Except for the junk tires on the subject premises at the time of the revocation, no other junk tires shall be stored on the subject premises pending final determination of

the revocation proceedings. Nothing in this Section shall be construed as precluding the removal of any junk tires from the subject premises.

4.26.085 TEMPORARY SUSPENSION. In addition to the matters prescribed by Section 4.10.145 and in addition to the penalties prescribed in Section 4.26.070 and Section 4.26.075, a Special Business License issued pursuant to this Chapter may be temporarily suspended pending expiration of the time for appeal or exhaustion of an appeal if the City Manager finds that such temporary suspension is necessary to protect against a serious and immediate threat to public health, safety or welfare caused by the exercise of the license. In the event the City Manager orders a temporary suspension, the notice of the suspension shall be delivered to the address of the agent designated in the application as authorized to accept service of legal process for each junk tire storage premises to which the suspension pertains. The notice shall contain the following:

- (a) The finding justifying the temporary suspension;
- (b) The time, date and place at which the Licensee may appear in advance of the commencement of the temporary suspension for the purpose of responding to the charges contained in the notice; and
- (c) The time and date on which the temporary suspension commences, which shall not be earlier than 24 hours following the time and date of delivery of the notice.

Restoration of Special Business License privileges following a temporary suspension may be granted by the City Manager upon the establishment of such terms, conditions and requirements as are reasonably necessary to protect the public health, safety and welfare of the City residents and visitors.

Except for the junk tires on the subject premises at the time of the temporary suspension, no other junk tires shall be stored on the subject premises pending final determination of the temporary suspension proceedings. Nothing in this section shall be construed as precluding the removal of any junk tires from the subject premises.

4.26.090 ABATEMENT. Junk tires stored in violation of this Chapter are within the meaning of the term "rubbish" as that term is used in Chapter 6.58 of this Code. The provisions of Chapter 6.58 shall be applicable to abatement of violations of this Chapter relating to junk tire storage. In the event that a particular premises is rented or leased or otherwise utilized by a person other than the property owner, that person, in addition to the property owner, shall be held responsible and liable for any costs of abatement that result from the implementation of this section. For the purposes of this Chapter, nothing in Chapter 6.58 or in this Chapter shall be interpreted as imposing a requirement that the City, its officers, agents or employees remove or cause to be removed any junk tires stored contrary to this Chapter.

4.26.095 NATURE OF ENFORCEMENT ACTIONS. Any action or proceeding commenced or continued by the City Manager or the City against a person for violations of this Chapter, or any regulations or rules adopted by the City Manager pursuant to this

Chapter, shall be deemed actions or proceedings to enforce the police or regulatory power of the City.

4.26.100 APPEALS. The appeals procedure set forth in Chapter 4.10, Sections 4.10.115 through 4.10.155 as those Sections relate to Special Business Licenses, shall be applicable to this Chapter relating to junk tire storage.

Chapter 4.27

TOBACCO RETAILERS

Sections:

- 4.27.010 Legislative Findings.
- 4.27.020 Purpose.
- 4.27.030 Definitions.
- 4.27.040 Requirement for Tobacco Retailers License.
- 4.27.050 Application Procedure.
- 4.27.060 Issuance and Renewal of License.
- 4.27.070 Display of License.
- 4.27.080 License Fee.
- 4.27.090 License Nontransferable.
- 4.27.100 License Violation.
- 4.27.110 Suspension or Revocation of License.
- 4.27.120 Denial, Suspension, and Revocation - Appeals.
- 4.27.130 Enforcement.

4.27.010 Legislative Findings. The City Council finds and determines that:

(a) State law prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors (Penal Code § 308).

(b) State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 18 years of age (Business & Professions Code § 22956) and provide procedures for using persons under 18 years of age to conduct onsite compliance checks of tobacco retailers (Business & Professions Code § 22952).

(c) State law requires that tobacco retailers post a conspicuous notice at each point of sale stating that selling tobacco products to anyone under 18 years of age is illegal (Business & Professions Code § 22952, Penal Code § 308).

(d) State law prohibits the sale or display of cigarettes through a self-service display and prohibits public access to cigarettes without the assistance of a clerk (Business & Professions Code § 22962).

(e) State law prohibits the sale of "bidis" (hand-rolled filterless cigarettes imported primarily from India and Southeast Asian countries) except at those businesses that prohibit the presence of minors. (Penal Code § 308.1).

(f) State law prohibits the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibits the manufacture, distribution, or sale of "roll-your-own" tobacco in packages containing less than 0.60 ounces of tobacco (Penal Code § 308.3).

(g) State law prohibits public school students from smoking or using tobacco products while on campus, while attending school-sponsored activities, or while under the supervision or control of school district employees (Education Code § 48901(a)).

(h) Elk Grove Municipal Code Section 6.86.070 prohibits the sale or distribution of tobacco products from vending machines.

(i) In May of 2004, the Sacramento County Department of Health and Human Services Tobacco Education Program found that 17.0% of tobacco retailers sampled in the County unlawfully sold tobacco products to minors, clerks in several types of outlets, including supermarket, convenience mart/gas stations, drug stores, and small markets, sold tobacco to minors and less than 45% of the stores surveyed displayed the STAKE Act signs required by State Law.

(j) Eighty-eight percent of adults who have ever smoked tried their first cigarette by the age of 18, and the average age at which smokers try their first cigarette is 14 1/2.

(k) The City of Elk Grove has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and in protecting children from being lured into illegal activity through the misconduct of adults.

(l) California courts in *Cohen v. City Council*, 40 Cal.3d 277 (1985), and *Bravo Vending v. City of Rancho Mirage*, 16 Cal.App. 4th 383 (1993), have affirmed the power of local jurisdictions to regulate business activity in order to discourage violations of law.

(m) State law authorizes local tobacco retailer licensing laws to provide for the suspension or revocation of the local tobacco retailer license for any violation of a state tobacco control law (Business & Professions Code § 22971.3).

(n) A requirement for a tobacco retailer license will not unduly burden legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to adults. It will, however, allow the City to regulate the operation of lawful businesses to discourage violations of federal, state, and local tobacco-related laws.

4.27.020 Purpose. The purpose of this Chapter is to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those that prohibit or discourage the sale or distribution of tobacco products to minors, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalty provided for violations.

4.27.030 Definitions. As used in this Chapter, the following words and phrases shall have the meaning given them in this Section, unless the context clearly requires otherwise:

- (a) "City" means the City of Elk Grove.
- (b) "City Manager" means the City Manager of the City of Elk Grove or his or her designee.
- (c) "Itinerant tobacco retailing" means engaging in tobacco retailing at other than a fixed location.
- (d) "License" means a Tobacco Retailer Special Business License issued by the City pursuant to this Chapter.
- (e) "Licensee" means any proprietor holding a license issued by the City pursuant to this Chapter.
- (f) "Person" means any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust,

business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(g) "Proprietor" means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person has, or can have, sole or shared control over the day-to-day operations of a business.

(h) "Tobacco product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco.

(i) "Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed or used for the smoking or ingestion of tobacco products.

(j) "Tobacco retailer" means any person who sells, offers for sale, exchanges, or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

(k) "Tobacco retailing" shall mean selling, offering for sale, exchanging, or offering to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

4.27.040 Requirement for Tobacco Retailers License.

(a) It shall be unlawful for any person to act as a tobacco retailer without first obtaining a license for each location at which tobacco retailing is to occur. No license will be issued to authorize tobacco retailing at other than a fixed location. No license will be issued for itinerant tobacco retailing or tobacco retailing from vehicles.

(b) Nothing in this Chapter shall be construed to grant any person obtaining a license any status or right other than the right to act as a tobacco retailer at the location in the City identified on the face of the license, subject to compliance with all other applicable laws, regulations, and ordinances. Nothing in this Chapter shall be construed to render inapplicable, supercede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on indoor smoking made applicable to business establishments by Labor Code section 6404.5.

4.27.050 Application Procedure.

All applications for a license shall be submitted to the City Manager in the name of each proprietor proposing to conduct tobacco retailing and shall be signed by each proprietor or an authorized agent thereof. A proprietor proposing to conduct tobacco

retailing at more than one location shall submit a separate application for each location. Every application shall be submitted on a form supplied by the City Manager and shall contain the following information:

- (a) The name, address, e-mail address, if any, and telephone number of each proprietor.
- (b) The business name, address, and telephone number of the fixed location for which a license is sought.
- (c) Whether or not any proprietor has previously been issued a license pursuant to this Chapter that is, or was at any time, suspended or revoked and, if so, the dates of the suspension period or the date of revocation.
- (d) Such other information as the City Manager deems necessary for the administration or enforcement of this Chapter.

4.27.060 Issuance and Renewal of License.

(a) Upon the receipt of an application for a license and the applicable license fee, the City Manager shall issue a license or its renewal unless:

- (1) The application is incomplete or inaccurate;
- (2) The application seeks authorization for tobacco retailing at an address that appears on a license that is suspended, has been revoked, or is subject to suspension or revocation proceedings for violation of any of the provisions of this Chapter except this subparagraph shall not constitute a basis for denial of a license if either or both of the following apply:

(A) The applicant provides the City with documentation demonstrating that the applicant has acquired or is acquiring the premises or business in an arm's length transaction. For the purposes of this subparagraph, an "arm's length transaction" is defined as a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this Chapter that occurred at the location, is presumed not to be an "arm's length transaction";

(B) It has been more than five (5) years since the most recent license for that location was revoked;

(3) The application seeks authorization for tobacco retailing that is unlawful pursuant to this Code, or that is unlawful pursuant to any other local, state, or federal law; or,

(4) The City Manager has information that the applicant or his or her agents or employees has violated any local, state or federal tobacco control law at the location for which the license or renewal of the license is sought within the preceding thirty-day (30) period.

(b) Unless revoked on an earlier date, all licenses shall expire one year after the date of issuance. Not later than forty-five (45) days prior to expiration of the term of the immediately preceding License, the City Manager shall transmit to the licensee by mail an application for renewal. The application submitted for renewal shall be in such form and include such information as is prescribed and required by the City Manager, but shall include a renewal form provided by the City, the required fee, and a copy of the license to be renewed. A license that is suspended, has been revoked, or is subject to suspension or revocation proceedings shall not be renewed. An application for renewal and license fee shall be submitted at least thirty (30) days, but not more than sixty (60) days, prior to the expiration of the current valid license. The renewal applicant shall follow all of the procedures and provide all of the information required Section 4.27.050. The City Manager shall process the application according to the provisions of this Section.

(c) Where the City Manager does not approve a license or renewal of a license, the City Manager shall notify the applicant of the specific grounds for the denial in writing. The notice of denial shall be served personally or by mail not later than five (5) calendar days after the date of the denial. If by mail, the notice shall be placed in a sealed envelope, with postage paid, addressed to the applicant at the address as it appears on the application. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States mail without extension of time for any reason. In lieu of mailing, the notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of such delivery. Personal service to a corporation may be made by delivery of the notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

4.27.070 Display of License. Each license shall be prominently displayed in a publicly visible location at the licensed premises.

4.27.080 License Fee. The fee for issuance or renewal of a license shall be established by resolution of the City Council and shall be in addition to the fees associated with any other license or permit fee imposed by this Code upon the applicant. The license fee shall be paid to the City at the time the license application is submitted.

4.27.090 License Nontransferable. A license is nontransferable. If a licensee changes business location, that licensee must obtain a new license prior to acting as a tobacco retailer at the new location. If a business licensed to conduct tobacco retailing is sold, the new owner must obtain a license for that location before acting as a tobacco retailer.

4.27.100 License Violation. It shall be a violation of a license for a licensee or his or her agents or employees to violate any local, state, or federal tobacco-related law.

4.27.110 Suspension or Revocation of License.

(a) In addition to any other remedy authorized by law, a license shall be suspended or revoked as provided in this Section, if the City Manager finds that the licensee or his or her agents or employees has or have violated any of the provisions of this Chapter except violations by a licensee at one location may not be accumulated against other locations of that same licensee, nor may violations accumulated against a prior licensee at a licensed location be accumulated against a new licensee at the same licensed location.

(1) Upon a finding by the City Manager of a first license violation within any five-year (5) period, the license shall be suspended for thirty (30) days.

(2) Upon a finding by the City Manager of a second license violation within any five-year (5) period, the license shall be suspended for ninety (90) days.

(3) Upon a finding by the City Manager of a third license violation within any five-year (5) period, the license shall be suspended for one (1) year.

(4) Upon a finding by the City Manager of a fourth license violation within any five-year (5) period, the license shall be revoked.

(b) Notwithstanding subsection (a), a license shall be revoked if the City Manager finds that either one or both of the following conditions exist:

(1) One or more of the bases for denial of a license under Section 4.27.060(a) existed at the time application was made or at any time before the license issued.

(2) The information contained in the license application, including supplemental information, if any, is found to be false in any material respect.

(c) In the event the City Manager suspends or revokes a license, written notice of the suspension or revocation shall be served upon the licensee within five (5) days of the suspension or revocation in the manner prescribed in Section 4.27.060(c). The notice shall contain:

(1) A brief statement of the specific grounds for such suspension or revocation;

(2) A statement that the licensee may appeal the suspension or revocation by submitting an appeal, in writing, in accordance with the provisions of Section 4.27.120, to the City Manager, within ten (10) calendar days of the date of service of the notice; and,

(3) A statement that the failure to appeal the notice of suspension or revocation will constitute a waiver of all right to an administrative appeal hearing, and the suspension or revocation will be final.

(d) A licensee for whom a license suspension is in effect must remove all tobacco products and tobacco paraphernalia from public view at the address that appears on the suspended license.

4.27.120 Denial, Suspension, and Revocation - Appeals.

(a) Any applicant or licensee aggrieved by the decision of the City Manager in denying, suspending, or revoking a license, may appeal the decision by submitting a written appeal to the City Manager within ten (10) calendar days from the date of service of the notice of denial, suspension, or revocation. The written appeal shall contain:

(1) A brief statement in ordinary and concise language of the specific action protested, together with any material facts claimed to support the contentions of the appellant;

(2) A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested action should be reversed or otherwise set aside;

(3) The signatures of all parties named as appellants and their official mailing addresses; and,

(4) The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

(b) The appeal hearing shall be conducted in accordance with Chapter 1.11 of the Municipal Code.

(c) Any suspension or revocation of a license shall be stayed during the pendency of an appeal that is properly and timely filed pursuant to this Section.

4.27.130 Enforcement.

(a) In addition to any other remedy, any person violating any provision of this Chapter shall be guilty of a misdemeanor for each day such violation continues.

(b) Any violation of this Chapter may be remedied by a civil action brought by the City Attorney. The City may recover reasonable attorneys' fees and costs of suit in any civil action brought by the City Attorney to remedy any violation of this Chapter.

(c) Any person violating the provisions of this Chapter shall also be liable for civil penalties of not less than two hundred fifty dollars (\$250.00) or more than twenty-five thousand dollars (\$25,000.00) for each day the violation continues.

(d) Violations of this Chapter are hereby declared to be public nuisances subject to abatement by the City.

(e) In addition to criminal sanctions, civil penalties as provided in this Section, and other remedies set forth in this Chapter, administrative penalties of up to \$5,000 for each violation of this Chapter may be imposed against any person violating any provision of this Chapter pursuant to the procedures specified in Section 16.18.205(f) of the Municipal Code or pursuant to any generally applicable provisions of the Municipal Code concerning administrative fines and penalties.

CHAPTER 4.30
ADULT-RELATED ESTABLISHMENTS

Article I
General Provisions

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- 4.30.000 Purposes.
- 4.30.005 Definitions.
- 4.30.010 Same - Adult-Related Establishment.
- 4.30.015 Same - Bathhouse.
- 4.30.020 Same - Introductory Service.
- 4.30.025 Same - Massage Services.
- 4.30.030 Same - Escort Services.
- 4.30.035 Same - Employed or Retained By.
- 4.30.050 Exemptions.
- 4.30.060 Hours of Operation.
- 4.30.065 List of Services.
- 4.30.070 Personnel Registers.
- 4.30.075 Employment of Minors.
- 4.30.080 Schools of Massage.
- 4.30.085 Sanitation requirements - Massage Establishments.
- 4.30.090 Sanitation requirements - Bathhouses.
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- 4.30.100 Minimum qualifications - Massage Managers.
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Article 2
Licenses and Permits

- 4.30.200 License Required.
- 4.30.205 Display of License.
- 4.30.210 Employee Permits Required.
- 4.30.215 Application.
- 4.30.220 Issuance.
- 4.30.225 Revocation of Permits.

