

## Chapter 9

### LICENSING AND BUSINESS REGULATIONS

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## ARTICLE I. IN GENERAL

### Sec. 9-1. Comfort stations.

All comfort stations which are made available for the use of patrons of establishments, or for the use of the general public, shall comply with the following requirements:

- (1) *Water supply.* The pressure and volume of water shall be sufficient to ensure effective flushing of toilets and urinals.
- (2) *Construction and cleanliness of toilets and urinals.* Toilets and urinals shall be constructed of vitreous or other approved material, the surface of which is smooth, hard, impervious, and not easily corrodible; shall be of rim flush type; and shall be properly vented and trapped. All joints shall be tight. The construction shall be such as to provide ample flushing action to insure cleanliness. Installations shall be constructed in a manner approved by the State Department of Human Resources to prevent backsiphonage of the toilet or urinal contents. All toilets and urinals shall be kept clean and in good repair.
- (3) *Toilet rooms.* All toilets and urinals shall be located in well-lighted and well-ventilated rooms and shall be conveniently accessible to approved handwashing facilities. All toilet rooms shall be kept clean and in good repair.
- (4) *Approved handwashing facilities.* Approved handwashing facilities shall comply with the following requirements:
  - a. *Lavatory.* The lavatory shall be composed of vitreous or other approved material, the surface of which is smooth, hard, impervious, and not readily corrodible. Taps connected with said lavatory shall be so installed as to discharge at least one inch above the level at which the lavatory will overflow upon the floor;

- b. *Water supply.* The water supply used in connection with said lavatory shall comply with the requirements of subsection (1) of this section;
- c. *Soap and towels.* Soap in a suitable dispensing container and single-service paper towels or some other form of individual towel service approved by the Health Officer shall be provided. The Health Officer may also approve an air-flow device for drying hands.

(5) *Protection against freezing.* All fixtures shall be protected against freezing.

(6) *Minimum plumbing requirements.* All plumbing shall comply with the City Plumbing Code and all provisions of this article.

(Code 1978, § 9-13)

**Secs. 9-2—9-20. Reserved.**

## ARTICLE II. BUSINESS LICENSE TAX

### Sec. 9-21. Application.

Every person transacting or offering to transact any business or working at or offering to work at any trade, occupation or profession within the limits of the City (except such as are exempt by law) shall obtain a license to transact such business, trade, occupation or profession, to be issued by the City Clerk, after approval by the Mayor and City Council in certain instances hereinafter provided for, in accordance with the further provisions of this chapter.

- (1) *Form of application.* Each application shall be a written statement upon forms provided by the City Clerk.
- (2) *Contents of application.* Each application shall contain the following information:
  - a. The name and home address of the applicant if an individual, or home office address if a corporation or partnership;
  - b. The place where the proposed business is to be located;

- c. The kind of business to be carried on;
  - d. The names and home addresses of the partners, if a partnership;
  - e. The names and home addresses of the officers and directors, if a corporation;
  - f. A complete record of all arrests and convictions against the applicant and every partner, officer, or director of the applicant for violations of any laws or ordinances of the City, State, or Federal government;
  - g. The trade names used during the previous five years by the applicant along with the locations of prior business establishments;
  - h. The names and addresses of the owners of such business. If such business is a privately-held corporation, the names and owners of all persons owning stock in said corporation; and
  - i. Such additional information which the City Clerk, or City Council may find reasonably necessary to the fair administration of this chapter.
- (3) *Verification.* Each application shall be sworn to by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation.
- (4) *Payment of fee.* Each application shall be accompanied by the amount of the fee chargeable for such license, such amount to be prorated by quarters to the end of the fiscal year.
- a. *Issuance of receipts.* The City Clerk shall issue a receipt to the applicant for the amount of the fee tendered with the application for a license; provided, that such receipt shall not be construed as approval of the application, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter.
  - b. *Rebate of fee.* Upon the disapproval of any application for which a fee has been submitted under the provisions of this chapter, the City Clerk shall refund such fee; provided, that the applicant is not otherwise indebted to the City.
- (5) *Confidentiality of information.* To the extent required by law, all information furnished or secured under the authority of this section shall be kept in strict confidence by the City Clerk, and shall be utilized solely by the officers of the City responsible for administering the provisions of this chapter.
- (6) *False statements.* False statements on any application for a license shall be grounds for immediate revocation of such license.  
(Code 1978, § 9-1)
- Sec. 9-22. Procedure for issuance.**
- (a) *Review by City officers.* If any provision of this chapter or any licensing ordinance of the City provides for the review of an application for a license by a City officer designated therein, the City Clerk shall forward a copy of the application to such officer within 48 hours of the time of the receipt of the application. The officer charged with the duty of reviewing the application shall make a recommendation to the City Clerk within seven days after receiving a copy of the application.
  - (b) *Council consideration.* Licenses for the operation of establishments selling alcoholic beverages at retail and such other licenses as may be deemed necessary by the City Clerk shall not be issued until approved by the City Council at a regular meeting.
  - (c) *Limitations on issuance.* No license shall be issued to any applicant whose place of business, if in the City, is not in full compliance with all minimum standard building codes adopted by the City.  
(Code 1978, § 9-2)

**Sec. 9-23. Display of license.**

It shall be the duty of any person conducting a licensed business in the City to keep his license posted in a conspicuous place on the premises used for such business at all times.  
(Code 1978, § 9-3)

**Sec. 9-24. Inspections.**

(a) *Search of premises.* Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, or are reasonably necessary to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer or employee of the City who is authorized or directed to make such inspection at any reasonable time that admission is requested.

(b) *Testing of material.* Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any provision or to detect violations thereof, it shall be the duty of the licensee whose business is governed by such provision to give to any authorized officer or employee of the City requesting the same sufficient samples of such material or commodity for such analysis.

(c) *Refusal to allow inspection.* In addition to any other penalty which may be provided, the Mayor may revoke the license of any licensed proprietor of a licensed business in the City who refuses to permit any officer or employee who is authorized to make such inspection or to make the inspection, or take an adequate sample of the said commodity, or who interferes with such officer or employee while in the performance of his duty in making such inspection; provided, that no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the City, stating that such inspection or sample is desired at the time it is sought to make the inspection or obtain the sample.  
(Code 1978, § 9-4)

**Sec. 9-25. Revocation, suspension, probation, etc.**

No license which has been issued or which may hereafter be issued by the City hereunder shall be suspended or revoked except for due cause as hereinafter defined, and after a hearing and upon the prior three-day written notice to the holder of such license of the time, place and purpose of such hearing and a statement of the charge upon which such hearing shall be held. Due cause for suspension or revocation of such license shall consist of conduct by the licensee, owner or manager that violates any laws, ordinances or resolutions regulating such businesses, or violation of regulations made pursuant to authority granted for the purpose of regulating such business, or for the violation of any State or Federal law, or for the violation of any municipal ordinance or County resolution other than traffic ordinances.

Further, for a first violation within a three-year period of time, of any State or Federal law, or for the first violation of any municipal ordinance, or the first violation of any County resolution other than traffic ordinances, in lieu of suspension or revocation, the Mayor and Council may place said license on a probationary status, with certain conditions as the Mayor and Council may deem fit, for a period of up to three years. Upon the expiration of the probationary period applied by the Mayor and Council, restrictions or conditions of probation required by the Mayor and Council shall cease to exist, and shall no longer have effect. This cessation shall be automatic and will not require further application or motion by the license holder.

For a second violation within a three-year period of time, of any State or Federal law, or for the second violation of any municipal ordinance, or the second violation of any County resolution other than traffic ordinances, or any combination of two violations of the aforementioned, the Mayor and Council may suspend said license or place said license on a probationary status, with certain conditions as the Mayor and Council may deem fit, for a period of 12 to 24 months. Upon the expiration of any probationary period applied by the Mayor and Council, restrictions or conditions of probation required by the Mayor and Council

shall cease to exist, and shall no longer have effect. This cessation shall be automatic and will not require further application or motion by the license holder.

For a third violation within a three-year period of time of any State or Federal law, or for the third violation of any municipal ordinance, or the third violation of any County resolution other than traffic ordinances, or any combination of three violations of the aforementioned, the Mayor and Council shall revoke said license.

The three-year period of time shall be measured from the dates of the previous violations, not from the dates of disposition by any court of the United States, the State of Georgia or any action taken by the mayor and council or any other local government body.

Nothing in this section shall be deemed to curtail the power of the Municipal Court to judicially punish violations of State law or local ordinances.