Article 1 General Provisions

4.30.000 PURPOSES. There has been a proliferation throughout the region of adult-related establishments, such as escort bureaus, introductory services, public bathhouses, and similar businesses which offer patrons services or entertainment of an adult character. There has been a demonstrable relationship between high incidence of unlawful prostitution and drug-related crime, and the adult-related establishments regulated by this Chapter. Such businesses have been known to operate as fronts for houses of prostitution, and for illegal drug-related transactions. Past regulation by the regional governments of some of these establishments, such as massage parlors, has been unsuccessful because the establishments evade the regulations by changing their names to indicate different objects or purposes from the types of businesses regulated.

A system of requiring regulatory licenses for adult-related establishments and for those persons rendering services to customers will assist in assuring illegal activities do not occur on the premises or otherwise in connection with the business within the City. If criminal activity occurs on the premises, or if other provisions of this Chapter are violated, the licenses are subject to revocation. Criminal liability also exists for a violation of this Chapter. These provisions will provide the Chief of Police with both preventative and investigatory tools to control illegal activity in such businesses, and will promote and protect the public health, safety and welfare.

By the definition of "adult-related establishment" contained in Section 4.30.010, it is the intent of the City Council to prevent evasion of the provisions of this Chapter through the device of calling the business by a new or different name.

This Chapter is enacted pursuant to the provisions of Section 51034 of the Government Code.

4.30.005 DEFINITIONS. As used in this Chapter, the terms identified by Sections 4.30.010 through 4.30.035 shall be ascribed the meanings indicated.

4.30.010 SAME - ADULT RELATED ESTABLISHMENT. "Adult-related establishment" means a bathhouse, escort bureau, introductory service, massage establishment, or out-call massage service as defined by this Chapter. "Adult-related establishment" does not include an "Adult-Oriented Business" as defined and regulated in Chapter 4.31.

4.30.015 SAME - BATHHOUSE. "Bathhouse" means an establishment whose primary business is to provide, for pecuniary compensation, consideration, hire or reward, access to any kind of bath facility, including but not limited to, showers, saunas and hottubs.

4.30.020 SAME - INTRODUCTORY SERVICE. "Introductory service" means a business which, for pecuniary compensation, consideration, hire or reward will help persons to meet or become acquainted with others for social purposes. For purposes of this Section, "others" include personnel of the introductory service.

4.30.025 SAME - MESSAGE SERVICES. In relation to massage services, the following terms shall be ascribed the following meanings:

(a) "Massage" -- means any method of pressure or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external surfaces of the body with hands or with any object or appliance;

(b) "Massage Establishment" -- means an establishment whose primary business is the offering of massage in exchange for pecuniary compensation, consideration, hire or reward;

(c) "Out-Call Massage Service" -- means any business, not licensed as a massage establishment under the provisions of this Chapter, wherein the primary function of such business is to engage in or carry on massage for pecuniary compensation, consideration, hire or reward not at a fixed location, but at a location designated by the customer or client;

(d) "Massage Technician" -- means any person who for pecuniary compensation, consideration, hire or reward, engages in the practice of massage.

4.30.030 SAME - ESCORT SERVICES. In relation to escort services, the following terms shall be ascribed the following meanings:

(a) "Escort Bureau" -- means a business which, for pecuniary compensation, consideration, hire or reward, furnishes or offers to furnish escorts;

(b) "Escort" -- means a person who, for pecuniary compensation, consideration, hire or reward, either escorts or accompanies others to or about social affairs, entertainment or places of amusement, or keeps company with others about any place of public resort or within any private quarters.

4.30.035 SAME - EMPLOYED OR RETAINED BY. "Employed or retained by" shall include:

(a) any person who is a directly paid employee of an adult-related business;

(b) any person whose association with an adult-related business is that of an independent contractor who receives payments of anything of value in exchange for any service rendered to the adult-related business or any of its customers;

(c) any person who receives a referral of customers from an adult-related business and who at any time before the referral or thereafter arranges in any way for money or any thing of value to flow to the adult-related business or any of its owners (regardless of whether the parties involved acknowledge that consideration is flowing in exchange for the referral or record such consideration in their financial records).

4.30.050 EXEMPTIONS. This Chapter shall not be applicable to or include the following:

- (a) Hospitals, nursing homes, sanitariums, or persons working in any such establishments;
- (b) Persons holding an unrevoked certificate to practice the healing arts under the laws of the State of California or persons working under the direction of any such persons;
- (c) Barbers or cosmetologists lawfully carrying out their particular occupation or business, and holding a valid, unrevoked license or certificate of registration issued by the State of California;
- (d) Modeling schools maintained pursuant to standards established by the State Board of Education of the State of California; or
- (e) Any recognized school of massage which: (1) teaches the theory, ethics, practice, profession and work of massage requiring a minimum of 250 hours of instruction for which not more than 125 hours of credit can be given to a student for previous experience; and (2) requires a residence course of study to be given before the student is furnished with a diploma or certificate of learning or completion; and (3) has been registered pursuant to Section 94931 of the Education Code, or, if such school is not located in California, has complied with the standards commensurate with those specified in Section 94931. A "recognized school of massage" as those terms are used above, shall not include a school or institution of learning offering or allowing correspondence course credit not requiring actual attendance at class.

4.30.060 HOURS OF OPERATION. It shall be unlawful for any adult-related establishment to be operated or remain open for business between the hours of 10:00 p.m. and 8:00 a.m. of the following day.

4.30.065 LIST OF SERVICES. A list of the services available and the price of such services shall be posted in a clearly visible place at or near the entrance of each adult-related establishment. The services available shall be described in readily understandable language. No adult-related establishment shall render or provide, or offer to render or provide, any service not listed in compliance with this Section.

4.30.070 PERSONNEL REGISTERS. Operators of adult-related establishments shall maintain personnel registers, which shall be available for inspection by the Chief of Police at all times during regular business hours, as follows:

- (a) With respect to a massage establishment and an out-call massage service, a personnel register shall be maintained containing the names and employee permit numbers of each person employed or retained to perform service as a massage technician.
- (b) With respect to an escort or introductory service, a personnel register shall be maintained which includes the names and employee permit number of each person employed or retained as an escort or person employed or retained by the introductory service.

(c) With respect to any other adult-related establishment, a personnel register shall be maintained which includes the names of all persons employed or retained on the premises to provide services, the title of the position of each such person, and as to those persons required to possess employee permits by this Chapter, their employee permit numbers.

4.30.075 EMPLOYMENT OF MINORS. It shall be unlawful for the operator or any other person in charge of an adult-related establishment to employ or retain any person who is under the age of eighteen (18) years to perform any service on the premises of the establishment.

4.30.080 SCHOOLS OF MASSAGE. No massage establishment shall operate as a school of massage, as the terms "school of massage" are defined by Section 4.30.050(e), or shall use the facilities or premises of such a school of massage in connection with the operations of the massage establishment.

No person shall perform a massage on a member of the general public while on the premises of a school of massage, as defined by Section 4.30.050(e).

4.30.085 SANITATION REQUIREMENTS - MASSAGE ESTABLISHMENTS. Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens. Towels, coverings and linens shall not be used on more than one patron unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in approved receptacles.

Within massage establishments wet and dry heat rooms, steam or vapor rooms or cabinets, shower rooms and compartments, toilet rooms and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the Chief of Police. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the Chief of Police. All walls, ceilings, floors and other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Instruments for massage shall not be used on more than one patron unless they are sterilized before each use by sterilization methods approved by the Chief of Police.

4.30.090 SANITATION REQUIREMENTS -BATHHOUSES. Within bathhouses, towels shall not be supplied to more than one patron unless such towels have first been laundered and disinfected. Wet and dry heat rooms, steam or vapor rooms and cabinets, shower rooms and compartments, toilet rooms and pools shall be thoroughly cleaned and disinfected as needed, and at least once a day the premises are open, with a disinfectant approved by the Chief of Police. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the Chief of Police. All walls, ceilings, floors and other physical facilities shall be in good repair and maintained in a clean and sanitary condition.

4.30.095 SANITATION REQUIREMENTS - MASSAGE TECHNICIANS. While performing services in any adult-related establishment, massage technicians shall wear garments which cover the entire body, exclusive of the head, neck, arms, legs, hands and feet, while giving a massage. Such garments shall not be transparent.

4.30.100 MINIMUM QUALIFICATIONS - MASSAGE MANAGERS. Each massage establishment and out-call massage service offering any services involving physical contact with patrons shall be managed by a person who possesses a diploma or certificate of graduation from a recognized school of massage, as the terms "recognized school of massage" are defined by Section 4.30.050(e). It shall be unlawful for any massage establishment or out-call massage service offering such services to operate unless managed by a person possessing a diploma or certificate.

Such an establishment and service shall not be deemed "managed" as required by this Section unless a person possessing the required certificate or diploma having the authority and responsibility to supervise personnel employed or retained to perform services and to supervise the delivery of services is on the premises of the establishment not less than seventy-five percent of the time the business is open for the delivery of services.

4.30.105 MINIMUM QUALIFICATIONS - MASSAGE TECHNICIANS. It shall be unlawful for any massage establishment and out-call massage service to employ or retain a person to provide services as a massage technician, and unlawful for any person to work at or for such an establishment or service, unless the person possesses a diploma or certificate of graduation from a recognized school of massage, as the terms "recognized school of massage" are defined by Section 4.30.050(e).

Article 2 Licenses and Permits

4.30.200 LICENSE REQUIRED. It shall be unlawful for any person to operate or conduct an adult-related establishment unless under and by authority of a valid, unexpired and unrevoked Special Business License issued pursuant to the provisions of Chapter 4.10 and this Chapter.

4.30.205 DISPLAY OF LICENSE. Each adult-related establishment, except an out-call massage service, shall display the Special Business License in a conspicuous place within the establishment so that the same may be readily seen by persons entering the premises.

A person engaged in an out-call massage service who is the Licensee for such service shall have the License available for inspection at all times while providing out-call massage services.

4.30.210 EMPLOYEE PERMITS REQUIRED. It shall be unlawful for any person to provide any of the following services without possessing a valid, unexpired and unrevoked Employee Permit issued pursuant to the provisions of Chapter 4.10 and this Chapter:

- (a) Act as a manager of an adult-related establishment by supervising or controlling the personnel of such an establishment or the services rendered therein;
- (b) Give a massage for a fee or any other form of consideration;
- (c) Act as an escort or a person employed or retained by an Introductory Service.

It shall be unlawful for the operator of any adult-related establishment to employ or retain a person to perform any of the above services unless such person possesses such an Employee Permit.

4.30.215 APPLICATION. In addition to the matters prescribed by Section 4.10.080, an application for an Employee Permit to provide services identified by Section 4.30.210 shall contain the following:

- (a) A list of each conviction of the applicant, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged and the offense of which the applicant was convicted.
- (b) Proof of the age of the applicant; and
- (c) With respect to a permit to perform services as a manager of a massage establishment or out-call massage service or as a massage technician, the name and address of each school of massage attended or provider of instructional services in massage which has been received, the name and address and current telephone number of the school or provider, the dates of attendance or receipt of instruction, and a copy of any certificate or diploma or other evidence of completion which the applicant has received.

4.30.220 ISSUANCE. Upon receipt of an application for an Employee Permit to act as a manager of an adult-related establishment, a massage technician, or an escort, the Chief of Police shall conduct such investigation pursuant to Section 4.10.085 as is deemed necessary. The Chief of Police shall issue the Permit unless he or she finds pursuant to Section 4.10.090 any of the following:

- (a) That the application fails to contain information required by the Chief of Police or Section 4.30.215, or is otherwise incomplete;
- (b) That information contained in the application is false or otherwise inaccurate;
- (c) That the applicant has been convicted of a crime and the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under California Penal Code Section 1203.4; or has done any act involving dishonesty, fraud or deceit with intent to substantially benefit him or herself, or another, or substantially injure another; and the Chief of Police concludes that by reason of the crime or act there is a substantial risk

that the applicant would not perform his or her duties as a manager, massage technician, or escort in a law-abiding manner or in a manner which does not subject patrons to risk of harm or criminal, deceitful or otherwise unethical practices.

Notwithstanding the foregoing, an application shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under California Penal Code Section 4852.01 et seq., or that the person has been convicted of a misdemeanor if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under California Penal Code Section 482(a).

(d) That the applicant is under eighteen (18) years of age; or

(e) That with respect to an application for an Employee Permit to act as a manager of a massage establishment or out-call massage service offering services involving physical contact with patrons, or massage technician, the applicant has not graduated from a recognized school of massage, as defined by Section 4.30.050(e).

Notwithstanding any other provision in this Chapter to the contrary, the Chief of Police may deem the requirements of the immediately preceding subparagraph and Sections 4.30.100 and 4.30.105 satisfied if he or she finds in writing that the applicant for the Permit has attended not less than two hundred and fifty (250) hours of instruction in massage at a school within or outside this State or in any foreign country that provides education substantially equal to or in excess of that received as a result of graduating from a recognized school of massage. Not more than one hundred and twenty-five (125) hours of such 250 hour instructional requirement can be waived based upon prior education or training experience.

4.30.225 REVOCATION OF PERMITS. An Employee Permit may be revoked or suspended pursuant to Section 4.10.140 upon any of the following grounds:

(a) Violation of any of the duties, requirements or prohibitions contained in this Chapter;

(b) Violation of any of the duties, requirements or prohibitions set forth in any administrative regulations issued pursuant to Section 4.02.085;

(c) Misrepresentation of a material fact contained in the application for the Permit; or

(d) That since issuance or renewal of the Permit the Chief of Police has acquired information supporting a finding prescribed by Section 4.30.220(c) in relation to the holder of the Permit.

CHAPTER 4.31
ADULT-ORIENTED BUSINESSES

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- 4.31.005 Licenses and Registration Required.
- 4.31.010 Classification.

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- 4.31.050 Definitions.

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Adult-Oriented Business Licenses

- 4.31.100 Adult-Oriented Business License Required.
- 4.31.105 Investigation and Action on Application.
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**Article 1
GENERAL PROVISIONS**

4.31.000 PURPOSE AND INTENT.

It is the intent of this Chapter to regulate Adult-Oriented Businesses in order to promote the health, safety, and general welfare of the residents of the City. The provisions of this Chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials and paraphernalia protected by the First Amendment, or denying access by the distributors, exhibitors, and Performers of adult-oriented entertainment to their intended market. In addition, the provisions of this Chapter have neither the purpose nor effect of condoning or legitimizing the distribution of obscene material.

4.31.005 LICENSES AND REGISTRATION REQUIRED.

(a) It is a violation of this Chapter for any person to engage in, conduct, or carry on, or permit to be engaged in, conducted, or carried on, in or upon any premises in the City, the operation of an Adult-Oriented Business unless the person first obtains and continues to maintain in full force and effect a valid Adult-Oriented Special Business License issued by the Chief of Police pursuant to this Chapter.

(b) It is a violation of this Chapter for any person who operates an Adult-Oriented Business to employ or permit a person to work for or at the Adult-Oriented Business who does not possess a valid Adult-Oriented Business Employee Permit issued by the Chief of Police pursuant to this Chapter.

(c) It is a violation of this Chapter for any person to obtain employment with or perform, work for or at an Adult-Oriented Business unless the person first obtains and continues to maintain in full force and effect a valid Adult-Oriented Business Employee Permit issued by the Chief of Police pursuant to this Chapter. These provisions shall not apply to persons exclusively on the premises of the Adult-Oriented Business to render only repair or maintenance services or to deliver equipment or goods to the Adult-Oriented Business as long as such persons are not Nude, Semi-Nude, in a State of Nudity, or in a Semi-Nude Condition.

(d) It is a violation of this Chapter for any person to engage in or participate in any live performance distinguished or characterized by the performance, showing or simulation of Specified Anatomical Areas or involving Specified Sexual Activities in an Adult-Oriented Business unless the person first obtains and continues to maintain in full force and effect a valid Adult-Oriented Business Employee Permit issued by the Chief of Police pursuant to this Chapter.

4.31.010 CLASSIFICATION.

Adult-Oriented Businesses are classified as follows:

(a) Adult Arcades;

- (b) Adult Bookstores (including Adult Novelty Stores or Adult Video Stores);
- (c) Adult Cabarets;
- (d) Adult Motels (including Adult Hotels);
- (e) Adult Motion Picture Theaters;
- (f) Adult Theaters;
- (g) Nude Model Studios; and
- (h) Sexual Encounter Centers.

Article 2 DEFINITIONS

4.31.050 DEFINITIONS.

The definitions contained in this Section shall govern the construction of this Chapter.

(a) **Adult Arcade** means any commercial establishment to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, computer, or other image-producing devices are maintained to show images to four (4) or fewer persons per machine at any one time, and where, as a regular and substantial course of conduct, the images so displayed are distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas. The phrase "regular and substantial course of conduct" shall be construed with reference to all relevant factors, including but not limited to the following:

(1) The proportion of the business' displays that is distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation Specified Sexual Activities or Specified Anatomical Areas.

(2) The proportion of the business' revenue that is attributable to displays that are distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation Specified Sexual Activities or Specified Anatomical Areas.

(b) **Adult Bookstore (including Adult Novelty Store or Adult Video Store)** means a commercial establishment which, as a regular and substantial course of conduct, offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, any material in digital format (including, but not limited to, compact disc (CD) or digital video disc (DVD)), slides, or other visual representations which are distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas; or,

(2) Instruments, devices, or paraphernalia, except for clothing, which are designed for use in connection with Specified Sexual Activities.

(3) The phrase "regular and substantial course of conduct" shall be construed with reference to all relevant factors, including but not limited to the following:

(A) The business devotes more than twenty-five percent (25%) of its retail inventory (not measured by the number of items but rather by the cost to the business owner of the inventory) to merchandise distinguished or characterized by an emphasis upon Specified Sexual Activities or Specified Anatomical Areas.

(B) The business devotes more than twenty-five percent (25%) of the retail floor area to merchandise that is distinguished or characterized by an emphasis upon Specified Sexual Activities or Specified Anatomical Areas.

(C) The retail value of merchandise that is distinguished or characterized by an emphasis upon Specified Sexual Activities or Specified Anatomical Areas exceeds twenty-five (25%) of the total retail value of inventory offered in each of the following categories:

- (i) books,
- (ii) magazines,
- (iii) video tapes or any material in digital format (including, but not limited to, compact disc (CD) or digital video disc (DVD)), for sale or rental,
- (iv) novelties and devices, and
- (v) on-premises viewing of images, films, and or videos.

(D) Gross revenue derived from merchandise in any category set forth in Paragraph C above exceeds (25%) of the total gross revenue for the category.

There is a rebuttable presumption that a business constitutes an adult bookstore, adult novelty store or adult video store where the business offers or advertises merchandise that is distinguished or characterized by an emphasis upon Specified Sexual Activities or Specified Anatomical Areas as set forth in Paragraph C above and fails to make revenue and inventory related business records available to the City upon twenty-four (24) hours advance notice.

(c) **Adult Cabaret** means a nightclub, bar, restaurant, or similar commercial establishment which, as a regular and substantial course or conduct, features:

- (1) Persons who appear in a State of Nudity or Semi-Nude Condition;
- or

(2) Live performances which are distinguished or characterized by an emphasis upon the exposure of Specified Anatomical Areas or by Specified Sexual Activities; or

(3) Films, motion pictures, video cassettes, any material in digital format (including, but not limited to, compact disc (CD) or digital video disc (DVD)), slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas.

(4) The phrase "regular and substantial course of conduct" shall be construed with reference to all relevant factors, including but not limited to the following:

(A) The proportion of the business' performances or services that is distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation Specified Sexual Activities or Specified Anatomical Areas.

(B) The proportion of the business' revenue that is attributable to performances or services that are distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation Specified Sexual Activities or Specified Anatomical Areas.

(d) **Adult Motels (including Adult Hotels)** means a hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, any materials in digital format (including, but not limited to, compact disc (CD) or digital video disk (DVD)), slides, or other photographic reproductions which, as a regular and substantial course of conduct, are distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas; and has any of the following characteristics:

(1) a sign visible from the public right of way which advertises the availability of the above-described photographic reproductions; or

(2) offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(3) allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

(e) **Adult Motion Picture Theater** means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, any materials in digital format (including, but not limited to, compact disc (CD) or digital video disk (DVD)), slides, or similar photographic reproductions are regularly shown which are distinguished or characterized by an emphasis upon the depiction or description of Specified Sexual Activities or Specified Anatomical Areas, for observation by five (5) or more patrons at any one time.

The phrase "regularly shown" shall be construed with reference to all relevant factors, including but not limited to the following:

(1) The proportion of the theater's photographic reproductions that is distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas.

(2) The number of photographic reproductions shown at the theater each month that are distinguished or characterized by an emphasis upon depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas.

(3) The proportion of the business' revenue that is attributable to entertainment that is distinguished or characterized by an emphasis upon the display or depiction of Specified Sexual Activities or Specified Anatomical Areas.

(f) **Adult-Oriented Businesses** means any of the following commercial establishments where patrons are permitted or invited: an Adult Arcade, Adult Bookstore, Adult Novelty Store, Adult Video Store, Adult Cabaret, Adult Motel, Adult Motion Picture Theater, Adult Theater, Nude Model Studio, or Sexual Encounter Center. An Adult-Oriented Business does not include those businesses defined and regulated as "Adult-Related Businesses" under Chapter 4.30.

(g) **Adult Theater** means a theater, concert hall, auditorium, or similar commercial establishment which as a regular and substantial course of conduct features persons who appear in a State of Nudity or Semi-Nude Condition and/or features live performances which are distinguished or characterized by an emphasis upon the exposure of Specified Anatomical Areas or by Specified Sexual Activities.

The phrase "regular and substantial course of conduct" shall be construed with reference to all relevant factors, including but not limited to the following:

(1) The proportion of the business' performances or services that is distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation Specified Sexual Activities or Specified Anatomical Areas.

(2) The proportion of the business' revenue that is attributable to entertainment that is distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas.

(h) **Distinguished or Characterized by An Emphasis Upon** means the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the depiction or description of Specified Sexual Activities or Specified Anatomical Areas," the films so described are those whose dominant or predominant character and theme are the depiction, description, showing, or simulation of the enumerated sexual activities or anatomical areas.

(i) **Employee** means a person who performs any service on the premises of an Adult-Oriented Business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not such person is paid a salary, wage or other compensation by the operator of the business. Employee does not include a person exclusively on the premises of the Adult-Oriented Business to render only repair or maintenance services or to deliver equipment or goods to the Adult-Oriented Business as long as such persons are not in a State of Nudity or in a Semi-Nude Condition.

(j) **Establishment of an Adult-Oriented Business** means and includes any of the following:

(1) The opening or commencement of any Adult-Oriented Business as a new business;

(2) The conversion of an existing business, whether or not an Adult-Oriented Business, to any other Adult-Oriented Business;

(3) The addition of any Adult-Oriented Business to any other existing Adult-Oriented Business; or

(4) The relocation of any Adult-Oriented Business.

(k) **Fabric** means cloth made by weaving or knitting natural or synthetic fibers and filaments, and for the purposes of this definition, includes paper, metallic or plastic materials but excludes any material directly painted on a body.

(l) **Hotel** means a building or group of buildings containing guestrooms offering transient lodging accommodations to the general public and incidental services that are customarily provided by a hotel, for the convenience of hotel guests, such as food service, recreational facilities, retail services, and banquet, reception and meeting rooms.

(m) **Licensee** means: a person in whose name a license to operate an Adult-Oriented Business has been issued, as well as the person listed as an applicant on the application for a license.

(n) **Motel** means an establishment otherwise defined as a hotel with at least twenty-five (25) percent of all rooms having direct access to the parking areas without the necessity of persons passing through a main lobby of the building.

(o) **Nude Model Studio** means any place where a person: appears Semi-Nude, in a State of Nudity, or displays Specified Anatomical Areas; and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of California or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which

credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a person in a State of Nudity or a Semi-Nude Condition is available for viewing;

(2) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

(3) Where no more than one (1) Nude or Semi-Nude model is on the premises at any one time.

(p) **Nudity or a State of Nudity** means the showing of the human male or female genitals, pubic area, anus, or buttocks with less than a fully opaque fabric covering, the showing of the female breast with less than a fully opaque fabric covering of any part of the areola, or the showing of completely or opaquely covered (by Fabric) male genitals in a discernibly turgid state.

(q) **Permit** means a authorization issued by the City to a person in whose name a permit has been issued allowing employment in an Adult-Oriented Business.

(r) **Person** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(s) **Police Chief or Chief of Police** means the Chief of Police of the City of Elk Grove or the authorized representatives thereof.

(t) **Semi-Nude or in a Semi-Nude Condition** means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks and areola of the female breast as well as portions of the body covered by supporting straps or devices.

(u) **Sexual Encounter Center** means a business or commercial enterprise that, as one of its principal purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex, when one or more of the persons is in a State of Nudity or Semi-Nude Condition. The definition of sexual encounter center does not include an establishment where a medical practitioner, physiologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

(v) **Specified Anatomical Areas** means and includes the following:

(1) Less than completely and opaquely covered by fabric: human genitals or pubic region; human buttocks; human anus; or the female breast below a point immediately above the top of the areola;

(2) Human male genitals in a discernibly turgid state, even if completely or opaquely covered by Fabric; and

(3) Any device, costume, or covering that simulates any of the body parts included in subdivisions (1) or (2) above.

(w) **Specified Criminal Activity** means the following offenses within the State of California, or an offense without the State of California that would have constituted any of the following offenses if committed within the State of California: Sections 243.4, 261, 266a, 266b, 266d, 266e, 266f, 266g, 266h, 266i, 266j, 267, 288, 314.1, 314.2, 315, 316, 318, 653.22 or subdivisions (a), (b) and (d) of Section 647 of the California Penal Code; any offense requiring registration under provisions of either Section 290 of the California Penal Code or Section 11590 of the California Health and Safety Code; or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, giving away, of a controlled substance specified in Section 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code, or as those sections may thereafter be amended or renumbered

(x) **Specified Sexual Activities** means and includes any of the following, whether performed directly or indirectly through clothing or other covering:

(1) The fondling or other erotic touching of human genitals, pubic area, buttocks, anus, or female breast;

(2) Sex acts, actual or simulated, including but not limited to, intercourse, oral copulation, or sodomy;

(3) Masturbation, actual or simulated;

(4) Excretory functions as part of or in connection with any of the other activities described in subdivision (1) through (2) above.

(y) **Transfer of Ownership or Control of Adult-Oriented Business** means and includes any of the following:

(1) The sale, lease, or sublease of the Adult-Oriented Business;

(2) The transfer of securities which constitute a controlling interest in the Adult-Oriented Business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the Adult-Oriented Business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Article 3
ADULT-ORIENTED BUSINESS LICENSES

4.31.100 ADULT-ORIENTED BUSINESS LICENSE REQUIRED. Every person who proposes to maintain, operate, conduct, or establish an Adult-Oriented Business in the City shall file an application with the Chief of Police on a form provided by the City and shall pay a non-refundable application, investigation, and licensing fee set forth in the schedule of fees established from time to time by the City Council.

(a) All applicants must be qualified according to the provisions of this Chapter. The application may request and the applicant shall provide such information including fingerprints as to enable the Chief of Police to determine whether each applicant meets the qualifications established in this Chapter.

(b) If a person who wishes to operate an Adult-Oriented Business is an individual, the person must sign the application. If a person who wishes to operate an Adult-Oriented Business is other than an individual, each individual who has a twenty percent (20%) or greater ownership interest in the Adult-Oriented Business must sign the application. Each applicant must be qualified under this Chapter and each applicant shall be considered a Licensee if a license is granted.

(c) The completed application for an Adult-Oriented Business License shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

(A) an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is at least eighteen (18) years of age;

(B) a partnership, the partnership shall state its complete name, address, e-mail address, if any, and the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any;

(C) a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names and capacity of all officers and directors, and the name of the registered corporate agent and the address of the registered office for service of process.

If the applicant is a partnership or corporation, each partner of the partnership or each shareholder of the corporation with twenty (20%) percent or more share of the corporation shall be deemed an individual applicant and must each be qualified under this Chapter.

(2) If the applicant intends to operate the Adult-Oriented Business under a name other than that of the applicant, the applicant shall register the fictitious name of the Adult-Oriented Business with the appropriate governmental entity and show written proof of registration of the fictitious name.

(3) Whether the applicant has been convicted of a Specified Criminal Activity and, if so, the particular California statute section listed in the definition of Specified Criminal Activity, the date, place, and jurisdiction of each.

(4) Whether the applicant has ever had a license previously issued under this Chapter or its predecessor, or other similar Adult-Oriented Business ordinances from another city or county, denied, suspended or revoked, including the name and location of the Adult-Oriented Business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant has been a partner in a partnership or an officer, director or majority stockholder of a corporation that is licensed under this Chapter, or its predecessor, whose license has previously been denied, suspended or revoked, including the name and location of the Adult-Oriented Business for which the license was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(5) Whether the applicant holds any other licenses under this Chapter, or its predecessor, or other similar Adult-Oriented Business ordinance from another city or county, and, if so, the names and locations of such other licensed businesses.

(6) The particular Adult-Oriented Business for which the applicant is applying. An applicant must apply separately for each Adult-Oriented Business to be operated, owned, managed, or controlled by the applicant.

(7) The address to which notice of action on the application is to be mailed.

(8) The location of the Adult-Oriented Business, including a legal description of the property, street address, and telephone number(s), if any.

(9) The applicant's mailing address, residential address, and e-mail address, if any.

(10) A recent photograph of the individual applicant.

(11) The applicant's driver's license number, Social Security number, and, for partnerships or corporation applicants, the applicant's state or federally issued tax identification number to the extent the applicant has been issued these items.

(12) The names of all Employees, independent contractors, and other persons who will work, be employed or perform at the Adult-Oriented Business, who are required by this Chapter to obtain an Adult-Oriented Business Employee Permit.

(13) A sketch or diagram showing interior configuration of the premises, including a statement of the total floor area occupied by the Adult-Oriented Business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(14) A certificate and straight-line drawing, prepared within 30 days prior to application, depicting, without regard to intervening structures or objects, the distance from the closest exterior wall of the building or structure, in which the Adult-Oriented Business is located, to the boundary of the property on which is located a building, structure or use, or portion of the building, structure or use, described in, and within the distance specified in, section 23.70.040 of the City's Zoning Code.

(15) A diagram of the off-street parking areas and premises entries of the Adult-Oriented Business and showing the location of the lighting system.

(d) Every application for a license under this Chapter shall be verified as provided in Section 128.7 of the California Code of Civil Procedure for the verification of pleadings.

(e) The fact that an applicant possesses other types of state, city or county permits or licenses does not exempt the applicant for the requirement of obtaining an Adult-Oriented Business License.

4.31.105 INVESTIGATION AND ACTION ON APPLICATION.

(a) The Chief of Police shall determine whether the application contains all of the information required by the provisions of this Chapter. If it is determined that the application is not complete, the applicant shall be notified in writing within ten (10) business days of the date of receipt of the application that the application is not complete and the reasons therefor. The applicant shall have thirty (30) calendar days from the date of the notice to submit additional information to render the application complete. The applicant's failure to submit the additional information within this time period renders the application null and void. Within five (5) business days following the receipt of a supplemental or amended application, the Chief of Police shall again determine whether the application is complete. Evaluation and notification shall occur as provided above until such time as the application is found to be complete. Once the application is found to be complete, the applicant shall be notified within five (5) business days of that fact. If an applicant submits two (2) consecutive incomplete applications, the applicant shall be notified in writing that a new application must be filed with Chief of Police as set forth herein.

(b) Within three (3) business days after the Chief of Police determines that the application is complete and the required non-refundable application fee has been submitted, the Chief of Police shall issue a temporary license to the applicant, which shall be valid for the time period during which the license application is being processed, which time period shall not exceed thirty (30) business days from the date the application has been deemed complete. A temporary license issued pursuant to this subsection shall not grant any vested rights on the holder of the temporary license.

(c) Within five (5) business days after receipt of a completed application and the required filing fee, the Chief of Police shall transmit copies of the application and its attachments to appropriate City departments.

(d) Within thirty (30) business days after receipt of a completed application and the required filing fee, the Chief of Police shall complete the investigation, grant or deny the application in accordance with the provisions of this Chapter, and shall notify the applicant as follows:

(1) If the application is approved, the Chief of Police will write or stamp "Granted" on the application and date and sign such notation. The Chief of Police shall attach to the application an Adult-Oriented Business License.

(2) If the application is denied, the Chief of Police will write or stamp "Denied" on the application and date and sign such notation. The Chief of Police shall attach to the application a statement of the reasons for denial.

(3) The documents specified in paragraphs (1) and (2) above shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address specified in the application for receipt of the determination under this Chapter. All notices given hereunder shall be deemed given upon the date they are deposited in the United States mail or the date upon which personal service is provided.

(e) The Chief of Police shall approve the issuance of a license to an applicant, unless it is determined by a preponderance of the evidence that any of the following findings is true:

(1) That the operation as proposed by the applicant, if permitted, will not comply with all applicable laws, including, but not limited to the locational requirement set forth in the City's Zoning Code, the provisions of this Chapter, and the building, health, housing and fire codes of the City.

(2) That the applicant has been convicted of a Specified Criminal Activity except the Chief of Police shall issue a permit to any person convicted of any of the crimes described above if the person is otherwise qualified for a permit; and the longer of the following time periods has passed:

- (A) Five years from date of the conviction; or
- (B) Five years from release from confinement; or
- (C) Five years from formal release from probation period; or
- (D) Five years from formal release from parole.