(Ord. No. 2009-02, § I, 3-18-2010)

**Editor's note**—Ord. No. 2009-02, § I, adopted March 18, 2010, repealed and reenacted section 9-25 in its entirety to read as herein set out. Formerly, section 9-25 pertained to revocation, suspension, etc., and derived from the Code of 1978, § 9-5.

#### **Sec. 9-26. Change of location.**

In the absence of any provision to the contrary, the location of any licensed business or occupation may be changed; provided, ten day's notice thereof is given to the City Clerk, and provided that all building and zoning requirements are complied with.

(Code 1978, § 9-6)

#### **Sec. 9-27. Transfer of licenses.**

All licenses shall be personal to the licensee to whom issued, but in cases where the ownership is changed and both the name and location of the licensed business or occupation are maintained, the Mayor and City Council may allow the license to be transferred.

(Code 1978, § 9-7)

#### **Sec. 9-28. Duplicate licenses.**

A duplicate license shall be issued by the City Clerk to replace a previously issued license which has been lost, stolen, defaced, or destroyed without any willful conduct on the part of the licensee, upon the filing of a sworn affidavit attesting to such fact and the payment of a fee, if any, as established in the schedule of fees and charges.

(Code 1978, § 9-8)

#### **Sec. 9-29. Branch offices.**

For the purposes of this chapter, each branch establishment or location wherein a representative of the owner is employed and is authorized to transact business for such owner shall be deemed a separate place of business for which a separate license shall be required; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch offices.

(Code 1978, § 9-9)

#### **Sec. 9-30. Joint license.**

A person engaged in two or more businesses at the same location shall be required to obtain separate licenses for conducting each of such businesses for which a license is required.

(Code 1978, § 9-10)

#### **Sec. 9-31. Fee payment; renewals.**

(a) All approved business licenses must be purchased from the City Clerk within the 30 calendar days following approval. If not purchased by the licensee within the 30-day period, the license will be declared null and void, requiring that a new application be submitted for consideration.

(b) All business license renewals from the previous year become delinquent if not paid on or before January 1. Should any special, occupation, or sales tax or license fee imposed by this chapter remain due and unpaid for 90 days from the due date of the tax or fee, the person liable for the tax or fee shall pay a penalty of ten percent of the tax or fee due.

(c) There shall be interest paid on delinquent occupation taxes imposed by this chapter at a rate of 1.5 percent per month.

(d) All new business license applications require that the license fee be attached to the application form prior to submission for consideration.

(e) All renewals or new business license applications for the sale of alcoholic beverage shall be paid on or before December 31, of each year. If not paid by December 31, no alcoholic beverage sales will be permitted until license is paid for.

(f) After 90 days delinquent, the business will be closed until all fees, taxes and penalties and interest are paid in full.

(Code 1978, § 9-11)

**State law reference**—Similar provisions, O.C.G.A. § 48-13-21.

#### **Sec. 9-32. Penalties.**

Any person who shall conduct a business or occupation without having obtained a license therefor as required by this article, or who shall violate any other provisions of this chapter, shall, upon conviction therefor, be punished as provided in section 1-12.

(Code 1978, § 9-12)

#### **Secs. 9-33—9-52. Reserved.**

### **ARTICLE III. INSURERS' LICENSE FEES AND TAXES\***

#### **Sec. 9-53. Insurers' license fees.**

There is hereby levied an annual license fee upon each insurer doing business within the City in the amount of \$100.00. For each separate business location in excess of one not covered by section 9-54, which is operating on behalf of such insurers within the City, there is hereby levied a license fee in the amount of \$100.00. For the purposes of this article, the term "insurer" means

**\*State law reference**—Insurance license fees and taxes, O.C.G.A. § 33-8-8 et seq.

a company that is authorized to transact business in any of the classes of insurance designated in O.C.G.A. § 33-3-5.

(Code 1978, § 9-26)

#### **Sec. 9-54. License fees for insurers insuring certain risks at additional business locations.**

For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance, said insurer shall pay an additional license fee as established in the schedule of fees and charges.

(Code 1978, § 9-27; Ord. No. 2001-7, § 2, 12-6-2001)



**Sec. 9-55. Gross premiums tax imposed on life insurers.**

There is hereby levied an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the State in an amount equal to one percent of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 9-53. (Code 1978, § 9-28; Ord. No. 2001-7, § 3, 12-6-2001)

**Sec. 9-56. Gross premiums tax, all other insurers.**

There is hereby levied an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in O.C.G.A. § 33-3-5(1), doing business within the State in an amount equal to 2½ percent of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.2. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 9-53. (Code 1978, § 9-29; Ord. No. 2001-7, § 4, 12-6-2001)

**Sec. 9-57. Due date for license fees.**

License fees imposed in sections 9-53 and 9-54 shall be due and payable on the first day of each year. (Code 1978, § 9-30; Ord. No. 2001-7, § 5, 12-6-2001)

**Secs. 9-58—9-87. Reserved.****ARTICLE IV. MISCELLANEOUS BUSINESS REGULATIONS\*****Sec. 9-88. Malt beverage brewers and dealers.**

(a) *License required.* Each brewer, wholesale dealer and retail dealer of malt beverages, as such terms are defined in O.C.G.A. §§ 3-1-2 and 3-5-1, who does business within the City shall be required to obtain a license from the City Clerk in the manner specified in this chapter.

(b) *Fee established.* The annual business license fee for malt beverage brewers, retail dealers, and wholesale dealers whose place of business is located within the City shall be as fixed by the City Council, and the annual business license fee for other wholesale dealers doing business in the City shall also be as fixed by the City Council.

(c) *Factors for City Council consideration.* The full City Council, in passing upon an initial application for a malt beverage license at the final meeting thereon, shall be guided by the following factors as to whether to grant or deny such application:

- (1) The proximity of other establishments selling malt or alcoholic beverages to the proposed location;
- (2) The character of the neighborhood immediately adjacent to the proposed location;
- (3) The proximity of churches, schools and playgrounds to the proposed location;
- (4) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons;
- (5) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom;
- (6) The feeling and attitudes of the citizens residing in the area adjacent to the proposed location;
- (7) The information set forth in the application;

\*State law reference—Regulatory fees, O.C.G.A. § 48-13-9.

- (8) Whether any malt or alcoholic beverage license previously issued for such location was ever revoked for cause by the City Council; and
- (9) Whether the applicant has ever sold malt or alcoholic beverages illegally in the municipality.
- (10) The applicant's reputation, character, mental and physical capacity to conduct this business;
- (11) If the applicant is a previous holder of a license to sell alcoholic beverages whether or not he has violated any law, regulation or ordinance relating to such business; and
- (12) If the applicant is a previous holder of a license to sell alcoholic beverages, the manner in which he conducted the business hereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinances relating to such business.

(d) *Change of location.* A license issued under the provisions of this section shall permit the sale or manufacture of malt beverages only on the premises described in the application unless a change of location is approved by the City Council.

(e) *Sanitary conditions.* All premises used for the sale or manufacture of malt beverages shall be kept in a safe and sanitary condition as required by the ordinances of the City and the laws of the State.  
(Code 1978, § 9-71)

**Sec. 9-89. Wine retailers.**

(a) *License required.* Each person engaged in the business of retailing wine shall be required to obtain a license from the City Clerk in the manner specified in this chapter.

(b) *Fee established.* The annual business license fee for each place of retail wine distribution in the City shall be as set by the City Council.

(c) *Factors for City Council consideration.* In deciding whether to grant or deny the application for a license to sell wine at retail, the Mayor and City Council shall be guided by the same considerations as those applied in granting or denying a license for the sale or manufacture of malt beverages.

(d) *Change of location.* A license issued under the provisions of this section shall permit the sale at retail of wine only on the premises described in the application unless a change of location is approved by the City Council.

(e) *Sanitary conditions.* All premises used for the retail sale of wine shall be kept in a safe and sanitary condition as required by the ordinances of the City and the laws of the State.  
(Code 1978, § 9-72)

**Sec. 9-90. Alcoholic beverage manufacturers and dealers.**

(a) *License required.* Each manufacturer, wholesale dealer and retail dealer of distilled spirits, as such terms are defined in O.C.G.A. § 3-1-2, whose place of business is located within the corporate limits of the City, shall be required to obtain a license from the City Clerk in the manner specified in this chapter.

(b) *Fee established.* The annual business license fee for each distilled spirits manufacturer and dealer whose business is located in the City shall be as set by the City Council.

(c) *Factors for City Council consideration.* In deciding whether to grant or deny the application for a license to manufacture or sell distilled spirits, the Mayor and City Council shall be guided by the considerations as those applied in granting or denying a license for the manufacture or sale of malt beverages.