(3) That the applicant has knowingly made a material misrepresentation in the application;

(4) That the applicant or any operator has had a license for an Adult-Oriented Business revoked for cause by this City or any other city or county within the last five years except as provided in this Chapter;

- (5) That the applicant is not at least eighteen (18) years of age;
- (6) That the applicant has not paid the required fee.

(f) The license, if granted shall expire one (1) year from the date of issuance. Not later than forty-five (45) days prior to expiration of the term of the immediately preceding License, the City Manager shall transmit to the licensee by mail an application for renewal. The application for renewal shall be in such form and include such information as is prescribed and required by the Chief of Police, but shall include a renewal form provided by the City, the required fee, and a copy of the license to be renewed. The sole purpose of the renewal application is to update the information provided by the applicant on the initial application.

The application for renewal shall be filed with the City Manager not later than the date of expiration of the term of the immediately preceding License. Notwithstanding Section 4.10.60, the Chief of Police shall perform such investigation and examination of the applicant as he or she deems appropriate to determine whether the standards for renewal are satisfied. In considering such renewal, the Chief of Police shall use the same standards as used for issuance of an initial license. The Chief of Police shall extend the term of the immediately preceding License during the period of any investigation or examination required in order to determine whether the License should be renewed. The Chief of Police shall act upon applications for license renewal as provided herein for applications for initial licenses.

(g) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the Adult-Oriented Business and the single classification of Adult-Oriented Business as set forth herein, for which the license is issued.

(h) All licenses shall be posted in a conspicuous place at or near the entrance to the Adult-Oriented Business so that they may be easily read at any time by all persons entering the Adult-Oriented Business.

(i) Within thirty (30) calendar days of any change in the information originally submitted with the license application, all Licensees shall provide the Chief of Police with a written statement supplementing or amending the information required by this Chapter. Failure to submit such changes shall be grounds for suspension of the Adult-Oriented Business License.

(j) Within thirty (30) calendar days of any change in Employee hiring or status, all Licensees shall provide the Chief of Police with a written statement supplementing or amending the information required by this Chapter. Failure to submit such changes shall be grounds for suspension of the Adult-Oriented Business License.

(k) If the Chief of Police neither grants nor denies a completed application for which the filing fees have been paid, within thirty (30) business days after its receipt, the applicant may begin operating the Adult-Oriented Business for the single classification of Adult-Oriented Business as set forth herein, for which the license was sought, subject

to strict compliance with the provisions of this Chapter for a period of 12 months subject to the renewal provisions as set forth in this Chapter. Notwithstanding the foregoing, nothing shall prevent the Chief of Police from either granting or denying a completed application pursuant the terms of this Chapter even if more than thirty days has elapsed since the receipt of a completed application.

4.31.110 TRANSFER OF ADULT-ORIENTED BUSINESS LICENSES.

(a) It is a violation of this Chapter for a Licensee to operate an Adult-Oriented Business under the authority of an Adult-Oriented Business License at any place other than the address of the Adult-Oriented Business stated in the application upon which the license was issued.

(b) It is a violation of this Chapter for a Licensee to transfer ownership or control of an Adult-Oriented Business License to another person unless and until the transferee first obtains a written amendment to the license from the Chief of Police in accordance with and subject to the application and fee requirements set forth in this Chapter.

(c) It is a violation of this Chapter for a Licensee to transfer an Adult-Oriented Business License when the Chief of Police has notified the Licensee that the license has been suspended or revoked or that such action is pending.

(d) Any attempt to transfer a license either directly or indirectly in violation of this Chapter is void, and the license shall be deemed revoked.

Article 4 ADULT-ORIENTED BUSINESS EMPLOYEE PERMITS

4.31.200 EMPLOYEE PERMIT REQUIRED.

(a) No person shall engage in or participate in any live performance distinguished or characterized by the performance, showing or simulation of Specified Anatomical Areas or involving Specified Sexual Activities in an Adult-Oriented Business, without a valid Adult-Oriented Business Employee Permit issued by the Chief of Police.

(b) All Employees of an Adult-Oriented Business shall have a valid Adult-Oriented Business Employee Permit issued by the Chief of Police.

(c) Before any applicant may be issued an Adult-Oriented Business Employee Permit, the applicant shall submit to the Chief of Police on a form to be provided by the City the following information:

(1) The applicant's legal name and any other name including "stage" names or aliases used by the applicant;

(2) Age, date, and place of birth;

- (3) Height, weight, hair and eye color;
- (4) Present residence address and telephone number;
- (5) Present business address and telephone number;
- (6) Date, issuing state and number of driver's license or other identification card information if applicable;
- (7) Social Security number; and,
- (8) Satisfactory written proof that the individual is at least eighteen (18) years of age.

(d) Attached to the application form shall be the following:

(1) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(2) A statement detailing the permit history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously obtained or is seeking to obtain an Adult-Oriented Business Employee Permit in this City or any other county, city, state, or country, and whether such applicant has ever had a license, permit, or authorization to do business in an Adult-Oriented Business denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(3) A statement whether the applicant has been convicted within the past five (5) years, as of the date of submitting the application, of a Specified Criminal Activity as defined in this Chapter and, if so, the particular California statute section listed in the definition of Specified Criminal Activity, the date, place and jurisdiction of each conviction.

(e) Every application for a permit under this Chapter shall be verified as provided in Section 128.7 of the California Code of Civil Procedure for the verification of pleadings.

(f) Every application for an Adult-Oriented Business Employee Permit, whether for a new permit or for a renewal of an existing permit, shall be accompanied by a non-refundable application, investigation and permit fee as set forth in the schedule of fees established from time to time by the City Council.

(g) The fact that an applicant possesses other types of state, City or county permits or licenses does not exempt the applicant for the requirement of obtaining an Adult-Oriented Business Employee Permit.

4.31.205 INVESTIGATION AND ACTION ON APPLICATION.

(a) Upon receipt of an application for an Adult-Oriented Business Employee Permit and the required non-refundable application, investigation, and licensing fee, the Chief of Police shall issue a 15-day temporary permit to the applicant.

(b) The Chief of Police shall determine whether the application contains all of the information required by the provisions of this Chapter. If it is determined that the application is not complete, the applicant shall be notified in writing within five (5) business days of the date of receipt of the application that the application is not complete and the reasons therefor. The applicant shall have ten (10) calendar days from the date of the notice to submit additional information to render the application complete. The applicant's failure to submit the additional information within this time period renders the application null and void. Within five (5) business days following the receipt of a supplemental or amended application, the Chief of Police shall again determine whether the application is complete. Evaluation and notification shall occur as provided above until such time as the application is found to be complete. Once the application is found to be complete, the applicant shall be notified within five (5) business days of that fact. If an applicant submits two (2) consecutive incomplete applications, the applicant shall be notified in writing that a new application must be filed with Chief of Police as set forth herein

(c) Within fifteen (15) business days after the issuance of the temporary permit, the Chief of Police shall grant or deny the application and so notify the applicant as follows:

(1) If the application is approved, the Chief of Police will write or stamp "Granted" on the application and date and sign such notation. The Chief of Police shall attach to the application an Adult-Oriented Business Employee Permit.

(2) If the application is denied, the Chief of Police will write or stamp "Denied" on the application and date and sign such notation. The Chief of Police shall attach to the application a statement of the reasons for denial.

(3) The documents specified in (1) and (2) above shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address specified in the application. All notices given hereunder shall be deemed given upon the date they are deposited in the United States mail or the date upon which personal service is provided.

(d) The Chief of Police shall grant the application unless it is determined by a preponderance of the evidence that any of the following findings is true:

(1) That the applicant has been convicted of a Specific Criminal Activity except the Chief of Police shall issue a permit to any person convicted of any of the crimes described above if the person is otherwise qualified for a permit; and the longer of the following time periods has passed:

- (A) Five years from date of the conviction; or
- (B) Five years from release from confinement; or
- (C) Five years from formal release from probation period; or
- (D) Five years from formal release from parole.

(2) That the applicant has knowingly made a material misrepresentation in the application.

(3) That the applicant has had an Adult-Oriented Business Employee Permit revoked for cause by this City or any other city or county within the last five years except as provided in this Chapter.

(4) That the applicant is not at least eighteen (18) years of age.

(5) That the applicant has not paid the required fee

(e) The permit, if granted shall expire one (1) year from the date of issuance. Not later than forty-five (45) days prior to expiration of the term of the immediately preceding Permit, the City Manager shall transmit to the permittee by mail an application for renewal. The application for renewal shall be in such form and include such information as is prescribed and required by the Chief of Police, but shall include a renewal form provided by the City, the required fee, and a copy of the permit to be renewed. The sole purpose of the renewal application is to update the information provided by the applicant on the initial application.

The application for renewal shall be filed with the City Manager not later than the date of expiration of the term of the immediately preceding Permit. Notwithstanding Section 4.10.085, the Chief of Police shall perform such investigation and examination of the applicant as he or she deems appropriate to determine the standards for renewal are satisfied. In considering such renewal, the Chief of Police shall use the same standards as used for issuance of an initial permit. The Chief of Police shall extend the term of the immediately preceding Permit during the period of any investigation or examination required in order to determine whether the Permit should be renewed. The Chief of Police shall act upon applications for permit renewal as provided herein for applications for initial permits.

(f) The permit, if granted, shall state on its face the name of the person to whom it is granted, and the expiration date. The Chief of Police shall provide each person issued an Adult-Oriented Business Employee Permit with an identification card containing the name, address, photograph, and permit number of the Permit.

(g) Both the Permit and identification card shall be available for inspection at all times during which the Permittee is on the premises of an Adult-Oriented Business.

(h) If the Chief of Police neither grants nor denies a completed application for which the filing fees have been paid, within fifteen (15) business days after its receipt, the applicant may begin employment at an Adult-Oriented Business, subject to strict compliance with the provisions of this Chapter for a period of 12 months subject to the renewal provisions as set forth in this Chapter. Notwithstanding the foregoing, nothing shall prevent the Chief of Police from either granting or denying a completed application pursuant the terms of this Chapter even if more than thirty days has elapsed since the receipt of a completed application.

4.31.210 TRANSFER OF EMPLOYEE PERMIT. A permit holder shall not transfer ownership or control of an Adult-Oriented Business Employee Permit.

Article 5

DENIAL, SUSPENSION, AND REVOCATION OF LICENSE OR PERMIT

4.31.300 DENIAL OF LICENSE OR PERMIT. When the Chief of Police denies application for a license or permit or the application for a renewal of a license or permit, other than due to the failure to pay the required fees, the applicant shall not be issued a license or permit for one (1) year from the date of denial. If, subsequent to denial, the Chief of Police finds that the basis for denial has been corrected or abated, the applicant shall be granted a license or permit if at least ninety (90) days have elapsed since the date denial became final and the applicant is otherwise qualified to obtain a license or permit.

4.31.305 SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.

(a) A Licensee or Permittee may be subject to suspension or revocation of his or her License or Permit, or be subject to other appropriate remedial action, including the imposition of additional conditions, for any of the following causes arising from the acts or omissions of the Licensee or Permittee, or an employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business:

(1) The Licensee or Permittee has knowingly made any false, misleading or fraudulent statement of material facts in the application for a License or Permit, or in any report or record required to be filed with the City.

(2) The Licensee or Permittee, employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business has engaged in or knowingly allowed or permitted, or has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the Adult-Oriented Business:

(A) Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation.

(B) Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur.

(C) Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code.

(D) The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316, or 318 or Section 647(b) of the California Penal Code.

(E) Any act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including but not limited to Sections 311 through 313.4.

(F) Any conduct prohibited by this Chapter.

(3) The Licensee or Permittee failed to abide by any lawful condition previously imposed by an authorized City official.

(4) The Licensee or Permittee failed to abide by any applicable provision of this Chapter.

(b) In accordance with the provisions of this Chapter, if the Chief of Police finds and determines that there are grounds for action, the Chief of Police shall propose one of the following:

(1) A warning;

(2) Suspension of the License or Permit for a specified period not to exceed six months;

(3) Revocation of the License or Permit.

(4) The Chief of Police shall propose the revocation of a License or Permit if it has been suspended within the proceeding (12) months.

(c) The revocation of a License or Permit shall continue for one (1) year, and the Licensee or Permittee shall not be issued an Adult-Oriented Business license or permit for one (1) year from the date the revocation became effective. If, subsequent to revocation, the Chief of Police finds that the basis for the revocation has been corrected or abated, the applicant may apply for and be granted a new license or permit if at least ninety (90) days have elapsed since the date the revocation became effective and the applicant is otherwise qualified for a license or permit.

4.31.306 SUSPENSION OR REVOCATION HEARING. On determining that grounds for license or permit revocation or suspension exist, the Chief of Police shall furnish written notice of the proposed suspension or revocation to the Licensee or Permittee. Such notice shall set forth the time and place of a hearing to be conducted by a Hearing Authority appointed by the City Manager, and the grounds upon which the hearing is based, the pertinent Code sections at issue, and a brief summary of the facts in support of the suspension or revocation. The notice shall be mailed, postage

prepaid, to the last know address of the Licensee or Permittee, or shall be delivered to the Licensee or Permittee personally, at least ten (10) working days prior to the hearing date. At the hearing, all parties shall have a right to offer testimonial, documentary, and tangible evidence on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence upon which reasonable persons are accustomed to rely in the conduct of serious matters may be admitted. Any hearing under this Chapter may be continued for a reasonable time for the convenience of a party or witness. Notice of the Hearing Authority's decision shall be mailed to the applicant or Licensee or Permittee no later than seven (7) days after the close of the hearing. If the Hearing Authority determines that grounds for revocation or suspension exist, the Hearing Authority shall include in its written decision any one or more of the actions listed in section 4.31.305(b) to be effective within fourteen (14) days of the hearing.

4.31.310 APPEAL.

(a) All decisions of the Chief of Police and/or the Hearing Authority to issue, renew, deny, suspend or revoke a license or permit are final within thirty (30) calendar days. After denial of an application, renewal, or a suspension or revocation, the applicant or licensee or permittee may seek prompt judicial review of such decision in any court of competent jurisdiction as provided by law, including judicial review pursuant to Section 1094.8 of the California Code of Civil Procedure. Notwithstanding the applicant's or licensee's or permittee's right to initiate judicial review, the City shall, upon the written request of an aggrieved applicant, licensee, or permittee within three (3) business days of its receipt of the request, file an action with a court of competent jurisdiction seeking declaratory and injunctive relief, including temporary and preliminary relief, as to the propriety of the denial, revocation, or suspension.

(b) If, upon request, the City files such action seeking judicial review or the aggrieved applicant, licensee or permittee files the action, the City's revocation, suspension, or denial of renewal application will be stayed pending a judicial decision on the merits by a court of competent jurisdiction.

(c) If the City denies an initial application of a license or permit and the aggrieved applicant commences a legal action to determine the validity of the denial or makes a written request in the manner set forth herein that the City commence such action, the City shall issue a temporary license or permit if the court has not rendered a decision on the merits within the earlier of twenty (20) calendar days after the matter is submitted to the court or fifty (50) calendar days of the filing of the action. This temporary license or permit shall remain in effect only until the court in which the action is pending renders its decision on the merits as to the propriety of the denial.

4.31.315 CONFIDENTIALITY. The City deems confidential license and permit applications required by this Chapter and all information contained therein. Absent an order from a court of competent jurisdiction, the City shall not disclose for public review the applications or the information contained therein.

Article 6
DEVELOPMENT AND PERFORMANCE STANDARDS

4.31.400 PROHIBITION AGAINST MINORS. It shall be unlawful for any Licensee, operator, or other person in charge of any Adult-Oriented Business to permit to enter, or remain within the Adult-Oriented Business, any person who is not at least eighteen (18) years of age or to provide any service for which this Chapter requires a license, to any person who is not at least eighteen (18) years of age.

4.31.405 CONCEALING SPECIFIED ACTIVITIES AND ANATOMICAL AREAS FROM PUBLIC VIEW. No Adult-Oriented Business shall be operated in any manner that permits the observation of any material or activities depicting or describing Specified Sexual Activities or Specified Anatomical Areas from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window, or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.

4.31.410 POSTING NOTICES RELATING TO MINORS. The building entrance to an Adult-Oriented Business shall be clearly and legibly posted with a notice indicating that persons under eighteen (18) years of age are precluded from entering the premises. Such notice shall be constructed and posted to the satisfaction of the Planning Director or his or her designee.

4.31.415 INDOOR AREAS OPEN TO VIEW BY MANAGEMENT. All indoor areas of the Adult-Oriented Business where patrons or members of the public are permitted, excluding rest rooms and non-public areas of Adult Motels, shall be open to view by management at all times.

4.31.420 BUILDING REQUIREMENTS. The premises and grounds of all Adult-Oriented Businesses shall comply with the following;

(a) Maximum occupancy load, fire exits, aisles, parking and fire equipment shall be regulated, designed and provided in accordance with the fire department and building regulations and standards adopted by the City.

(b) The premises within which the Adult-Oriented Business is located shall provide sufficient sound-absorbing insulation so that noise generated inside the premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building.

(c) All interior areas of the Adult-Oriented Business shall be illuminated at a minimum of the following foot-candles, minimally maintained and evenly distributed at ground level:

- (1) Adult Bookstores - 20 foot-candles;

(2) Adult Theaters, Adult Motion Picture Theaters and Adult Cabarets - 5 foot-candles (except during performances, at which times lighting shall be at least 1.25 foot-candles);

(3) Adult Arcades - 10 foot-candles;

(4) Adult Motels - 20 foot-candles (in public areas)

(5) Nude Model Studios - 20 foot-candles.

(d) All off-street parking areas and premise entries of the Adult-Oriented Business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of at least one (1) foot candle of light on the parking surface and/or walkways. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the Adult-Oriented Business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

(e) The exterior of the Adult-Oriented Business shall be equipped with a security system that visually records and monitors all off-street parking areas provided for the Adult-Oriented Business during all times that the business is open or occupied for business.

(1) The surveillance equipment utilized shall provide continuous recording for at least a 24-hour period, with all recording maintained for a minimum of 72 hours.

(2) Immediately upon request, the surveillance recording for all or any portion of the previous 72-hour period shall be made available to the Chief of Police, or his or her designated representative. Such recordings shall be utilized only for purposes of investigation of an alleged violation of a local, state or federal law, or the enforcement thereof. Except as necessary to enforce a local, state or federal law, the City deems confidential the surveillance recordings required by this Chapter and all information contained therein. Absent an order from a court of competent jurisdiction, the City shall not disclose for public review the surveillance recordings or the information contained therein.

(3) Signs shall be posted in the parking area, near the entrances to the premises, and at a conspicuous location inside the premises in such a manner as to notify the public that the exterior of the premises is subject to recorded surveillance.

(f) The exterior portions of the building shall be painted in a single achromatic color unless the Adult-Oriented Business is a part of a commercial multi-unit center and the exterior portions of each individual unit in the commercial center, including the exterior portion of the business, are painted the same color as one another or are painted in such a way as to be a component of the overall architectural style or pattern of the commercial multi-unit center. Nothing in this provision shall be construed to

require the painting of an otherwise unpainted exterior portion of an Adult-Oriented Business.

(g) No exterior signage shall contain photographs, silhouettes, drawings, images or pictorial representations in any manner, depicting or making linguistic reference to nudity, specified anatomical areas, specified sexual activity, or any device or paraphernalia designed for use in connection with specified sexual activity.

4.31.425 HOURS OF OPERATIONS. An Adult-Oriented Business shall be open for business only between the hours of 10 a.m. and 12 a.m./midnight on any particular day.

4.31.430 SECURITY GUARDS. Adult-Oriented Businesses shall employ off-duty law enforcement officers or security guards in order to maintain the public peace and safety, based upon the following standards:

(a) Adult-Oriented Businesses shall provide at least one (1) officer or security guard at all times while the business is open. If the occupancy limit of the Adult-Oriented Business is greater than thirty-five (35) persons, an additional officer or security guard shall be on duty.

(b) Officers or security guards shall be charged with preventing violations of law and enforcing compliance by patrons with the requirements of these regulations. Officers and security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as an officer or security guard as required by applicable provisions of state law. No officer or security guard required pursuant to this Chapter shall act as a door person, ticket seller, ticket taker, admittance person, entertainer or performer, or sole occupant of the manager's station while acting as a security guard.

(c) Officers and security guards shall report any violation of law immediately to the responsible manager on the premises at the time the violation or threatened violation occurs, and shall prepare a written report outlining the violation or threatened violation observed. Copies of all written reports required by this Chapter shall be maintained on the premises and shall be available for inspection by law enforcement personnel at all times during regular business hours.

4.31.435 REGISTER AND PERMIT NUMBER OF EMPLOYEES. Every Licensee of an Adult-Oriented Business that provides live entertainment depicting Specified Anatomical Areas or involving Specified Sexual Activities must maintain a register of all past and current persons so performing at the Adult-Oriented Business and their permit numbers. Such register shall be available for inspection during regular business hours by any police officer of the City.

4.31.440 INSPECTION.

(a) When the Chief of Police, the Planning Director, and/or Code Enforcement Officers have reasonable cause to believe that violations of this Title and/or other

provisions of the Zoning Code are occurring on the premises where an Adult-Oriented Business is operating, they, and/or their authorized representatives, may conduct a reasonable inspection of the public areas of and areas otherwise open to plain view on or within, the premises or the Adult-Oriented Business to the extent allowed by law and during the business hours of the Adult-Oriented Business

(b) It is a violation of this Chapter for a person who operates an Adult-Oriented Business or that person's agent or Employee to refuse to permit such lawful inspection of the Adult-Oriented Business at any time it is open for business.

4.31.445 RESTROOM FACILITIES. The Adult-Oriented Business shall provide and maintain separate restroom facilities for male patrons and Employees, and female patrons and Employees. Male patrons and Employees shall be prohibited from using the restroom(s) for females, except to carry out duties of repair, maintenance and cleaning of the restroom facilities. Female patrons and Employees shall be prohibited from using the restroom(s) for males, except to carry out duties of repair, maintenance and cleaning of the restroom facilities. The restrooms shall be free from any Adult Material as defined in Section 4.31.010(b)(1) and (2). Restrooms shall not contain television monitors or other motion picture or video projection, recording, or reproduction equipment. The foregoing provisions of this paragraph shall not apply to an Adult-Oriented Business which deals exclusively with the sale or rental of Adult Material which is not used or consumed on the premises, such as an Adult Bookstore or Adult Video Store, and which does not provide restroom facilities to its patrons or the general public.

4.31.450 SPECIAL REGULATIONS -- LIVE ENTERTAINMENT. The following additional requirements shall pertain to Adult-Oriented Businesses providing live entertainment distinguished or characterized by the depiction, description, showing or simulation of Specified Anatomical Areas or involving Specified Sexual Activities, except for businesses regulated by the California Department of Alcoholic Beverage Control.

(a) No person shall perform live entertainment for patrons of an Adult-Oriented Business except upon a stage at least eighteen (18) inches above the level of the floor which is separated by a distance of at least six (6) feet from the nearest area occupied by patrons. Fixed rail(s) at least thirty (30) inches in height shall be maintained establishing the separations between performers and patrons required by this Chapter. Performer shall mean any person who is an Employee or independent contractor of the Adult-Oriented Business, or any person who, with or without compensation or other form of consideration, performs live entertainment for patrons of an Adult-Oriented Business.

(b) The Adult-Oriented Business shall provide separate dressing room facilities for performers which are exclusively dedicated to the performers' use.

(c) The Adult-Oriented Business shall provide an entrance/exit for performers which is separate from the entrance/exit used by patrons.

(d) The Adult-Oriented Business shall provide access for performers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the Adult-Oriented Business shall provide a minimum three (3) foot wide aisle for performers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the performers capable of (and which actually results in) preventing any physical contact between patrons and performers.

(e) No performers, either before, during, or after performances, shall have physical contact with any patron and no patron shall have physical contact with any performer either before, during or after performances by such performer. This paragraph shall only apply to physical contact anywhere on or within the premises of the Adult-Oriented Business, including off-street parking areas.

(f) No patron shall directly pay or give any gratuity to any performer and no performer shall solicit any pay or accept gratuity from any patron.

(g) No owner or other person with managerial control over an Adult-Oriented Business shall permit any person on the premises of the Adult-Oriented Business to engage in a live showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque coverage, and/or the female breast with less than a fully opaque coverage over any part of the nipple or areola and/or covered male genitals in a discernibly turgid state. This paragraph may not be complied with by applying an opaque covering simulating the appearance of the specified anatomical part required to be covered.

4.31.455 SPECIAL REGULATIONS -- ADULT MOTELS.

(a) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an Adult Motel.

(b) It is a violation of this Chapter for a person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have an Adult-Oriented Business License to rent or sub-rent the same sleeping room to another person more the two (2) times in a period of time that is less than ten (10) hours.

(c) For purposes of paragraphs (a) and (b) of this section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

4.31.460 SPECIAL REGULATIONS -- FILMS, VIDEOS OR VIEWING ROOMS.

A person who operates or causes to be operated an Adult-Oriented Business, including an Adult Arcade and other than an Adult Motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment or other video reproduction which depicts Specified

Sexual Activities or Specified Anatomical Areas, shall comply with the following requirements:

(a) Upon application for an Adult-Oriented Business License, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of premises to an accuracy of plus or minus six (6) inches. The Chief of Police 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 first prepared.

(b) No alteration in the configuration or location of a manager's station may be made without the prior written approval of the Chief of Police.

(c) It is the duty of the Licensee of the Adult-Oriented Business to ensure that at least one properly permitted Employee is on duty and situated in each manager's station at all times that any patron is present inside the Adult-Oriented Business.

(d) The interior of the Adult-Oriented Business shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the Adult-Oriented Business to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video viewing equipment. If the Adult-Oriented Business has two (2) or more designated manager's stations, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the Adult-Oriented Business to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required by this Section must be by direct line of sight from the manager's station.

(e) It shall be the duty of the Licensee to ensure that the view area specified in this Section remains unobstructed at all times by any doors, curtains, partitions, walls, merchandise, display racks or other materials.

(f) It shall be the duty of the Licensee to ensure that no patron is permitted access to any area of the Adult-Oriented Business which has been designated as an area in which patrons will not be permitted pursuant to paragraph (a) of this section.

(g) No viewing room may be occupied by more than one (1) person at any time.

(h) No viewing room shall have any door, curtain, shutter, or any other device blocking or capable of blocking, wholly or partially, the entrance to the viewing booth.

(i) The Adult-Oriented Business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level.

(j) It shall be the duty of the Licensee to ensure that the illumination required by this Section is maintained at all times that any patron is present in the premises.

(k) No openings of any kind shall exist between viewing rooms or booths.

(l) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(m) The Licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(n) The Licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(o) The Licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition Board or other porous material shall be used within forty-eight (48) inches of the floor.

(p) The floors, seats, walls, and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen, or saliva in any such booths shall be evidence of improper maintenance and inadequate sanitary controls.

(q) Customers, patrons, or visitors shall not be allowed to loiter in the vicinity of any such video booths, or remain in the common area of such Adult-Oriented Business, other than the restrooms, unless actively engaged in shopping for or reviewing the products available or on display for purchaser viewing. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.

(r) It is a violation of this Chapter for a person having a duty under this Section to knowingly fail to fulfill that duty.

4.31.465 SPECIAL REGULATIONS -- NUDE MODEL STUDIOS.

(a) A Nude Model Studio shall not employ any person under the age of eighteen (18) years.

(b) It is a violation of this Chapter for a person under the age of eighteen (18) years to appear Semi-Nude or in a State of Nudity in or on the premises of a Nude Model Studio. It is a defense to prosecution under this Section if the person under eighteen (18) years was in a restroom not open to public view or visible to any other person.

(c) A Nude Model Studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

4.31.470 SPECIAL REGULATIONS -- PUBLIC NUDITY.

(a) It is a violation of this Chapter for a person knowingly and intentionally, in a public area of an Adult-Oriented Business (except a restroom), to appear in a State of Nudity;

(b) It is a violation of this Chapter for a person knowingly and intentionally, in an Adult Oriented Business, to engage in or perform the following Specified Sexual Activities:

(1) Actual sex acts, normal or perverted, consisting of intercourse, oral copulation or sodomy;

(2) Actual masturbation; and/or

(3) Excretory functions as part of or in connection with any of the activities described in subdivision (1) or (2) above or as part of or in connection with the fondling or other erotic touching of human genitals, pubic area, buttocks, anus, or female breast.

(c) It is a violation of this Chapter for a person knowingly or intentionally, in a public area of an Adult-Oriented Business, to appear in a Semi-Nude condition unless the person is an Employee or performer who, while Semi-Nude, is upon a stage at least eighteen (18) above the level of the floor which is separated by a distance of at least six (6) feet from the nearest areas occupied by patrons.

(d) It is a violation of this Chapter for an Employee or performer while Semi-Nude in an Adult-Oriented Business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any Employee or performer in an Adult Oriented Business.

(e) It is a violation of this Chapter for an Employee or performer, in an Adult-Oriented Business, while Semi-Nude, to knowingly and intentionally, touch a patron or customer or the clothing of a patron or customer.

4.31.475 PROHIBITION -- SEXUAL ENCOUNTER CENTERS. A sexual encounter center is not a permitted use.

Article 7 ENFORCEMENT

4.31.500 EACH DAY SEPARATE OFFENSE. Any person that violates any provision of this Chapter shall be guilty of a separate offense for each and every day

during any portion of which any such person commits, continues, permits, or causes a violation thereof and, shall be punished accordingly.

4.31.505 PUBLIC NUISANCE. Any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is hereby declared a public nuisance and may be summarily abated by the City pursuant to the Municipal Code.

4.31.510 INFRACTIONS. Any person who violates, causes, or permits another person to violate any provision of this Chapter commits an infraction. Any person convicted of an infraction shall be subject to a fine to the maximum amount permitted by state law. Any person twice convicted of an infraction for repeat violations of the same provision within a one (1) year period, may be charged with a misdemeanor upon being issued a citation for the repeated violation of the same provision since, rather than simply a violation of a provisions of this Chapter, such repeat violations evidence a disregard of municipal authority. Any person convicted of a misdemeanor shall be subject to punishment by fine or imprisonment to the maximum permitted by state law. Pursuant to Government Code section 36900(a), the City Attorney may prosecute these violations in the name of the People of the State of California.

4.31.515 CIVIL INJUNCTION. The violation of any provision of this Chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of City, create a cause for injunctive relief.

4.31.520 ADMINISTRATIVE REMEDIES. In addition to the remedies set forth above, any person that violates the provisions of this Chapter may be subject to administrative remedies, as set forth in the Municipal Code.

4.31.525 REVOCATION OF LICENSE. In addition to the remedies set forth above, violation of the provisions of this Chapter constitutes grounds for the revocation of an Adult-Oriented Business License and/or Adult-Oriented Business Employee Permit.

CHAPTER 4.35

OUTDOOR FESTIVALS

Article I

General Provisions and Requirements

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Article 2

Special Business License

- 4.35.205 License Required.
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Article 1
General Provisions and Requirements

4.35.000 PURPOSES. In this state and elsewhere, outdoor festivals have been promoted and have attracted large numbers of persons, sometimes exceeding one hundred thousand. Occurrences at those outdoor festivals already held include the stealing of automobiles, abandonment of automobiles stolen elsewhere, totally unmanageable traffic congestion, slaughtering of cattle and other animals on adjoining property without permission of the owners thereof, unauthorized destruction of property, scattering of trash, garbage, and other debris on adjoining property, overnight camping at random locations, collision of automobiles with persons sleeping on the ground, and, generally, the commission of serious crimes with impunity due to the inability of police to patrol the area.

Such festivals, with their attendant large crowds create serious health and safety risks for persons attending and the general public thereafter unless adequate sanitary facilities, drinking water supplies, lighting, medical services, vehicular parking areas, supervision, and other services and guarantees are provided.

The regulatory provisions of this Chapter are necessary to insure that outdoor festivals are held only at suitable places and are subject to reasonable conditions for the protection of the public health, safety, and welfare.

4.35.005 CITY MANAGER. The City Manager is charged with the responsibility of administering the regulations imposed by this Chapter, and exercising the authority conferred thereby. Such authority shall include the power and duty to issue Special Business Licenses authorizing outdoor festivals, promulgate administrative regulations, and otherwise perform the duties and exercise the authorities conferred herein.

To these ends, the City Manager shall be vested with the same powers and authorities in relation to outdoor festivals and the issuance and administration of Special Business Licenses therefor, as are vested in the Chief of Police under Chapter 4.02, Section 4.02.070, 4.02.085, 4.02.100 and 4.02.105; and Chapter 4.10, Sections 4.10.000 through 4.10.155. Any reference to the "Chief of Police" shall be deemed to be a reference to the City Manager in relation to outdoor festivals.

4.35.006 EXCLUSION FOR CITY PARK AND RECREATION DEPARTMENT FESTIVALS. This Chapter does not apply to outdoor festivals held at City parks and conducted under the direction of the City Parks and Recreation Department.

4.35.010 DEFINITIONS. As used in this Chapter, the terms contained in Sections 4.35.015 through 4.35.025 shall be ascribed the meanings contained therein, unless the context indicates otherwise.

4.35.015 SAME - AUTOMOBILE PARKING SPACE -- shall mean any maintained space, not less than one hundred eighty square feet in area nor less than nine feet wide at any place, on or contiguous to the land on which the outdoor festival is

conducted, and so located and arranged as to permit the parking of an average size, six-passenger automobile.