(d) *Change of location.* A license issued under the provisions of this section shall permit the sale or manufacture of distilled spirits only on the premises described in the application.

(e) *Sanitary conditions.* All premises used for the sale or manufacture of distilled spirits shall be kept in a safe and sanitary condition as required by the ordinances of the City and the laws of the State.  
(Code 1978, § 9-73)

#### **Sec. 9-91. Solid waste collectors.**

(a) *License required.* Each person engaged in the business of solid waste collection and disposal in the City shall be required to obtain a license from the City Clerk in the manner specified in this chapter.

(b) *Application.* Application for a license to engage in the business of solid waste collection and disposal shall be made as provided in article I of this chapter.

(c) *Fee established.* The annual business license fee for solid waste collectors doing business within the City shall be as set by the City Council.

(d) *Review of application.* No action on any application for a license to engage in the business of solid waste collection and disposal shall be taken by the City Council until the Department of Public Works has reviewed such application and forwarded its recommendation thereon to the City Clerk, in the manner specified in this chapter.  
(Code 1978, § 9-74)

#### **Sec. 9-92. Pawnbrokers; secondhand dealers.**

(a) *Definition.* For the purpose of this section, the term "pawnbroker" means any person engaged in whole or in part in the business of lending money on the security of pledged goods, or in the business of purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or in the business of purchasing tangible personal property from persons or sources other than manufacturers or licensed dealers as a part of or in conjunction with the business activities described in this subsection.

(b) *License required.* Each pawnbroker doing business within the City shall be required to obtain a license from the City Clerk in the manner specified in this chapter.

(c) *Fee established.* The annual business license fee for each pawnbroker doing business in this City shall be as set by the City Council.

(d) *Review of application.* No action on any application for a pawnbroker's license shall be taken by the City Council until the Chief of Police has reviewed such application and forwarded his recommendation thereon to the City Clerk in the manner specified in this chapter.

(e) *Buying and receiving from minors.* It shall be unlawful for the operator of any secondhand jewelry store, or for any pawnbroker, junk dealer or secondhand dealer, to buy, take or receive by any way of pledge, pawn or exchange, any goods, wares or merchandise or article of personal property of any kind from any persons under the age of 18 years. Responsibility for determining the age of persons making the pledge, pawn or exchange, of any article shall lie with the person taking the article in pledge, pawn or exchange.

(f) *Sunday operation.* No pawnbroker shall open his place of business or conduct any business therein on Sunday.

(g) *Pledges to be openly displayed.* Every pawnbroker shall have his pledges openly displayed so that the inspection authorized by this chapter may be easily made.

(h) *Premises to be open to Police.* It shall be the duty of every pawnbroker to admit to his premises the Chief of Police or any other Police Officer who may desire at any time to search for articles missing or stolen, or to make any inspection authorized by this chapter, without the formality of a search warrant.

(i) *Inspection of pledges and purchases.* All articles pledged or sold to pawnbrokers shall, at all times, be subject to inspection and examination by the Police.

(j) *Books and records.*

(1) *Accurate description of pawned property.* All pawnbrokers shall keep books wherein shall be entered an accurate description

of all property pledged, pawned or sold to them. Such description shall include the name of the maker of the article, any identifying mark or number and a statement of the kind of material of which it is made. There shall be entered also the name of the person who sold or deposited the same, the time when it is done, the amount paid or advanced and a description of the person selling or pawning, including his name, address, race and estimated weight and height.

- (2) *Record of purchaser.* When pledges or purchases are sold or otherwise disposed of, the date of sale and a complete description of the person making the purchase shall also be recorded and made a part of the permanent record kept by the pawnbroker. This description shall include name, driver's license or identification number, and present address of the purchaser. This record of sale shall be referenced to the original record of pawn or purchase made upon receipt of the article by the pawnbroker.
- (3) *When entries to be made.* The entries required by this section shall be made at the time of the transaction.
- (4) *Copies of pawn and purchase records to be furnished to Police.* A legible copy of each record of pawn and receipt of purchase made by the pawnbroker shall be furnished to the Police Department. These copies are to be turned in to the Police Department at the close of business of the pawnbroker each day that business is conducted.
- (5) *False entries.* It shall be unlawful for any person engaged in the business of pawnbroker or any employee of such establishment, to make any false entry in any books or records required by this section.
- (6) *Inspection.* The books required to be kept by this section shall, if necessary, be subject to inspection by the Police during regular business hours and shall be maintained on the business premises.

(k) *Holding period.* Any pawnbroker or person operating under a pawnbroker's license who takes goods on pawn or buys goods, taking full title thereto, the word "goods" being used in the broadest sense and including all kinds of personal property, shall hold such goods so taken in pawn or purchased for at least ten days after the date of purchase or 30 days after the term of the loan is pawned, before disposing of the same by sale, transfer, shipment, or otherwise. This provision cannot be waived by contract.

(l) *Exporting.* No pawnbroker doing business in the City shall ship any goods or unredeemed pledges out of the City without first submitting to the Police Department a list of the articles to be shipped out of the City. This list shall include a full description of the articles or goods and these articles or goods shall be subject to the same restrictions as described in subsection (k) of this section.

(m) *Suspension or revocation of licenses.* Any person failing to comply with any provision of this section or other ordinance or regulation passed by the Mayor and City Council for the conduct of the business of a pawnbroker shall be subject to having his license to conduct such business revoked or suspended for a definite period, in the discretion of the Mayor and City Council. Such suspension or revocation shall result from conviction in the Municipal Court of any owner or employee of the business for a violation of any provision of this section or other ordinance or regulations covering the conduct of the business.

(n) *Penalties.* Any person convicted of a violation of any provision of this section in the Municipal Court shall be punished by a fine not to exceed \$1,000.00 or six months in jail.

(Code 1978, § 9-77; Ord. No. 1989-03, §§ 1, 2, 2-16-1989)

State law reference—Pawnbrokers, O.C.G.A. § 44-12-130 et seq.

### **Sec. 9-93. Used car dealers.**

(a) *License required.* Any used motor vehicle dealer or used car dealer, as such terms are defined in O.C.G.A. § 43-47-2, who does business

within the City shall be required to obtain a license from the City Clerk in the manner specified in this chapter.

(b) *Fee established.* The annual business license fee for each used car or used motor vehicle dealer doing business in the City shall be as set by the City Council.

(c) *Review of application.* No action on any application for a license under this section shall be taken by the City Council until the Chief of Police has reviewed such application and forwarded his recommendation thereon to the City Clerk in the manner specified in this chapter.

(d) *Restriction on issuance.* No license under this section shall be issued to any applicant who has not been licensed by the State Board of Registration of Used Motor Vehicle Dealers and Used Motor Vehicle Parts Dealers.

(e) *Records.* Each used car or used motor vehicle dealer licensed hereunder shall keep a record of all motor vehicles offered for sale, exchange, or disposal to the public, which record shall show the make of said motor vehicle, the year of its manufacture, its serial number, and its engine number, and which record shall always be kept available for the Chief of Police or any Police Officer within the City and open to his inspection at any time. It shall be the further duty of every such person to immediately report to the Chief of Police the presence in his place of business of any motor vehicle on which the serial or engine number has been defaced or altered.

(f) *Inspections.* It shall be the duty of the Chief of Police to make inspections from time to time for the purpose of seeing that the records required herein are being kept.

(g) *Exceptions.* Nothing in this section shall be deemed to apply to any individual making an isolated sale of his own vehicle.  
(Code 1978, § 9-78)

### **Sec. 9-94. Junk dealers and junkyards.**

(a) *License required.* Each junk dealer, as such term is defined in this section, who does business within the City, shall be required to obtain a license from the City Clerk in the manner specified in this chapter.

(b) *Definitions.* For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them herein:

*Business premise or premises* means the area of the junkyard, as defined herein, within the City.

*Junk* means old iron, steel, brass, copper, tin, lead, or other base metals; old cordage, ropes, rags, fibers, or fabrics; old rubber; old bottles or other glass; bones; wastepaper and other waste or discarded material which might be prepared to be used again in some form; and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; but the term "junk" shall not include materials or objects accumulated by a person as byproducts, waste or scraps from the operation of his own business, or materials or objects held and used by a manufacturer as an integral part of his own manufacturing process.

*Junk dealer* means a person who operates a junkyard, as defined in this subsection, within the City.

*Junkyard* means a yard, lot, or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined in this subsection, upon which occurs one or more acts of buying, keeping, dismantling, processing, selling, or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such acts are to be used for charity.