4.35.020 SAME - OUTDOOR FESTIVAL -- shall mean any outdoor gathering of more than five hundred persons for the purpose of participating in or attending a dance, music carnival, "rock" festival, or like musical activity at which vocal or instrumental or both vocal and instrumental music is provided by professional or amateur performers or by prerecorded means, held at any place other than in a permanent building, stadium or like permanent installation which has been constructed or customarily used for the purpose of housing such activities, and to which gathering members of the public are invited or admitted with or without the payment of admission charges in any form.

4.35.025 SAME - SPONSORS AND PROMOTERS -- shall mean all persons and business entities having a direct financial interest in the proceeds to be derived from the outdoor festival, whether such proceeds arise from ticket sales, sales of film, radio, television, or sound recording rights, or otherwise.

4.35.030 LANDOWNER'S CONSENT. It shall be unlawful for any person to sponsor, conduct, operate, promote or advertise an outdoor festival unless the owner or owners of the land upon which the festival is or would be conducted have consented to the use thereof for such purposes. If the land is not solely owned by the person or persons sponsoring, conducting, operating, promoting or advertising the festival, such consent shall be evidenced by a written instrument containing the notarized signatures of all record owners.

4.35.035 SPONSOR RESPONSIBILITIES. Each person to whom a Special Business License required by Article 2 is issued, shall be responsible as licensee and at the sole cost and expense thereof, for provision of those facilities, services, resources and guarantees required by Sections 4.35.040 through 4.35.100.

4.35.040 SAME - WATER. The licensee shall provide drinking water of the quantity, quality, and from a source approved by the City Manager. Drinking fountains shall be provided as follows:

- (a) One drinking fountain for the first one hundred persons;
- (b) Two drinking fountains for more than one hundred but less than five hundred persons; and
- (c) One additional drinking fountain for each additional five hundred persons or fraction thereof.

4.35.045 SAME - SANITARY FACILITIES. The licensee shall provide sanitary facilities as follows: at least one water closet and one urinal, or in lieu thereof two patented chemical toilets, for every two hundred males, and at least one water closet or patented chemical toilet for every one hundred females, unless the City Manager finds that a lesser number is sufficient, in which case he or she shall designate each number. If both sexes are admitted to any sanitary facility, for purposes of determining the

required quantity of facilities the persons attending the outdoor festival shall be assumed to be equally divided by sex. Prior to the commencement of the outdoor festival, the City Manager shall inspect the sanitary facilities with regard to adequacy of quantity, functioning, and plans for periodic removal of wastes therefrom, and shall approve the sanitary facilities only if they meet applicable health standards. While any premises are being prepared for use for an outdoor festival or for parking or other uses incidental thereto, the licensee shall provide on the premises one patented chemical toilet for each twenty persons or fractional part thereof working at the job site. Every patented chemical toilet installed in accordance with this Section shall be maintained and operated in accordance with the rules and regulations approved by the City Manager.

4.35.050 SAME - AUTOMOBILE PARKING SPACES. On all premises on which an outdoor festival is conducted, or contiguous thereto and under the control of the applicant, in addition to those ways described in Section 4.35.080 of this Chapter, there shall be automobile parking spaces equal in number to one-fourth of the number of persons which the license permits to attend the outdoor festival, unless the City Public Works Director finds that a lesser number of parking spaces is sufficient in which case the licensee shall provide the lesser number of spaces. Such automobile parking spaces shall be graded, plainly and individually marked, and separated by a physical barrier from the area where patrons will watch the performances. At all times between two hours before the commencement of the outdoor festival and two hours after its termination the licensee shall provide parking attendants at all entrances and exits to the parking area within the area.

4.35.055 SAME - SECURITY PERSONNEL. At any outdoor festival, one off-duty law enforcement officer or uniformed security guard for each two hundred persons which the license permits to attend, whether such permissible attendance is present or not, shall be in constant attendance during the entire time the outdoor festival is in progress. Each officer or security guard shall be approved by the Chief of Police or shall be provided by a private patrol operator whose name and address has been stated in the application and who is licensed pursuant to Chapter 11 of Division 3 of the Business and Professions Code. The Chief of Police shall approve any security guard if the guard meets the qualifications stated in Sections 7526 and 7526.3 of the Business and Professions Code. The officers and security guards shall devote their entire attention and time to keeping order and enforcing all applicable statutes and ordinances, including this Chapter.

4.35.060 SAME - FIRE PROTECTION. The licensee shall provide such fire protection measures and equipment as the Chief of that Fire Protection District with jurisdiction over the site on which the outdoor festival is conducted finds reasonably necessary to provide fire protection to the immediate and adjoining premises and to persons participating in and attending the outdoor festival.

4.35.065 SAME - LIGHTING EQUIPMENT. If the hours during which the outdoor festival can be held as provided in the license are such that any portion thereof is between sunset of one day and sunrise of the following day, or if the license permits

any participant or person in attendance to remain overnight, the licensee shall provide such lighting, including light standards and electrical switches, and such power supply as the Chief of Police and director of public works find necessary for the public safety and welfare.

4.35.070 SAME - SOUND LEVELS. The licensee shall propose reasonable limits on sound emanating from the festival grounds into adjoining areas with resident homes or businesses. At the option of the Chief of Police, the licensee shall provide up to three sound monitoring locations at the edge of the property where the outdoor festival is to be conducted. The monitoring locations shall be equipped to measure the decibels of sound emanating from the festival grounds and, at the option of the Chief of Police, may be monitored by City personnel to assure compliance with the sound level limits set forth in the permit.

4.35.075 SAME - GARBAGE. The licensee shall provide solid waste receptacles to receive solid wastes at a ratio of one cubic yard of available receptacle space for each two hundred fifty persons which the license permits to attend the outdoor festival.

All solid waste receptacles shall be serviced once every twenty-four hours during the festival. Within seventy-two hours after the conclusion of an outdoor festival, the licensee shall clean the premises, including contiguous public roads, ways, and easements, removing all trash, garbage, and debris therefrom which matter would not have been deposited therein had not the outdoor festival occurred.

4.35.080 SAME - EMERGENCY COMMUNICATIONS. At all times during the conduct of an outdoor festival, the licensee shall maintain such emergency communications systems as the Chief of that Fire Protection District with jurisdiction over the site on which the outdoor festival is conducted and Chief of Police find reasonably necessary for fire and police protection.

4.35.085 SAME - ACCESS WAYS. The licensee shall provide all exterior and interior access ways which the Chief of Police and Director of Public Works find necessary for the use of those attending the outdoor festival. All such access ways shall be clearly marked and delineated by means of curbs or temporary buffers on the ground.

4.35.090 SAME - DUST. The licensee shall use such methods of dust control as are approved by the City Manager. The City Manager shall approve such methods if he finds that such methods will prevent the arising of dust to an extent which may endanger public health and safety.

4.35.095 SAME - FOOD. In selling, preparing, delivering, or serving food or beverages or both, all persons proposed by the licensee to sell food shall comply with the California Restaurant Act, Chapter 11 (beginning with Section 28600), Division 21, of the California Health and Safety Code and with Chapter 6.04 of the Municipal Code.

4.35.100 SAME - DAMAGE REIMBURSEMENT. The licensee and owner or owners of the premises upon which the outdoor festival would be held shall sign a unilateral written contract promising that they will reimburse all owners and occupants of property adjoining the subject premises for any and all loss, injury, or damages to such owners or occupants or to their property caused by the licensee, by the owner of the subject premises, or by any other person attending the outdoor festival, which damage would not have occurred had the outdoor festival not been held. Accompanying and securing this agreement shall be a surety bond in favor of the City of Elk Grove and all persons to whom the licensee or owner of the subject premises may be liable because of the above-required agreement. The bond shall be prepared by a corporate bonding company authorized to do business within the State of California by the Department of Insurance, and shall be in the amount of not less than fifty thousand dollars, or ten dollars per person permitted by the license to attend the outdoor festival, whichever is more.

4.35.105 SAME - CLEAN-UP. The licensee and owner or owners of the premises upon which the outdoor festival would be held shall sign a unilateral written contract promising that, within seventy-two hours after the conclusion of the outdoor festival, they will clean up the premises, including contiguous public roads, ways, and easements, and remove all debris, garbage, trash, litter, and other waste matter from, in, and around the premises. Accompanying and securing this agreement shall be a surety bond in favor of the City of Elk Grove and all persons to whom the applicant may be liable because of the above-required agreement prepared by a corporate bonding company authorized to do business in the State of California by the Department of Insurance, obligating the licensee and owner for all costs necessitated to clean up the premises and to remove debris, garbage, trash, litter, or other waste matter from, in, or around the premises. Such surety bond shall be in the amount of not less than five (\$5,000.00) thousand dollars.

4.35.110 LIMITATION UPON ATTENDANCE. Adequate facilities, services and accommodations for those in attendance of an outdoor festival and required to otherwise protect the public peace, health, safety and welfare necessitate a planned limit upon the volume of potential attendance and the establishment of means to ensure that the volume limit is not exceeded.

The licensee shall provide such facilities on the premises where a festival is to be conducted and such personnel as the Chief of Police deems necessary to effectively control the number of persons in attendance as required in order to ensure that the limit for which the Special Business License is issued is not exceeded.

The licensee shall not admit to the outdoor festival, and shall prevent the entrance thereto of, any person who does not possess a ticket, except a peace officer or other public officer in the performance of his duty. Admission to an outdoor festival shall be by ticket only. The licensee shall not sell, give, or otherwise distribute or cause to be distributed a greater number of tickets than the number of persons the license permits to attend. The licensee shall not admit any person to an outdoor festival if such

admission would result in a greater number of persons present than is permitted by the license.

The provisions of this Section shall not be construed to require that tickets be sold for money as distinguished from given away or exchanged for some other consideration. Nor shall the provisions of this Section be construed to require the persons desiring to attend to identify themselves either as a condition of receiving a ticket or of admission.

4.35.115 CONDUCT PROHIBITED. The attendant harm and danger caused by large numbers of persons who are under the influence of intoxicating liquor or prohibited drugs necessitate the following restrictions.

No person shall, nor shall any licensee permit any person to enter, be, or remain on any part of the premises on which an outdoor festival is being conducted which such person is in possession of, consuming, using, or under the influence of any alcoholic beverage or legally proscribed dangerous drugs or narcotics.

4.35.120 ADVERTISING. No person shall advertise or announce by any means or medium, including, but without limitation to, posters, pamphlets, handbills, newspaper, radio or television, the holding of an outdoor festival prior to the granting of a Special Business License permitting such outdoor festival.

Any and all such advertising shall contain reference to the fact that attendance is prohibited without possession of a ticket or other entitlement to attend, and the maximum number of persons permitted by the license to attend.

4.35.125 DAYS AND HOURS. The licensee shall operate the outdoor festival only on those days and during those hours specified in the Special Business License.

4.35.130 TERMINATION OF FESTIVAL. During the conduct of an outdoor festival for which a Special Business License has been issued under the provisions of Chapter 4.10 and this Chapter, the Chief of Police shall be empowered to interrupt and terminate the festival, order the cessation thereof, and order all persons in attendance to disburse if he or she finds any of the following:

(a) That the actual attendance at the festival exceeds the maximum attendance authorized by the License; or

(b) That violations of Section 4.35.115 are occurring in such volume or under such circumstances that available law enforcement and security resources are inadequate to effectively enforce the prohibitions of that Section; or

(c) That any service on the site of the festival required by those in attendance is insufficient, and the insufficiency endangers the health, safety or welfare of those in attendance; or

(d) That conduct violating the penal laws of the State of California is occurring in such volume or under such circumstances that law enforcement and security resources are insufficient to effectively prevent such violations; or

(e) That the decibel level of sound intruding into neighboring properties exceeds the standards set by the license.

It shall be unlawful for any person to violate an order issued by the Chief of Police under the authority conferred by this Section.

Article 2 Special Business License

4.35.205 LICENSE REQUIRED. No person shall sponsor, conduct, promote, advertise or sell or furnish tickets or other authority for an outdoor festival unless under and by authority of a valid, unexpired and unrevoked Special Business License authorizing the outdoor festival issued pursuant to the provisions of Chapter 4.10 and this Chapter.

4.35.210 FILING TIME. Notwithstanding the provisions of Chapter 4.10, an application for a Special Business License to conduct an outdoor festival shall be filed not later than ninety calendar days in advance of the date the festival is proposed to commence.

4.35.215 APPLICATION CONTENTS. In addition to the matters prescribed by Section 4.10.030, an application for a Special Business License to conduct an outdoor festival shall contain that information and material prescribed by Sections 4.35.220 through 4.35.240.

4.35.220 SAME - IDENTIFICATION OF APPLICANTS. The application shall include the name (including aliases), age, residence, mailing address, e-mail address, if any, and telephone numbers of each person making the application. If the application is filed by a partnership, the name (including aliases), age, residence and mailing address, the telephone numbers of each partner shall be included. If the application is filed by a corporation, the application shall be signed by the president, vice president and secretary thereof and contain their residences, mailing addresses, e-mail address, if any, and telephone numbers, contain the telephone numbers, the mailing addresses, and the street addresses of the principal place of business of the corporation, and include a certified copy of the articles of incorporation and the bylaws of the corporation.

4.35.225 SAME - IDENTIFICATION OF PROPERTY OWNERS. The application shall include the names, addresses and telephone numbers of the owners of the premises upon which the proposed outdoor festival, including automobile parking and other incidental uses, is to be held, and the exact location, legal description, and area of these premises. If any of the owners of the premises is a partnership, the names, addresses, e-mail address, if any, and telephone numbers of all partners shall be included. If any of the owners of the premises is a corporation, the street address and telephone numbers of the principal place of business of the corporation, together

with the names, addresses, e-mail addresses, if any, and telephone numbers of the principal officers thereof, shall be included.

4.35.230 SAME - TIME - ATTENDANCE - ADVERTISING. The application shall include:

(a) The date or dates and the hours during which the proposed outdoor festival is proposed to be conducted;

(b) A statement of the maximum number of persons proposed to be admitted to the outdoor festival on each day;

(c) Specification of the means of identifying the persons permitted to attend the festival, whether by tickets or otherwise; the number of tickets or other entitlements to admission to be issued for distribution; the names and addresses of all persons who are to receive such entitlements for distribution; and the number of such entitlements to be provided to each distributor;

(d) Identification of all fencing, the number and location of admission gates, security and other measures proposed to ensure that actual attendance does not exceed the maximum prescribed by the License; and

(e) The text of all advertising intended for the purpose of publicizing the festival, which shall be subject to approval only in relation to compliance of the text with those requirements prescribed by Section 4.35.120.

4.35.235 SAME - PROVISIONS FOR SERVICES. The application shall include a detailed statement of the applicant's plans to supply all facilities, services, resources and guarantees required by Sections 4.35.040 through 4.35.105; together with:

(a) The names and addresses of all business entities or other person intended to supply the facilities, services and resources, coupled with an exact description of the facilities, services or resources each business entity or other person is intended to supply;

(b) Contracts or other written statements executed by the providers showing the charges to be imposed for the facilities, services or resources to be provided, and the dates and amounts of all deposits or other advance payments required therefor; and

(c) Financial statements by the applicant showing the availability of funds with which to make any deposits or advance payments required.

The application shall include copies of the written instruments required by Sections 4.35.030, 4.35.100 and 4.35.105. The bonds required by Sections 4.35.100 and 4.35.105 shall be filed with the City Manager not later than the date of and as a condition precedent to issuance of the Special Business License.

4.35.240 SAME - MAPS AND DIAGRAMS. The application shall include a map of white background print, drawn to scale, showing:

- (a) The location of the property on which the proposed outdoor festival and all related activities will be held;
- (b) The location of all highways, streets, alleys, lots, and parcels of land within seven hundred feet of the exterior boundaries of the proposed use;
- (c) All access ways to the property;
- (d) All exterior access ways;
- (e) The location of all buildings and structures on the premises, or to be erected thereon, including, but without limitation to, all bandstands, stages, tents other facilities for performers, and bleachers, tents or seats for those attending;
- (f) The location of all loudspeakers; and
- (g) The location of all toilets, medical facilities, lighting, emergency communications, drinking facilities, and solid waste receptacles.

4.35.245 FINGERPRINTS AND PHOTOGRAPHS. An application shall not be deemed completed until each of the following persons associated with an applicant has been fingerprinted and photographed at the Police Department:

- (a) All general partners, if the applicant is a partnership;
- (b) All joint venturers, if the applicant is a joint venture; and if one or more of the joint venturers is a partnership or corporation, those partners, directors or stockholders to whom the requirements of this Section would apply if the partnership or corporation were the applicant;
- (c) A sole proprietor, if the applicant is a sole proprietorship;
- (d) All owners of more than ten percent of the voting shares of stock, if the applicant is a commercial corporation;
- (e) All directors, if the applicant is either a commercial or non-profit corporation;
- (f) All members of the management committee, if the applicant is a partnership or joint venture;
- (g) All members of a governing body or other Board or committee to which management is entrusted, if the applicant is an unincorporated association; and

(h) Each president, general manager, vice president, chief assistant manager, secretary, treasurer or any officer with equivalent or similar authority employed or retained by the firm who is the applicant.

4.35.250 PROCESSING OF APPLICATION. Upon receipt of a fully completed application, the City Manager shall provide copies thereof to the Chief of Police, Director of Public Works, Chief of the Fire Protection District with jurisdiction over the site where the outdoor festival is to be conducted, and Planning Director. Each of these officials shall determine whether, with regard to their specific areas of responsibility under this Chapter, the proposed outdoor festival can be held without violating any of the provisions of this Chapter, and shall make such determinations as are otherwise required by the provisions of this Chapter.

Each such official shall submit to the City Manager within twenty (20) calendar days following the date of filing of a completed application his or her written findings, determinations and requirements.

4.35.255 ISSUANCE. Notwithstanding the provisions of Section 4.10.040, the City Manager shall act upon the application not later than thirty calendar days following the date of filing of the application, and the provisions of Section 4.10.040(c) shall not constitute grounds for denial of a Special Business License to conduct an outdoor festival.

The City Manager shall issue the Special Business License within thirty days after the date on which the application is filed, unless, in addition to the grounds prescribed by Section 4.10.040, either:

(a) The Planning Director, Chief of Police, Director of Public Works, Chief of the Fire Protection District with jurisdiction over the site where the outdoor festival is to be conducted, or City Manager has found in writing that the proposed outdoor festival sites or facilities would not comply with all health, zoning, fire and safety requirements and standards imposed by the laws (including ordinances) applicable to the site where the outdoor festival is to be conducted, including this Chapter; or

(b) The Planning Director, Chief of Police, Director of Public Works or City Manager finds in writing that any of the facilities, services, resources or guarantees proposed by the applicant as required by this Chapter are insufficient to satisfy any discretionary requirement imposed by any of these officials pursuant to authority conferred by this Chapter; or

(c) The City Manager finds in writing that because of the inadequacy of financial resources of the applicant or for other reasons that there is a significant risk that any of the facilities, services, resources or guarantees required of the applicant by this Chapter will not be provided.

4.35.260 LICENSE REQUIREMENTS. A Special Business License authorizing an outdoor festival pursuant to the provisions of this Chapter, shall state on its face, and

the City Manager shall be vested with discretionary authority to determine based upon considerations of health, safety and welfare as identified by this Chapter, the following:

- (a) The maximum number of persons authorized to attend the festival on each date the festival will be conducted;
- (b) The dates and hours during which the festival may be conducted; and
- (c) Such conditions pertaining to conduct of the festival as may be deemed appropriate.

To the extent that the License authorizes a lower maximum number of persons to attend the festival than proposed by the applicant, authorizes the festival on fewer dates or during more restricted hours than proposed by the applicant, or contains conditions to which the applicant objects, such provisions of the License shall be appealable in the same manner and in accordance with the same procedure as if the application had been denied, and the appeal shall be governed by the procedures and standards prescribed by Sections 4.10.110 through 4.10.130.

CHAPTER 4.54

ADDITIONAL REGULATIONS AND PROHIBITIONS FOR BUSINESSES

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Public Convenience Determination for Alcohol Licenses

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Article 1 Street Businesses

4.54.000 PURPOSES. Regulation of the sale of merchandise upon the public streets and sidewalks within the City is necessary for the purpose of promoting the free and safe flow of vehicular and pedestrian traffic. The City Council finds that the use of such rights-of-way for such purposes in violation of the prohibitions of this Article would constitute an interruption of the free flow of traffic and a serious and dangerous hazard to the public.

4.54.005 DEFINITIONS. As used in this Article, the following terms shall be ascribed the following meanings:

(a) "Public Streets" -- shall mean that portion of any County, State or public road or highway within the City which is utilized for motor vehicle or bicycle traffic, including any improved shoulder adjacent to traffic lanes, and excluding sidewalks.

(b) "Sidewalks" -- shall mean any right-of-way within the City which is improved for public pedestrian traffic, including paved walks and pathways.

(c) "Stand" -- shall mean any fixed, temporary, permanent or mobile rack, counter, shelving, vehicle or other structure or device utilized for the purpose of transporting, storing, carrying or displaying merchandise or for the purpose of conducting sales of merchandise.

(d) "Merchandise" -- shall mean any item of personal property, including but not limited to, written materials, foods and wares.

4.54.010 PROHIBITIONS. Except as otherwise provided by Section 4.54.015, it shall be unlawful for any person to:

(a) Hawk or peddle merchandise upon the public streets; or

(b) Place a stand or merchandise upon a sidewalk for the purpose of hawking or peddling merchandise.

4.54.015 EXCEPTIONS. The provisions of this Article shall not be applicable to or deemed to prohibit:

(a) The placement of newspaper racks upon sidewalks; or

(b) The peddling or hawking of merchandise by the taking of orders or delivering of commodities from any vehicle which is parked not longer than required in order to complete a single transaction adjacent to the premises or residents of the customer, patron or purchaser.

4.54.020 FOOD VENDORS. No person operating a vehicle from which candy, confections, ice cream, beverages or other articles of food are sold or offered for sale under the authority of Section 4.54.015(b):

(a) shall park or stand the vehicle for purposes of sale within three hundred fifty feet of the grounds of any public school in which children at or below the twelfth grade level are enrolled, and which is in session; or

(b) shall sell any non-food items including, but not limited to, toys, clothing, or fireworks.

Article 2 Aggressive Solicitation

4.54.100 PURPOSES. The City Council finds that aggressive solicitation negatively impacts the quality of life of residents of the City. Patrons of commercial districts in which aggressive solicitation occurs are less likely to patronize the City's businesses and negatively impact the public interest in economic growth and tax revenues to the City. Mindful of everyone's right of free speech, the City Council finds there is a reasonable balance between those interests and the rights of listeners to be left alone -- even in public places. Furthermore, the City Council takes notice that the specific provisions of this Article have been judicially upheld by the California Supreme Court.

4.54.105 DEFINITIONS. For purposes of this Article:

(a) "Solicit, ask or beg" includes using the spoken, written, or printed word, or bodily gestures, signs or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services.

(b) "Public place" means a place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, highway, sidewalk, parking lot, plaza, transportation facility, school, place of amusement, park, playground, and any doorway, entrance, hallway, lobby and other portion of any business establishment, an apartment house or hotel not constituting a room or apartment designed for actual residence.

4.54.110 AGGRESSIVE SOLICITATION PROHIBITED.

(a) No person shall solicit or beg in an aggressive manner in any public place.

(b) "Aggressive manner" means any of the following:

(1) Approaching or speaking to a person, or following a person before, during or after soliciting, asking or begging, if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, damage to or loss of property, or otherwise be intimidated into giving money or other thing of value;

(2) Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent in the course of soliciting, asking or begging;

(3) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;

(4) Using violent or threatening gestures toward a person solicited either before, during, or after soliciting, asking or begging;

(5) Persisting in closely following or approaching a person after the person solicited has been solicited and informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing of value to the solicitor; or

(6) Using profane, offensive or abusive language that is inherently likely to provoke an immediate reaction, either before or after solicitation.

4.54.115 ALL SOLICITATION PROHIBITED AT SPECIFIED LOCATIONS.

(a) Banks and ATMs. No person shall solicit, ask, or beg within 15 feet of any entrance or exit of any bank, savings and loan association, credit union, or check cashing business during its business hours or within 15 feet of any automated teller machine during the time it is available for customers' use. However, when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility. No person shall solicit, ask or beg within an automated teller machine facility where a reasonable person would or should know that he or she does not have the permission to do so from the owner or other person lawfully in possession of such facility. Nothing in this paragraph shall be construed to prohibit the lawful vending of goods and services within such areas.

(1) Definitions. For purposes of this section:

(A) "Bank" means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operated under the laws of the United States, and any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

(B) "Savings and loan association" means any federal savings and loan association and any "insured institution" as defined in Section 401 of the National Housing Act, as amended, and any federal credit union as defined in Section 2 of the Federal Credit Union Act.

(C) "Credit union" means any federal credit union and any state-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union Administration.

(D) "Check cashing business" means any person duly licensed as a check seller, bill payer, or prorater pursuant to Division 3 of the California Financial Code, commencing with section 12000.

(E) "Automated teller machine" shall mean any electronic information processing device that accepts or dispenses cash in connection with a credit, deposit, or convenience account.

(F) "Automated teller machine facility" shall mean a secure area comprised of one or more automated teller machines, and any adjacent space that is made available to banking customers after regular banking hours.

(2) Exemptions. The provisions of this Subdivision shall not apply to any unenclosed automated teller machine located within any building, structure or space whose primary purpose or function is unrelated to banking activities, including but not limited to supermarkets, airports and school buildings as long as such automated teller machine shall be available for use only during the regular hours of operation of the building, structure or space in which such machine is located.

(b) Motor vehicles and parking lots.

(1) Motor Vehicles. No person shall approach an operator or occupant of a motor vehicle for the purpose of soliciting, asking or begging while such vehicle is located in any public place.

(2) Parking lots. No person shall solicit, ask or beg in any public parking lot or structure any time after dark. "After dark" means any time from one-half hour after sunset to one-half hour before sunrise.

(3) Exemptions. This Subdivision shall not apply to any of the following:

(A) to solicitations related to business that is being conducted on the subject premises by the owner or lawful tenants;

(B) to solicitations related to the lawful towing of a vehicle; or

(C) to solicitations related to emergency repairs requested by the operator or other occupant of a vehicle.

(c) Public Transportation Vehicles and Stops.

(1) "Public transportation vehicle" shall mean any vehicle, including a trailer bus, designed, used or maintained for carrying 10 or more persons, including the driver; or a passenger vehicle designed for carrying fewer than 10 persons, including the driver, and used to carry passengers for hire.

(2) Any person who solicits, asks or begs in any public transportation vehicle, or within ten feet of any designated or posted public transportation vehicle stop, is guilty of a violation of this section if:

(A) He or she remains there after being asked to leave by the owner, driver, or operator of a public transportation vehicle; the agent of the owner, driver or operator of a public transportation vehicle; the owner or manager of a public transportation facility; the agent of the owner or manager of a public transportation facility; a member of a security force employed by the public transportation facility; or by a peace officer, as defined in Chapter 4.5 of Title 3 of the California Penal Code (commencing with Penal Code, § 830); or

(B) Within the immediately preceding 30 days, he or she engaged in a solicitation at that location and had been asked to leave by a person specified in Paragraph (A), above.

(C) Paragraph (B) above is not violated if a person who has been requested to leave enters the property within the designated period and solicits, asks, or begs with the express authorization of a person specified in Paragraph (A) above.

(d) Restaurants. Any person who solicits, asks, or begs in any outdoor or indoor dining area of a restaurant or other establishment serving food for immediate consumption is guilty of a violation of this section if:

(1) He or she remains there after being asked to leave by the owner, manager or supervisor of the restaurant or other food establishment; the agent of the owner, manager or supervisor of the restaurant; a member of a security force employed by the restaurant; or by a peace officer, as defined in Chapter 4.5 of Title 3 of the California Penal Code (commencing with Penal Code, § 830), acting at the request of any of the persons specified in this Subdivision; or

(2) Within the immediately preceding 30 days, he or she engaged in a solicitation at that location and had been asked to leave by a person specified in Paragraph (1) above.

(3) Paragraph (2) above is not violated if a person who has been requested to leave enters the property within the designated period and solicits, asks, or begs with the express authorization of a person specified in Paragraph (1) above.

4.54.120 PENALTY. A violation of this section is punishable as a misdemeanor or infraction, chargeable at the City Attorney's discretion. Nothing in this Article shall limit or preclude the enforcement of other applicable laws.

4.54.125 SEVERABILITY. The provisions of this Article are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Article, or the invalidity of the application thereof to any person

or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Article 3 Drug Paraphernalia

4.54.200 PURPOSES. The illegal use of controlled substances within the City creates serious social, medical and law enforcement problems. The illegal use of such substances by persons under eighteen years of age is a matter of great public interest. It is causing serious physical and psychological damage to the youth of this community, and impairment of educational achievement and of the efficiency of the educational system, increases in non-drug related crime and a threat to the ability of the community to ensure future generations of responsible and productive adults, all to the detriment of the health, safety and welfare of the residents of Elk Grove.

The proliferation of the display of drug paraphernalia in retail stores within the City, and the distribution of such paraphernalia intensifies and otherwise compounds the problem of illegal use of controlled substances within this community.

A ban only upon the display and distribution of drug paraphernalia to persons under eighteen years of age would not be practical. The person who displays or distributes drug paraphernalia would have difficulty determining who could lawfully view or receive drug paraphernalia. The already thinly staffed law enforcement agencies would be subjected to intolerable added enforcement burdens by adding age of a person who views or receives paraphernalia as an element of a prohibition upon display and distribution. A significant number of high school students are eighteen years of age or older. It would be lawful to distribute paraphernalia to some students attending the same school in which the distribution to other students would be prohibited. Permitted display and distribution to adults within the community would symbolize a public tolerance of illegal drug use, making it difficult to explain the rationale of programs directed against similar abuse by youth. The problem of illegal consumption of controlled substances by adults within this community is significant and substantial, necessitating a cessation of the encouragement of drug abuse which the display and distribution of drug paraphernalia create.

This Article is a measure which is necessary in order to discourage the illegal use of controlled substances within the City.

4.54.205 DEFINITIONS. As used in this Article, the following terms shall be ascribed the following meanings:

(a) "Business" means a fixed location, whether indoors or outdoors, at which merchandise is offered for sale at retail.

(b) "Controlled substance" means those controlled substances set forth in Sections 11054, 11055, 11056, 11057 and 11058 of the California Health and Safety Code, identified as Schedules I through V, inclusive.

(c) "Display" means to show to a patron or place in a manner so as to be available for viewing or inspection by a patron.

(d) "Distribute" means to transfer ownership or a possessory interest to another, whether for consideration or as a gratuity. "Distribute" includes both sales and gifts.

(e) "Patron" means a person who enters a business for the purpose of purchasing or viewing as a shopper merchandise offered for sale at the business.

4.54.210 SAME - DRUG PARAPHERNALIA. As used in this Article, the terms "drug paraphernalia" mean all equipment, products, and any materials of any kind which are intended by a person charged with a violation of this Article for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of any law of the state. "Drug paraphernalia" includes, but is not limited to, all of the following:

(a) Kits intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(c) Isomerization devices intended for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances intended for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, intended for use in cutting controlled substances;

(g) Separation gins and sifters intended for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices intended for use in compounding controlled substances;

(i) Capsules, balloons, envelopes, and other containers intended for use in packaging small quantities of controlled substances;

(j) Containers and other objects intended for use in storing or concealing controlled substances; and

(k) Objects intended for use in injecting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls,

(2) Water pipes,

(3) Carburetion tubes and devices,

(4) Smoking and carburetion masks,

(5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand,

(6) Miniature cocaine spoons and cocaine vials,

(7) Chamber pipes,

(8) Carburetor pipes,

(9) Air-driven pipes,

(10) Bongs.

4.54.215 PROOF. In determining whether an object is "drug paraphernalia", a court or other authority may consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use,

(b) The proximity of the object to controlled substances,

(c) The existence of any residue of controlled substances on the object,

(d) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver to persons whom he knows, intend to use the object to facilitate a violation of the laws of the state relating to controlled substances,

(e) Instructions, oral or written, provided with the object concerning its use,

(f) Descriptive materials, accompanying the object which explain or depict its use.

(g) National and local advertising concerning its use,

- (h) The manner in which the object is displayed for sale,
- (i) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise,
- (j) The existence or scope of legitimate uses for the object in the community, and
- (k) Expert testimony concerning its use.

4.54.220 DISPLAY OF DRUG PARAPHERNALIA. Except as authorized by law, it is unlawful for any person to willfully maintain or operate any business knowing or under circumstances where one reasonably should know that drug paraphernalia is displayed at such business.

Except as authorized by law, it is unlawful for any person who is the owner of a business, an employee thereof or one who works at such business as an agent of the owner, to willfully display drug paraphernalia at such business.

4.54.225 DISTRIBUTION OF DRUG PARAPHERNALIA. Except as authorized by law, it is unlawful for any person to willfully distribute to another person drug paraphernalia, knowing or under circumstances where one reasonably should know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, product, process, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of any law of the state.

4.54.230 EXCEPTIONS. No provision of this Article shall be deemed, whether directly or indirectly, to authorize any act which is otherwise prohibited by any law of the state or require any act which is otherwise prohibited by any law of the state. Nor shall any provision of this Article be deemed, whether directly or indirectly, to prohibit any act or acts which are prohibited by any law of the state.