(c) *Application.* Application for a license under this section shall be made as provided in section 9-21, except that such application shall contain the following additional information:

- (1) Any trade names used during the previous five years by the applicant and each person signing the application, along with the locations of prior establishments;
- (2) The names and addresses of employers of each person signing the application during the previous five years;
- (3) The name, residence address, and telephone number of each person employed or intended to be employed in the business as of the time the application is filed;

- (4) A sketch of the actual premises to be used in connection with the business, giving distances in feet and showing adjoining roads, property lines, buildings and uses; and
- (5) A description of the materials with which any buildings to be used in connection with the licensed business are or are to be made; a sketch giving distances, showing the location of such buildings on the business premises; and a diagram or plan giving distances and heights, showing floors, exits, entrances, windows, ventilators, and walls.
- (d) *Review of application.* No action on any application for a license to operate a junkyard shall be taken by the City Council until the Planning Commission has reviewed such application and forwarded its recommendation thereon to the City Clerk in the manner specified in this chapter.
- (e) *Fee established.* The annual business license fee for each junk dealer doing business in the City shall be as set by the City Council.
- (f) *General operating requirements.* The following general operating requirements shall apply to all junk dealers licensed in accordance with the provisions of this section:
- (1) The junkyard, together with things kept therein, shall at all times be maintained in a sanitary condition;
  - (2) No space not covered by the license shall be used in the licensed business;
  - (3) No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes;
  - (4) No weeds shall be permitted to attain a height of more than four inches;
  - (5) No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises; nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as defined herein and is in use in the licensed business;
  - (6) No junk shall be allowed to rest upon or protrude over any public street, walkway, or curb, or become scattered or blown off the business premises;
  - (7) Junk shall be stored in piles not exceeding ten feet in height and shall be arranged so as to permit easy access to all such junk for firefighting purposes;
  - (8) No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises; nor shall the premises be allowed to become a fire hazard;
  - (9) Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises;
  - (10) No junk or other material shall be burned on the premises in any incinerator not meeting the requirements of the Building Code; and no junk or other material shall be burned on the premises in the open except in accordance with the provisions of chapter 8, article III;
  - (11) No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed business on any Sunday, Christmas, Thanksgiving, or at any time between the hours of 6:00 p.m. and 7:00 a.m.;
  - (12) The area on the premises where junk is kept (other than indoors) shall be enclosed, except for entrances and exits, with a solid, vertical wall or fence of a minimum height as prescribed by the City Council, measured from ground level. The fence or wall shall not contain any poster or advertising of any kind excepting one sign of the licensee not exceeding in size the limitations of the Zoning Ordinance. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business;
  - (13) The licensee shall permit inspection of the business premises by any Police Officer at any reasonable time; and

- (14) No junkyard shall be allowed to become a nuisance; nor shall any junkyard be operated in such manner as to become injurious to the health, safety, or welfare of the community or of any residents close by.

(g) *Records.* Each acquisition of junk shall be recorded in a permanent type register kept on the business premises, giving the name and residence address of the person from whom the acquisition was made, a description of the junk acquired, and the date of the transaction. Such data shall be held available for inspection by any Police Officer.

(h) *Minors.* No junk dealer shall have any business dealings as a junk dealer with a minor, nor shall a junk dealer's license be issued to a minor, nor shall a junk dealer employ a minor to assist him in his business.

(i) *Stolen goods.* Every junk dealer who shall receive or be in possession of any goods, articles, or things of value that may have been lost or stolen shall upon demand produce such article or thing to any member of the Police Department for examination.

(j) *Vehicles.* Every vehicle used by a junk dealer in the conduct of his business shall bear thereon in legible characters the name and address of the owner and proprietor thereof.

(Code 1978, § 9-79)

**Editor's note**—Any person engaged in the business of purchasing junk in any County of the State is required by State law to register his name with the County Probate Judge.

### Sec. 9-95. Auctions.

(a) *License required.* Each person who desires to conduct an auction within the City shall be required to obtain a license therefor from the City Clerk in the manner specified in this chapter.

(b) *Fee established.* The business license fee for each auction licensed under this section shall be as set by the City Council.

(c) *Application.* An application for a license under this section shall be made as provided in section 9-21, except that such application shall contain the following additional information:

- (1) A statement setting forth when, where, and for how long the auction sale will be conducted;

- (2) A certified copy of the State auctioneer's license of the person who is to conduct the auction; and

- (3) A full and true inventory of all the articles to be sold at the auction sale, together with an affidavit that all information contained in the application is true and that the inventory contains a true listing of all the articles to be sold at said auction.

(d) *Restrictions on sale.* No auction sale shall be held except as set forth in the application and affidavit and no other articles shall be sold except those included in the sworn inventory unless a new affidavit shall be filed listing additional goods to be sold. No other person shall be allowed to conduct the auction sale except such person listed in the affidavit unless a new affidavit is filed setting forth such other person who may be employed to conduct such auction and cry off such goods.

(e) *Bond.* Every applicant for a license under this section shall file with the City Clerk a surety bond running to the City in the amount prescribed by the City Council, with surety acceptable to and approved by the City Clerk, conditioned that the applicant, if issued a license hereunder, will comply fully with all of the provisions of the ordinances of the City and the statutes of the State regulating and concerning auctions and auctioneers, will render true and strict accounts of all his sales to any persons employing him to make the same, will not practice any fraud or deceit upon bidders or purchasers of property from him at any auction sale or suffer or permit any person in his employ to practice any such fraud or deceit, and will pay all damages which may be sustained by any person by reason of any fraud, deceit, negligence, or other wrongful act on the part of the licensee, his agent, or employees in the conduct of any auction or in the exercise of the calling of auctioneer. A liability insurance policy issued by an insurance company authorized to do business in the State that conforms to the above requirements may be permitted by the City Clerk in his discretion in lieu of a bond.

(f) *Cappers, boosters, or by-bidders.* It shall be unlawful for any person to act or to employ another in any auction sale as a by-bidder or what

is sometimes known as a capper or booster, or to make or to accept any false or misleading bid, or to pretend to buy or sell any article sold or offered for sale at such auction.

(g) *Exemptions.* Nothing in this section shall be held to apply to auction sales conducted by trustees or referees in bankruptcy, executors, administrators, receivers, or other public officers acting under judicial process, nor to the sale of real property at auction.  
(Code 1978, § 9-80)

**State law reference**—Auctions and auctioneers, O.C.G.A. § 43-6-1 et seq.

**Sec. 9-96. Circuses, carnivals, and public exhibitions.**

(a) *License required.* No person shall conduct or operate a circus, carnival, or public exhibition, as such terms are defined herein, without having first obtained a license from the City Clerk in the manner specified in this chapter.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Carnival* means and includes amusement activities, rides, merry-go-rounds, booths for the conduct of games of skill, food dispensing facilities, and sideshows.

*Circus* means a public entertainment consisting typically of a variety of performances by acrobats, clowns, and trained animals.

*Menagerie* means a collection of live wild animals on exhibition.

*Public exhibition* means and includes circuses, menageries, carnivals, sideshows, and other similar itinerant amusement enterprises that are open to the public and for admission to which a fee is charged.

(c) *Fees established.* The business license fee imposed on each circus, carnival or public exhibition operating within the City limits shall be as established in the schedule of fees and charges.

(d) *Conditions of issuance.* No license under this section shall be issued until the following conditions have been met:

- (1) The operator and sponsor of the circus, carnival, or public exhibition have each assumed full responsibility for maintaining order and for keeping the site clean and free of trash, papers, and other debris, and have placed trash containers in adequate number and in convenient locations for the use of the public;
- (2) There is compliance with the Amusement Ride Safety Act (O.C.G.A. § 34-12-1 et seq.); and
- (3) The applicant has placed on file with the City Clerk a certificate or certificates of insurance indicating that there is in effect public liability insurance covering any damage arising out of the use and operation of any and all devices and facilities operated in connection with such carnival or exhibition. Such insurance shall be in the minimum amount of \$100,000.00 for each person, and \$300,000.00 for each accident.

(e) *Inspections.* It shall be the duty of the Director of Inspections, Chief of Police and the Fire Chief to see that proper inspections and patrols are made of the premises used for the activities licensed herein.  
(Code 1978, § 9-81)

**Sec. 9-97. Billiard and pool rooms.**

(a) *Definition.* In this section, the term "billiard or pool room" means any public place where a person is permitted to play the game of billiards or pool and for which a charge is made for use of equipment.

(b) *License required.* Each person keeping, operating, or maintaining a billiard table, pool table, or any other table of like character within the corporate limits of the City for use by the public shall be required to obtain a license from the City Clerk in the manner specified in this chapter.

- b. The two previous addresses immediately prior to the present address of the applicant;
- c. Complete description of applicant including age, height, weight, color of hair and eyes, and sex;
- d. Two front-face portrait photographs taken within 30 days of the application, and at least two inches by two inches in size;
- e. The health club or similar business history and experience including whether or not such person has had such a license denied, revoked, or suspended and the reason therefore;
- f. All criminal convictions other than misdemeanor traffic violations fully disclosing the jurisdiction in which convicted and the circumstances thereof;
- g. A complete set of fingerprints taken and to be retained on file by the Chief of Police;
- h. Information on educational background, including a diploma, certificate, or other written proof of graduation from a recognized school or institution of learning which has for its purpose the teaching of the theory, method, profession, or work of massage, which school requires a resident course of study of not less than 70 hours; and
- i. The names and addresses of three adult residents of Liberty County who will serve as character references; such references must be persons other than relatives or business associates.

(c) *License fee.* The annual license fee for persons engaging in the health club business in the City shall be \$300.00. No half-year licenses shall be issued.

(d) *Public hearing.* Upon the filing of an application for a health club business license, the City Clerk shall fix a time and place for a public

hearing thereon. Notice of such hearing shall be published in the official gazette of Liberty County.

(e) *Inspection of premises.* All premises proposed to be used by licensees shall be inspected by the Chief of Police, the Building Inspector and the Fire Department Inspector for the purpose of assuring that such premises comply with all the building, sanitation, and fire prevention requirements.

(f) *General operating requirements.*

- (1) Each person licensed shall display his license, and the permit of each and every masseur employed in the establishment.
- (2) Every person who operates a health club business shall at all times keep an appointment book in which the name of each patron shall be entered. Such appointment book shall be available during regular business hours for inspection by the Chief of Police.
- (3) The licensee shall have the premises supervised at all times when open for business and at least one person who qualifies as a masseur shall be on the premises at all times while the establishment is open.
- (4) No person who operates a health club business shall permit any massage service or practice to be carried on within any cubicle, room, booth, or other area that is fitted with a door capable of being locked.
- (5) No person shall permit any person under the age of 18 years to come unto or remain on the premises of any health club business as masseur, employee or patron.
- (6) No person shall sell, give, dispense, provide or keep any alcoholic beverage on the premises.
- (7) Any health club business license or masseur's permit issued shall be subject to suspension or revocation by the City Council upon proof of any violation of this section, proof being substantiated by the Chief of Police.

(g) *Zoning and distance requirements.* No application shall be considered by the City Council unless proposed site of the health club business is located in an area zoned C-2 or C-3. The site of the health club business must be at least 300 feet from any church or school and at least 2,000 feet from another existing health club. These distances are to be measured from property line to property line.

(h) *Masseur's permit required.* No person shall practice massage as a masseur, employee, or otherwise, unless such person shall have obtained a valid masseur's permit issued by the City. The practice of massage is defined as any method of treating the superficial parts of a patron for medical, hygienic, exercise, kneading, tapping, pounding, vibrating, or stimulating with the hands or any instruments, or by the application of air, liquid, or vapor baths of any kind whatever.

- (1) The use of the masculine gender shall include in all cases the feminine gender as well.
- (2) The application for a masseur's permit shall include all personal information required of an applicant for a health club business license.
- (3) Each application for a masseur's permit shall be accompanied by a permit fee in the amount established in the schedule of fees and charges.

(i) *Exceptions.* The provisions of this section shall not apply to hospitals, nursing homes, sanitariums, or persons holding an unrevoked certificate to practice the healing arts under the laws of this State, or persons working under the direction of any such establishment, nor shall this section apply to barbers or cosmetologists lawfully carrying out their particular profession or business.

(j) *Penalty for violation.* There shall be a \$250.00 fine levied against each violation of the rules and regulations set up in this section.

(Code 1978, § 9-85)

**State law reference**—Health spa transactions, O.C.G.A. § 10-1-392.

## **Sec. 9-100. Tattooing, etc.**

(a) *Description.* The term "tattooing" means to mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin.

(b) *License fee.* The annual license fee for tattooing as described shall be \$200.00, or such license fee review through official action of City Council. Such license fee shall not be prorated.

(c) *Zoning restriction.* Such business of tattooing shall be located only in the business zones in the City and such business of tattooing shall not be located within one mile of any church, public or private school, alcoholic beverage establishment and at least 300 feet from residential property as measured from property line to property line by way of access over public streets and roads of the City.

(d) *License application and issuance.* No license to engage in the business of tattooing shall be issued until an application therefor has been completed and filed with the City Clerk, and no person shall engage in the business of tattooing within the City limits until such license has been issued by the City Council.

(e) *Contents of application; information to be furnished under oath.* An application containing the following information shall be completed and filed with the City Clerk by each applicant for a license to conduct any business involving the art of tattooing on forms provided therefor, together with payment of the applicable license fee. Before the undersigned attesting officer duly authorized by law to administer oaths personally comes the applicant for a license to conduct the hereinafter described business, and being first duly sworn on oath, says that the information hereinafter given and the statements hereinafter made in answer to the following questions are true:

- (1) What is the kind of business to be operated?
- (2) What is the name of the business?
- (3) What is the location where such business is proposed to be carried on and the telephone number of said location?

(c) *Fee established.* The annual business license fee for each operator of a billiard or pool room in the City shall be as fixed by the City Council.

(d) *Hours of operation.* It shall be unlawful for the owner, operator, or manager of any billiard or pool room in the City to permit such establishment to be open for business between the hours of 12:00 midnight and 6:00 a.m.

(e) *Clear view of premises required.* The owner, operator, or manager of any billiard or pool room in the City shall not permit to be used on such premises any screens, shades, partitions, or other devices of like character which shall have the effect of obstructing the view through the windows or doors of the place where the billiard or pool tables are kept.

(f) *Doors.* The doors of all billiard or pool rooms licensed under this section shall be kept unlocked whenever the tables are in use, or when any person other than the proprietor or his agent is present in such place.

(g) *Gambling.* It shall be unlawful for the owner, operator, or manager of any billiard or pool room open for public use to allow gambling of any kind to occur upon such premises.  
(Code 1978, § 9-83)

### **Sec. 9-98. Fortunetelling, etc.**

(a) *License fee.* The annual license fee for fortunetelling, palmistry, crystal ball reading, tea leaf reading, forecasting of horoscopes, or any other form of fortunetelling shall be \$200.00, or such other fee as may be established by the annual license fee review through official action of the City Council. Such license fee shall not be prorated.

(b) *Zoning restriction.* Such business of fortunetelling shall be located only in the business zones of the City.

(c) *License application issuance.* No license to engage in the business of fortunetelling shall be issued until an application therefor has been completed and filed with the City Clerk, and no

person shall engage in the business of fortunetelling within the limits of the City until such license has been issued.

(d) *Contents of application; information to be furnished under oath.* An application containing the following information shall be completed and filed with the City Clerk by each applicant for a license to conduct any business involving the telling of fortunes or predicting of the future, on forms provided therefor, together with payment of the applicable license fee: "Before the undersigned attesting officer duly authorized by law to administer oaths, personally comes the applicant for a license to conduct the hereinafter described business and being first duly sworn, on oath, says that the information hereinafter given and the statements hereinafter made in answer to the following questions are true:

- (1) What is the kind of business to be operated?
- (2) What is the name of the business?
- (3) What is the location where such business is proposed to be carried on and the telephone number of said location?
- (4) What is the name of the applicant for the license, and the home address and telephone number of said applicant?
- (5) Where has the applicant resided for the 90 days preceding the date of this application?
- (6) What was the applicant's previous home address, and how long was applicant a resident there?
- (7) What are the names and addresses of all persons having an interest in said business?
- (8) What interests do such persons have?
- (9) Who is the landlord or owner of said location, and what is the address and telephone number of said landlord or owner?

(10) Has the applicant or any person connected with or having an interest in said business:

- a. Been charged or convicted of any violation of law (other than minor traffic violations) in any locality?
- b. Served time in prison, or any other correctional institution?

(11) If the answer to subsection (d)(10)a of this section is "yes," state the circumstances in detail. The information must be complete as to dates, charges, court jurisdiction, and disposition for each person. If the answer to subsection (d)(10)b of this section is "yes," state the circumstances in detail. The information must be complete as to the charge on which convicted, the name of the prison or correctional institution, the length of time served, the date of release from prison or correctional institution, whether the sentence has been completed, or whether on probation or parole, and the terms thereof.

(12) Give the name, home address and telephone number and place of employment of three persons who are residents of Liberty County, who are familiar with your character and reputation. A character reference letter from each of the three is required with application.