Article 4 Fireworks

4.54.300 GENERAL PROHIBITION AGAINST POSSESSION, SALE OR USE OF FIREWORKS. Except as otherwise provided in this Article, no person shall possess, sell, use, display or explode any rocket, firecracker, roman candle, squib, torpedo, torpedo cane, fire balloon, wire core sparkler, wooden core sparkler, black cartridge or other combustible device or explosive substance or any kind of fireworks, by whatsoever name known, within the City.

4.54.310 EXCEPTION - CERTAIN PUBLIC DISPLAYS. Public displays of fireworks may be given with a written permit issued by the fire chief, or the fire chief's designee, of the fire district within which the display is to be given so long as such display takes place under the supervision and direction of a State of California licensed fireworks operator.

4.54.320 EXCEPTION - SAFE AND SANE FIREWORKS. It shall not be unlawful to possess, sell, use, display or discharge within the City those fireworks as are defined and classified as "safe and sane fireworks" in Part 2 (commencing with Section 12500) of Division 11 of the California Health and Safety Code during that time period beginning at 12:00 noon on June 28 and ending at 10.00 p.m. on July 5 of the same year.

4.54.330 LICENSE TO SELL FIREWORKS REQUIRED. It shall be unlawful for any person to sell "safe and sane fireworks" within the City without a valid City business license authorizing such sales.

4.54.340 WHOLESALE STORAGE OF FIREWORKS. The wholesale storage of fireworks shall be unlawful in the City without valid permits for such storage from the fire district in whose jurisdiction the storage site is located and the Chief Building Inspector. Any such storage is limited to the period from June 1st through July 15th of each year.

4.54.350 LICENSE RESTRICTED.

(a) No City business license authorizing the sale of "safe and sane fireworks" shall be issued to any person, firm, corporation, organization or group other than organizations which are exempted from the payment of the bank and corporation tax by Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g), 23701(h) or 23701(w) of the Revenue and Taxation Code as long as the organization satisfies the following criteria:

(1) It has its principal and permanent meeting place in the City of Elk Grove;

(2) It has been organized and established in the City of Elk Grove for a continuous period of at least one (1) year immediately preceding the application for a permit; and

(3) It has a bona fide membership of at least twenty (20) members.

(b) No organization shall submit more than two applications for licenses to sell fireworks within the City. Submittal of more than two such applications shall be grounds for denial of all applications.

(c) City business licenses authorizing the sale of "safe and sane fireworks" shall not be transferable to another organization.

(d) Transfer of temporary stands from the location for which the license was initially issued may be made if the application is made to the City Manager on or before the first day of June, and if any such location change has been approved in writing by the fire district having jurisdiction, the Chief Building Inspector, and otherwise complies with all provisions of this Article regulating the location of temporary fireworks stands.

4.54.360 APPLICATION.

(a) All applications for a City business license to sell fireworks shall be in writing to the City Manager on forms supplied by the City. Applications shall be received and filed with the City Manager on or before the second Tuesday in April of each year. Applications shall specify the proposed location of the fireworks stand, the name, address and telephone number of one or more responsible adults who will be in charge of and responsible for the fireworks stand during the period fireworks are sold, displayed or stored, such other information as may be required by the City Manager, and an application fee in an amount periodically set by the City Council.

(b) The application shall be made in triplicate. The original of the application shall be retained by the City Manager, one copy shall be transmitted to the fire district in whose jurisdiction the proposed fireworks stand will be located, and one copy shall be sent to the City Building Inspection Division.

(c) Applicants for a license shall be notified by the City Manager of the tentative approval or denial of the application for a City business license by the first Monday in May of each calendar year. Within two weeks of the notification of the tentative approval of the City business license, the applicant shall furnish to the City's Risk Manager evidence of insurance providing comprehensive general liability coverage written on an occurrence basis, including but not limited to premises/operations, personal injury contractual liability, independent contractors, and products/completed operations, with a \$1 million combined single limits for bodily injury and property damage. The insurance policy shall designate the City, its officers, agents, employees and volunteers as additional insureds as to products sold and to premises/operations of the named insured. The insurance policy shall further be endorsed to provide that any insurance and/or self insurance maintained by the City of Elk Grove shall apply in excess of, and not contribute with, insurance provided by the applicant. The City Risk Manager shall be the certificate holder. In the event of non-renewal or cancellation of the insurance policy, thirty (30) days advance notice shall be provided to the the City's Risk Manager. The insurance policy shall be limited to the specific location for which the City business license is issued. The City Manager shall issue the license to the applicant upon the presentation and approval of required proof of insurance.

(d) A copy of the City business license shall be transmitted to the fire district in whose jurisdiction the proposed fireworks stand will be located.

(e) The continued validity of any City business license issued pursuant to this Article shall be subject to the requirement that at least one of the responsible adults listed in the licensee's application shall attend a fireworks stand operator seminar conducted by the fireworks industry and approved by a fire department or fire district within the City. The failure of a licensee to have such a responsible individual attend such safety seminar shall subject the City business license to revocation.

4.54.370 DENIAL OF LICENSE.

(a) The City Manager shall issue the City business license to sell fireworks unless:

(1) The City Manager finds in writing that the applicant has failed to provide sufficient or adequate plans, information or other data necessary to permit a determination respecting compliance with the requirements of this Article;

(2) The City Manager finds in writing that the applicant is not in compliance with any of the requirements of this Article;

(3) The City Manager finds in writing that the applicant falls within the provisions of Section 4.54.420(c) of this Article; or

(4) Either the fire district in whose jurisdiction the proposed stand will be located or the City Building Inspection Division fails to approve the application.

(b) Any denial of a license pursuant to this section may be appealed pursuant to the procedures set forth in Section 4.54.420(b) of this Article.

4.54.380 OPERATION OF STAND.

(a) No person shall sell fireworks to any person under the age of eighteen.

(b) Sale of fireworks shall begin no earlier than 12:00 noon on June 28th and shall not continue after 10:00 p.m. on July 5th of the same year. Sale of fireworks shall be permitted only from 9:00 a.m. to 10:00 p.m. daily.

(c) No person other than the licensee organization shall operate the stand for which the license is issued or share or otherwise participate in the profits of the operation of such stand.

(d) No person other than the individuals who are members of the licensee organization or the wives, husbands, parents or adult children of such members shall sell or otherwise participate in the sale of fireworks at such stand.

(e) No person under the age of eighteen shall sell or participate in the sale of fireworks.

(f) No person shall be paid any consideration by the licensee or any wholesale distributor of "safe and sane" fireworks for selling or otherwise participating in the sale of fireworks at such stand except compensation may be paid for security personnel during non-sale hours and to the party authorizing location of the stand on its property.

(g) Fireworks stands shall be removed from the temporary locations by noon on July 18th, and all accompanying litter shall be cleared from such locations by that date and time.

4.54.390 TEMPORARY FIREWORKS STAND. All retail sales of "safe and sane" fireworks shall be permitted only from within a temporary fireworks stand, and the sale from any other building or structure is hereby prohibited. Temporary stands shall be subject to the following provisions:

(a) No fireworks stand shall be located within twenty-five feet of any other building or within one hundred feet of any gasoline pump or distribution point.

(b) Fireworks stands need not comply with the provisions of the applicable Building Code except all stands shall be erected under the supervision of the Chief Building Inspector, who shall require that stands be constructed in a manner that will reasonably insure the safety of attendants and patrons and that any electrical installations shall comply with all applicable codes.

(c) No stand shall have a floor area in excess of seven hundred and fifty square feet.

(d) Each stand shall have at least two exits. Each stand in excess of forty feet in length shall have at least three exits spaced approximately equidistant apart except in no case shall the distance between exits exceed twenty feet. Exit doors shall be not less than twenty-four inches wide and six feet and two inches in height and shall swing in the direction of exit travel.

(e) Each stand shall be provided with two (2) two and one-half gallon "water-type" (minimum rating 2A) fire extinguishers in good working order and easily accessible for use in case of fire.

(f) Fireworks stands shall be located on property zoned SC, LC, GC, AC, TC, M-1 or M-2, or in any other zoning classification if the County's Chief Building Inspector certifies in writing to the City Manager that the operation of a fireworks location in such other zoning classification will not endanger the health and safety of the community or create a fire hazard to surrounding properties.

4.54.400 GENERAL REQUIREMENTS FOR LICENSEES.

(a) Stands shall not be located closer than six hundred feet apart, unless separated by a principal arterial roadway.

(b) All weeds and combustible material shall be cleared from the location of the stand to a distance of at least twenty-five feet surrounding the stand.

(c) "NO SMOKING" signs shall be prominently displayed on and in the fireworks stand.

(d) Each stand must have an adult watchman in attendance and in charge thereof when the stand is being used for sale, dispensing or storage of fireworks.

(e) All unsold stock of fireworks in the hands of the retailer after 10:00 p.m. on the 5th day of July shall be returned to the distributor or wholesaler and removed from the City within ten days. On closing of stands, all litter shall be removed from the premises.

(f) No fuel-powered generator or similar equipment shall be allowed within fifty (50) feet of a fireworks stand.

4.54.410 ENFORCEMENT. The division of authority for enforcement of this Article shall be as follows:

(a) The chief of any fire protection district or his designated representatives shall have authority to enforce this Article and issue citations for violations in their respective districts.

(b) The City Building Inspector shall have authority to enforce this Article in any area lying without any fire protection district.

(c) The City Building Inspector shall have authority to enforce this Article in any fire protection district upon request of the chief of the fire protection district or the governing body thereof.

4.54.420 REVOCATION OF LICENSE - APPEAL.

(a) The City Building Inspector may revoke, immediately and without notice or hearing, the license of any licensee who violates the provisions of Section 4.54.360(e), Section 4.54.380(a), (b) or (e), or Section 4.54.400(d). If the revocation occurs between June 22nd and July 5th, the City Building Inspector shall inform the licensee that the licensee may seek review of the City Building Inspector's decision by the City Manager, or the City Manager's designee, on the next business day. At the earliest opportunity on the next business day after the revocation, the City Building Inspector shall provide the City Manager with written notice that a fireworks business license has been revoked, including the name of the licensee and a brief statement of the grounds for revocation. If requested by the licensee, the City Manager, or the City Manager's designee, shall meet with the licensee on that day to review the City Building Inspector's decision. The decision of the City Manager or his designee shall be final. If the revocation occurs before or after the specified period, the appeal procedures of subsection (b) shall apply.

(b) The City Building Inspector may revoke the license of any licensee who violates any provision of this Article not specified in subsection (a). Such revocation shall not take effect for five days, during which time the licensee may seek review of the City Building Inspector's decision by submitting a written request for review to the City Manager. The City Building Inspector shall provide the City Manager with written notice that a fireworks license has been revoked, including the name of the licensee and a brief statement of the grounds for revocation. The City Manager, or the City Manager's

designee, shall meet with the licensee and the City Building Inspector to review the City Building Inspector's decision. The decision of the City Manager or his designee shall be final.

(c) Any licensee whose permit has been revoked pursuant to subsections (a) or (b) hereof shall be barred from receiving a license under this Article for five (5) years from the date of revocation.

4.54.430 PENALTY; INFRACTION.

(a) Notwithstanding the provisions of Section 1.01.190 or any other section of this Code, and with the exception of the fourth and subsequent violation of this Article within one (1) year as provided in subdivision (c) of this section, the violation of any of the provisions of this Article is an infraction subject to the procedures set forth in Penal Code sections 19.6 and 19.7.

(b) Every violation of any provision of this Article constituting an infraction is punishable as follows:

(1) a fine not exceeding one hundred (\$100) dollars for a first violation;

(2) a fine not exceeding two hundred (\$200) dollars for a second violation of this Article within one year; and

(3) a fine not exceeding five hundred (\$500) dollars for a third violation of this Article within one year.

(c) The fourth and each subsequent violation of this Article within one (1) year shall constitute a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000) or imprisonment for not more than six (6) months, or both.

4.54.440 SEIZURE OF FIREWORKS. The Chief, or the Chief's designee, of the fire district in whose jurisdiction a fireworks stand is located may seize, take, remove or cause to be removed, at the expense of the licensee, all stocks of fireworks offered or exposed for sale, stored or held in violation of this Article when such violation creates an imminent threat to public health or safety.

4.54.450 CONCURRENT AUTHORITIES. This Article is not the exclusive regulation for fireworks within the City. It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore and hereafter enacted by the County, the State, or any other legal entity or agency having jurisdiction.

Article 5

Public Convenience Determination For Alcohol Licenses

4.54.500 APPLICATION FOR DETERMINATION OF PUBLIC CONVENIENCE. Any person whose application for any alcohol license is subject to a determination of public convenience or necessity by the City pursuant to Business and Professions Code

section 23958.4, shall submit an application to the City for a determination whether or not the public convenience and necessity would be served by the granting of such license. Such application shall be made on forms approved by the City Manager and shall contain such information as required by him or her. At a minimum, any application shall contain that information required by §110-01 of the Zoning Code of the City of Elk Grove. The application shall be accompanied by payment of a fee to be established by resolution of the City Council calculated to offset the costs of the review and determination.

4.54.510 REVIEW OF APPLICATIONS.

(a) Upon receipt of such request for a determination of public convenience or necessity or notice of an application for an alcohol license from the Department of Alcohol Beverage Control ("ABC"), the City Manager shall refer such application to the departments and advisory bodies of the City for review and comment.

(b) At a minimum, the Chief of Police shall determine whether there are existing problems regarding criminal activity at the applicant premises or in the area surrounding the applicant premises. If the Chief of Police determines that there are such existing problems with criminal activity he shall report such problems, in writing, to the City Manager.

(c) At a minimum, the Department of Community Services shall determine whether the applicant premises are within the appropriate land use designations and have received all required entitlements to permit the type of sale of alcoholic beverages described in the application. The Department shall report its determination, in writing, to the City Manager.

(d) At a minimum, the Department of Community Services shall also determine whether there is a pending zoning enforcement action regarding the applicant premises. If the Department determines that there is a pending enforcement action, it shall report such, in writing, to the City Manager.

(e) At a minimum, the City personnel responsible for Business Licenses shall determine whether any required business license has been issued and is in good standing for the applicant premises. If the City personnel determine that a license is required and has not been issued or is not in good standing, they shall report such, in writing, to the City Manager.

(f) At a minimum, the Chief Building Inspector shall determine whether there are any building code violations at the applicant premises and shall report such, in writing, to the City Manager.

(g) The City Manager shall also determine whether any protests were lodged with the ABC in relation to the applicant's request for a license with that body.

(h) The written reports required by this section are to be received by the City Manager within fifteen (15) days from the date the application is forwarded to such departments and advisory bodies.

4.54.520 HEARING REQUIRED.

(a) Proceedings to determine the public convenience or necessity of issuing any alcohol license subject to Business and Professions Code section 23958.4(b)(2) shall be scheduled before the City Council. Notice of the hearing shall be given in the same manner as required by Section 110-04 of the Zoning Code of the City of Elk Grove.

(b) The hearing shall be held without regard to the technical rules of evidence and all persons desiring to appear shall be permitted to do so. The City Manager or his or her designee shall present the results of all written reports from the City departments and advisory bodies. The alcohol license applicant shall be required to demonstrate, by substantial evidence, that the public convenience or necessity will be served by the issuance of a license.

(c) The hearing may be continued from time. At the conclusion of the hearing, the City Council shall determine, within the limits of Business and Professions Code section 23958.4(b)(2) whether the public convenience or necessity will be served by the issuance of a license for the alcohol license applicant premises. The determination shall be reduced to writing by the City Manager and shall be served by mail upon the alcohol license applicant and ABC.

(d) The City Council may determine that the public convenience or necessity will be met only if certain conditions (specifically authorized by Business and Professions Code section 23800 to 23805 (particularly sections 23800(a) and 23801) are imposed upon any license issued by the Department of Alcoholic Beverage Control. Such conditions shall be included in the City Council's decision and shall be submitted by the City within the time periods specified in Business and Professions Code in order to preserve the rights of the City to seek imposition of such conditions.

Section 5: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 6: Severability.


If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the

invalidity of any portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 7: Effective Date and Publication.

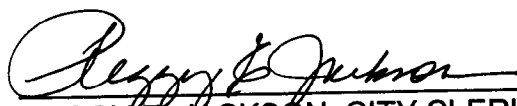
This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within 15 days after its passage, a summary of the ordinance may be published at least five days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to Government Code section 36933(c)(1).

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 14th Day of December 2005.



DANIEL BRIGGS, MAYOR OF THE
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,
CITY ATTORNEY

EFFECTIVE DATE: January 14, 2006

AYES: Scherman, Soares, Briggs, Cooper, Leary
NOES: None
ABSTAIN: None
ABSENT: None