(13) By signing and submitting this application, do you agree to provide with the application a small recently made photograph of yourself, and to go in person to the City Police Department for fingerprinting, with the understanding that a complete records check will be made?

All of the foregoing information is hereby given and all of the foregoing statements are hereby made on oath, willfully, knowingly, and absolutely, and the same is and are hereby sworn to be true under penalty for false swearing, as provided by law.

\_\_\_\_\_  
Applicant's Signature

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public"

(e) *Approval by City Council.* No license to engage in the business of fortunetelling shall be issued if objections have been filed, if the answers to subsection (d)(11) of this section are positive, or if a police investigation shows a criminal record, until the application therefor has been approved by the City Council.

(Code 1978, § 9-84)

**State law reference**—Local regulation of billiard rooms, O.C.G.A. § 43-8-1 et seq.

**Sec. 9-99. Health club business.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Health club* means a place of business with equipment and facilities for exercising and improving physical fitness. The term "health club" includes a massage parlor.

*Masseur* means a person who gives massages professionally.

(b) *License required; application.* Each person engaging in or carrying on the business of health clubs within the corporate limits of the City shall be required to obtain a license from the City Clerk in the manner specified in this Code. Application for a health club license shall also contain the following additional information:

- (1) A complete list of the names and resident addresses of all masseurs and employees in the business and the name and residence of the manager or other person principally in charge.
- (2) The following personal information concerning the applicant and the manager or other persons principally in charge of the operation of the business:
  - a. Name, complete residence address, and residence telephone number;

- b. The two previous addresses immediately prior to the present address of the applicant;
- c. Complete description of applicant including age, height, weight, color of hair and eyes, and sex;
- d. Two front-face portrait photographs taken within 30 days of the application, and at least two inches by two inches in size;
- e. The health club or similar business history and experience including whether or not such person has had such a license denied, revoked, or suspended and the reason therefore;
- f. All criminal convictions other than misdemeanor traffic violations fully disclosing the jurisdiction in which convicted and the circumstances thereof;
- g. A complete set of fingerprints taken and to be retained on file by the Chief of Police;
- h. Information on educational background, including a diploma, certificate, or other written proof of graduation from a recognized school or institution of learning which has for its purpose the teaching of the theory, method, profession, or work of massage, which school requires a resident course of study of not less than 70 hours; and
- i. The names and addresses of three adult residents of Liberty County who will serve as character references; such references must be persons other than relatives or business associates.

(c) *License fee.* The annual license fee for persons engaging in the health club business in the City shall be \$300.00. No half-year licenses shall be issued.

(d) *Public hearing.* Upon the filing of an application for a health club business license, the City Clerk shall fix a time and place for a public

hearing thereon. Notice of such hearing shall be published in the official gazette of Liberty County.

(e) *Inspection of premises.* All premises proposed to be used by licensees shall be inspected by the Chief of Police, the Building Inspector and the Fire Department Inspector for the purpose of assuring that such premises comply with all the building, sanitation, and fire prevention requirements.

(f) *General operating requirements.*

- (1) Each person licensed shall display his license, and the permit of each and every masseur employed in the establishment.
- (2) Every person who operates a health club business shall at all times keep an appointment book in which the name of each patron shall be entered. Such appointment book shall be available during regular business hours for inspection by the Chief of Police.
- (3) The licensee shall have the premises supervised at all times when open for business and at least one person who qualifies as a masseur shall be on the premises at all times while the establishment is open.
- (4) No person who operates a health club business shall permit any massage service or practice to be carried on within any cubicle, room, booth, or other area that is fitted with a door capable of being locked.
- (5) No person shall permit any person under the age of 18 years to come onto or remain on the premises of any health club business as masseur, employee or patron.
- (6) No person shall sell, give, dispense, provide or keep any alcoholic beverage on the premises.
- (7) Any health club business license or masseur's permit issued shall be subject to suspension or revocation by the City Council upon proof of any violation of this section, proof being substantiated by the Chief of Police.

(g) *Zoning and distance requirements.* No application shall be considered by the City Council unless proposed site of the health club business is located in an area zoned C-2 or C-3. The site of the health club business must be at least 300 feet from any church or school and at least 2,000 feet from another existing health club. These distances are to be measured from property line to property line.

(h) *Masseur's permit required.* No person shall practice massage as a masseur, employee, or otherwise, unless such person shall have obtained a valid masseur's permit issued by the City. The practice of massage is defined as any method of treating the superficial parts of a patron for medical, hygienic, exercise, kneading, tapping, pounding, vibrating, or stimulating with the hands or any instruments, or by the application of air, liquid, or vapor baths of any kind whatever.

- (1) The use of the masculine gender shall include in all cases the feminine gender as well.
- (2) The application for a masseur's permit shall include all personal information required of an applicant for a health club business license.
- (3) Each application for a masseur's permit shall be accompanied by a permit fee in the amount established in the schedule of fees and charges.

(i) *Exceptions.* The provisions of this section shall not apply to hospitals, nursing homes, sanitariums, or persons holding an unrevoked certificate to practice the healing arts under the laws of this State, or persons working under the direction of any such establishment, nor shall this section apply to barbers or cosmetologists lawfully carrying out their particular profession or business.

(j) *Penalty for violation.* There shall be a \$250.00 fine levied against each violation of the rules and regulations set up in this section.  
(Code 1978, § 9-85)

**State law reference**—Health spa transactions, O.C.G.A. § 10-1-392.

**Sec. 9-100. Tattooing, etc.**

(a) *Description.* The term "tattooing" means to mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin.

(b) *License fee.* The annual license fee for tattooing as described shall be \$200.00, or such license fee review through official action of City Council. Such license fee shall not be prorated.

(c) *Zoning restriction.* Such business of tattooing shall be located only in C2, C3, and LI business zones in the City, and shall not be located within that portion of the City's Downtown Redevelopment Overlay District that lies inside the area bounded by Oglethorpe Highway, General Stewart Way and General Screven Way. Tattoo business establishments shall not be located within 300 feet of any church or other tattoo business establishment, 600 feet of any public or private school, or 200 feet of any property zoned residential when measured in a straight line from the property line of said church, tattoo business establishment, public or private school, or property zoned residential to the building (or unit if within a shopping center) of the location for which the license is being sought.

(d) *License application and issuance.* No license to engage in the business of tattooing shall be issued until an application therefor has been completed and filed with the City Clerk, and no person shall engage in the business of tattooing within the City limits until such license has been issued by the City Council.

(e) *Contents of application; information to be furnished under oath.* An application containing the following information shall be completed and filed with the City Clerk by each applicant for a license to conduct any business involving the art of tattooing on forms provided therefor, together with payment of the applicable license fee. Before the undersigned attesting officer duly authorized by law to administer oaths personally comes the applicant for a license to conduct the hereinafter described business, and being first duly sworn on oath, says that the information hereinafter given and the statements hereinafter made in answer to the following questions are true:

- (1) What is the kind of business to be operated?

- (2) What is the name of the business?
- (3) What is the location where such business is proposed to be carried on and the telephone number of said location?
- (4) What is the name of the applicant for the license, and the home address and telephone number of said applicant?
- (5) Where has the applicant resided for the 90 days preceding the date of this application?
- (6) What was the applicant's previous home address, and how long was the applicant a resident there?
- (7) What are the names and addresses of all persons or corporations having an interest in said business?
- (8) What percentage of interests do such persons or corporations have?
- (9) Who is the landlord or owner of said business location and what is the address and telephone number of said landlord or owner?
- (10) Has the applicant or any person connected with or having an interest in said business:
  - a. Been charged or convicted of any violation of law (other than minor traffic violations) in any locality?
  - b. Served time in prison or any other correctional institution?
- (11) If the answer to subsection (e)(10)a of this section is "yes," state the circumstances in detail. Information must be complete as to dates, charges, court jurisdiction and disposition for each person. If the answer to subsection (e)(10)b of this section is "yes," state the circumstances in detail. The information must be complete as to the charge on which convicted, the name of the prison or correctional institution, the length of time served, the date of release, whether the sentence has been completed or whether on probation or parole and the terms thereof.

(12) Give the name, home address and telephone number and place of employment of three persons who are residents of the City who are familiar with applicant's character and reputation. A character reference letter from each of the three is required with application.

(13) By signing and submitting this application, do you agree to provide with the application a small recently made photograph of yourself and go in person to the City Police Department for fingerprinting with the understanding that a complete record check will be made?

All of the foregoing information is hereby given and all of the foregoing statements are hereby made on oath, willfully, knowingly and absolutely and the same is hereby sworn to be true under penalty for false swearing as provided by law.

\_\_\_\_\_  
Applicant's Signature

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

(f) *Approval by City Council.* No license to engage in the business of tattooing shall be issued until the application therefor has been approved by the Mayor and City Council. In determining whether or not any license applied for hereunder or any renewal of any license shall be granted in addition to all provisions of this chapter and any other provisions of this Code not inconsistent herewith, the following shall be considered in the public interest and welfare:

- (1) The applicant's reputation, character, mental and physical capacity to conduct this business;
- (2) If the applicant is a previous holder of a license to tattoo whether or not he has violated any law, regulation or ordinance relating to such business;
- (3) If the applicant is a previous holder of a license to tattoo, the manner in which he

conducted the business hereunder as to the necessity for unusual Police observation and inspection in order to prevent the violation of any law, regulation or ordinances relating to such business;

- (4) The location for which the license is sought as to traffic congestion, general character of neighborhood, and the effect such an establishment would have on the adjacent and surrounding property values;
- (5) The number of licenses already granted for similar businesses in the trading area of the place for which the license is sought; and
- (6) A person whose license issued under the Police powers of any governmental entity has been previously suspended or revoked.

(Code 1978, § 9-86; Ord. No. 2011-02, § I, 3-3-2011)

**Sec. 9-101. Wrecker service operations.**

(a) *Definitions.* For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them herein:

*Motor vehicle* shall be defined in the manner in which it is defined in O.C.G.A. § 40-1-1.

*Wrecker service operation* means any company, firm, business or individual or group of individuals for hire by the general public which provides by any means the hauling, moving or transferring from one place to another any damaged, disabled, inoperable, operable or impounded motor vehicle.

(b) *License required.* Any wrecker service which hauls, moves or transfers motor vehicles, operable or inoperable within the City by the request or direction of the City or its employees shall first obtain a license to do so from the City Clerk before engaging in such business.

(c) *Application.* Application for a license to conduct a wrecker service operation as required under this section shall be made as provided in section 9-21.

(d) *Operating requirements.* The following operating requirements shall apply to all wrecker service operators licensed in accordance with the

provisions of this section and each and every item hereunder is a condition precedent to obtaining such a license and maintaining such license and the failure to abide by these requirements at all times shall be cause for revocation and/or denial of such license.

- (1) All such wrecker service operations shall make available to the City on a 24-hour basis, every day of the year said services when and as called upon at a price not more than the established maximum service fees provided hereinafter. Such wrecker service shall notify the dispatcher in advance when he cannot be available for wrecker call for any specific time. He shall notify the dispatcher of the time he will be out of service and also of the time he will return to service.
- (2) Prior to the issuance of the license required by this section and prior to the conduct of any such operations by said wrecker service, such wrecker service shall obtain and cause to be kept in force at all times during the term of any such license granted under this section, liability insurance issued by a company of sound and adequate financial responsibility of the following types and minimum amounts:

*Public Liability Insurance*

Bodily injury	\$300,000.00 per person \$500,000.00 per occurrence
Property damage	\$300,000.00 per accident

*Garage Keepers Legal Liability Insurance*

Light duty wrecker	\$50,000.00
Heavy duty wrecker	\$100,000.00

- (3) Said insurance policy shall name the City a certificate holder. Such naming of the City as a certificate holder and such policies of liability insurance shall not thereby cause the City to be deemed a partner or engaged in a joint venture with the wrecker service operator in its business.

- (4) Such wrecker service operator shall also carry workers compensation insurance in the amounts and form required by the Workers' Compensation Act (O.C.G.A. § 34-9-1 et seq.) and the insurance laws of the State (O.C.G.A. title 33) and shall furnish proof of same to the City prior to granting of any license hereunder and from time to time upon request by the City.
- (5) Copies of the certificates of all insurance coverage required of the wrecker service shall be filed with the City Clerk and shall provide therein that the policies of insurance referred to in such certificates shall not be subject to cancellation by the insurer except after delivery of written notice by certified mail to the City Clerk at least 30 days prior to the effective date of any such cancellation.
- (6) Should the wrecker service operator fail or refuse to obtain and keep in full force and effect the insurance required by this section, the City may revoke the license provided for hereunder.
- (7) Within the City limits the wrecker service operator shall provide an area for the storage for vehicles that have been moved, hauled or transferred by the wrecker service operator at the request of the City. All impounded motor vehicles hauled or towed by such wrecker service shall be stored in said storage facility. All other vehicles hauled by such wrecker service (those that are not impounded by the City) shall be stored in a storage facility licensed by the City, Liberty County or any municipality within Liberty County. An office shall be maintained at the storage area for the convenience of the public in retrieving their vehicles. Such facility must be maintained properly, clean and presentable at all times and shall be subject to inspection by the City and the City Police Department. Failure to properly maintain facilities shall be cause for revocation of the license granted hereunder. No impounded automobile hauled, moved, retrieved or transferred from one place to another by the wrecker service operator shall be stored at any place whatsoever other than a storage area which meets the following minimum requirements:
  - a. Such storage area shall meet all City zoning requirements and ordinances pertaining to vehicle storage;
  - b. The storage area and premises shall be kept in a clean and orderly fashion; and
  - c. There shall be ample space to store a minimum of 30 automobiles and/or motor vehicles at the same time. The standard size automobile to be used for determining whether such storage facility meets the approval of this requirement is seven feet by 16 feet. The wrecker service operator may utilize the storage facilities of any other firm, person or corporation; provided, such facilities meet all the requirements of this section and provided said facility meets all zoning laws and regulations now or hereafter adopted by the City. If any such wrecker service cannot provide an area for storage of impounded vehicles, the City at its own discretion shall provide an area for the storage of such vehicles.
- (8) Services are to be rendered immediately upon request by the City or its employees. The wrecker service operator shall not respond to the scene of an accident unless called to the scene by the City Police Department. This section recognizes the right of an individual who is the owner of any wrecked or impounded vehicle to select his own wrecker service company; provided, his state of sobriety or capacity is assured and provided that said vehicle is not blocking the roadway or otherwise dangerous to the traveling public.
- (9) The wrecker service operator shall comply with and conform to all Federal, State and local laws and/or rules and regulations regarding safety now in effect or as new ones become applicable. The wrecker service owner must submit to a back-

ground police and general records check for prior offenses or irregularities to determine suitability, reliability and financial stability in order to properly protect the public against abuse, neglect or malfeasance. No person who has been convicted of a felony or any crime involved in moral turpitude shall be granted a license pursuant to the terms of this section.

- (10) Prior to the issuance of any license hereunder the wrecker service operator must have and demonstrate his ownership of the following types of equipment:
  - a. Two each light duty wreckers;
  - b. A light duty wrecker with at least 10,000 pounds minimum gross vehicle weight rating equipped with 8,000 pound power take-off, power winch, per independent boom, dual rear wheels; and
  - c. One each roll back or car carrier, may be substituted for one light duty wrecker.

A light duty car carrier shall be defined as a wrecker with at least 10,000 pound gross vehicle weight with dual wheels, power driven winch with hydraulic wrecker system.

- (11) Each wrecker provided herein shall be required to carry a full compliment of service items such as fire extinguishers, chains, ropes, blocks, dollies, sports car bar, motorcycle bar, stop lights, flashes, flood lights, hand tools, lock-out tools, wrecking bars, brooms, and any other tool needed for lifting, extracting, righting and removal of a wrecked or disabled vehicle or other equipment from public thoroughfares by towing or carting. If at any time after the granting of the license required by this section, the wrecker service operator fails to maintain the equipment required by this section such failure shall be cause for revocation of said license.
- (12) Each wrecker service operator shall demonstrate access to at least one heavy-duty wrecker. A heavy duty wrecker shall be

defined as a wrecker with at least 32,000 pounds minimum gross vehicle weight rating equipped with a 16 to 25 ton power take-off mechanically driven power winch crane and having independent dual booms and with dual rear wheels.

(e) *Fees.*

- (1) All service fees charged by the wrecker service operator to the public shall not exceed rates enlisted in the fee schedule fixed and established by the Mayor and City Council from time to time and maintained on file in the office of the City Clerk.
- (2) Such rates shall be conspicuously posted in the wrecker service operator's place of business for the attention and information of the general public and for claimants of vehicles under wrecker service operator's care.
- (3) All billings or statements of charges are to be itemized and will have clearly printed on the reverse side the rates applicable to the fee schedule fixed and established by the Mayor and City Council, so the rates may be verified by the claimant.

(f) *Telephone and radio communication.* The wrecker service operator will provide, at no cost to the City, a designated telephone number and line to be used exclusively by the City's Police Department for the purpose of notifying a wrecker service operator whenever such wrecker service operator's services are needed.

(g) *Minimum drivers.* The wrecker service operator must maintain and have available at all times at least one qualified wrecker operator with an appropriate C or A State driver's license or such driver's license as required by law for wrecker operators. The wrecker service operator must submit a list of driver's names, dates of birth, drivers' license numbers to the City Clerk prior to the issuance of any license and if from time to time wrecker operators are deleted or added to the wrecker service operator's payroll, he must furnish an up-to-date list of such operators to the City Clerk.

(h) *List of qualified operators, etc.* The City shall compile a list of all wrecker service operators licensed under this section which are qualified to accept calls from the City or its employees for the purposes of hauling or storing vehicles as those terms are defined herein and the City Police shall contact and call and request the services only of those wrecker service operators which have been licensed pursuant to the terms of this section which is for the protection of the general public and in furtherance of its police powers. (Code 1978, § 9-87; Ord. No. 2003-08, § I, 12-18-2003)

**Sec. 9-102. Vehicle storage facility.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Vehicle storage facility* means a facility that is operated for the purpose of storing vehicles. Generally this service will be available to insurance companies, finance companies, individuals, governmental agencies and other related institutions. In no way shall a vehicle storage facility be construed as being an automotive salvage facility or a junkyard.

(b) *Minimum guidelines for operation.* The following are minimum guidelines that must be adhered to in the operation of a vehicle storage facility:

- (1) Dismantling of vehicles, in whole or in part, is prohibited;
- (2) Buying and/or selling of parts or vehicles in any manner is prohibited;
- (3) Repairs to vehicles on the site, other than emergency repairs that may be required to get a vehicle cranked and removed, are prohibited;
- (4) The facility must be fenced, blinded, and landscaped so as to prevent the creation of an unsightly facility; and

(5) Twenty-four-hour availability will be provided by the operator of the vehicle storage facility.

(Code 1978, § 9-88)

**Sec. 9-103. Transient merchants, peddlers and solicitors.**

(a) *Generally.* No person shall operate a business as a transient merchant or peddler within the City unless a license for such business has first been granted by the City, and no solicitor for charitable or religious purposes shall solicit within the City unless a permit has been granted by the City in accordance with the provisions of this section. Such permit or license shall be effective for the period stated therein, unless suspended or revoked prior to expiration. Applications for a license or permit shall be made on forms provided by the City and shall provide such information as is required by this section and such additional information as may be necessary to define completely the activities to be conducted within the City.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Charitable* shall be given its commonly accepted meaning, to include but not limited to, patriotic, philanthropic, benevolent, educational, civic, or fraternal, either actual or purported.

*License* means the right or privilege granted by the City to engage in business as a transient merchant or peddler within the corporate limits of the City. Evidence that such right or privilege has been granted shall be in the form of a license document issued by the City, which document shall be kept at the merchant's place of business within the City or on the peddler's person within the peddler's vehicle.

*Peddler* is defined as any person, who, whether a resident of the City or not, has no permanent, regular place of business within the City, and who engages in the business of selling or offering to sell goods, wares, merchandise, food, drink, or other items or services by going from door to door

and place to place within the City. Anyone who solicits orders and, as a separate transaction, makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this section shall be deemed a peddler.

*Permit* means the authorization granted by the City to solicit for charitable or religious purposes or to solicit subscriptions. There shall be no fee or charge for such permit. Evidence that such authorization has been granted shall be in the form of a document issued by the City.

*Solicitor for charitable or religious purposes* means any person acting exclusively to promote a charitable or religious purpose, and not for pecuniary profit, either on the streets of the City or elsewhere, who sells or offers to sell, or exchange or offers to exchange any single good, ware or service of a cost to the purchaser in excess of \$10.00. No qualification as a solicitor for charitable or religious purposes shall exist unless the applicant:

- (1) Is able to demonstrate a current exemption certificate from the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code, as amended; or
- (2) Has maintained in the City a continuous existence as a charitable or religious organization for a period of one year prior to the date of its application pursuant to this section.

Persons not qualifying as a solicitor for charitable or religious purposes hereunder shall be deemed transient merchants and subject to regulation as such.

*Street* means any street, alley, avenue, court, sidewalk or other public right-of-way, or any other public place within the City.

*Transient merchant* means any person, whether as owner, agent, consignee or employee and whether a resident of the City or not, who engages in a business of selling goods, wares, merchandise, food, drink or other items or services occasionally or temporarily within the City and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, shop, apartment, or room in a hotel, motel or lodginghouse,

tent, or motor vehicle, or any street or other place within the City, whether fixed or mobile, for the exhibition for sale of such goods, wares, merchandise, food, drink or other items or performance of such services, either privately, publicly or at auction; provided, however, that no merchant shall be considered a transient merchant under this section if:

- (1) Such person, firm, corporation or other entity is a bona fide commercial traveler selling goods at wholesale by samples;
- (2) Such person sells produce or other direct farm products from his own lands;
- (3) Such person sells items at a garage sale, yard sale, estate sale or similar sale conducted at his residence, not more than three times in any 12-month period and continuing for no more than two consecutive days each such occasion, and such sale is not part of the regular business activity of such person. Such exclusion shall not be available to flea market operators, promoters, performers or other such enterprises or any other business-related operations; or
- (4) Conducts business at any industry or association for the purposes of displaying samples or taking orders for shipment directly from the manufacturer.

Such transient merchant so engaged shall not be relieved from complying with the provisions of this section by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with or in the name of any local dealer, trader, merchant or auctioneer.

(c) *Application for license.* An application containing the following information shall be completed and filed with the City Clerk, or designee, by each applicant for a license to do business within the City as a transient merchant or peddler:

- (1) The name of the applicant;
- (2) The permanent address and telephone number of the applicant;

- (3) The local address and telephone number of the applicant;
- (4) If the applicant is a partnership, corporation or other business entity, the name and permanent business address of each partner, principal or director;
- (5) If the applicant is a corporation, the state and date of incorporation as well as proof that the corporation is in good standing;
- (6) If the applicant is a partnership, corporation or other business entity, the name, home address and date of birth of the principal representative in the City;
- (7) The name and home address of all employees who will work in the City;
- (8) The name of the business represented by the applicant, if different from the applicant;
- (9) The permanent address of the business represented by the applicant;
- (10) The name of the agent conducting the sale, if any;
- (11) The local address and telephone number of the sales agent, if any;
- (12) The type of merchandise or service to be offered for sale;
- (13) The place where business is to be conducted;
- (14) The dates the applicant is to be in business, and the total number of days the applicant is to be in business;
- (15) The hours during which business will be conducted;
- (16) The manner in which business is to be conducted;
- (17) The State sales tax number or authorization;
- (18) The State and license tag number of each vehicle to be used in the business;
- (19) A list of the cities where the business has been conducted by the applicant within the past 12 months; and
- (20) Where food products are to be sold, a clearance letter issued by the County Health Department.

The license application shall be signed under oath by the applicant. A nonrefundable fee established in the schedule of fees and charges to defray the administrative costs of such application shall accompany all applications.

(d) *Grounds for disapproval or revocation.* No application shall be approved and any license previously issued may be revoked if any investigation determines that:

- (1) Any fraud, misrepresentation, material omission or false statement is contained in the application for license;
- (2) The applicant, or any principal participant in the business, has been convicted within the past five years of a felony, or of any crime involving moral turpitude, whether in connection with operation of the business or not;
- (3) The business is operated or is proposed to be operated in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public; or
- (4) Any violation of this section is committed.

(e) *Review and approval; issuance; nontransferable.* Any application for a transient merchant's or peddler's license shall be reviewed by the City Clerk or designee to ensure compliance with zoning, safety and health code requirements of the City. The applicant must be approved by the City Clerk, or by his designated representative, before a license may be issued; provided, however, that no transient merchant or peddler shall locate and conduct business upon the streets of the City without first obtaining the consent of the Mayor and City Council after furnishing proof satisfactory to the City Council that the location and conduct of such business will be in compliance with this section and will not otherwise interfere with the rights of the general public to the use of such streets or jeopardize the health, safety or welfare of the general public. Said license shall be issued for such duration and upon such conditions

as approved by the City Clerk and/or the Mayor and City Council. No license issued pursuant to this division shall be transferable.

(f) *License fee.* Licensees under this section shall pay a license fee equal to the amount established in the schedule of fees and charges for each day during which the business will be conducted under this section, up to a maximum of \$500.00 for any one period of continuous business operation within the City during a calendar year; provided, however, that in any case where a greater license fee is required by other ordinances the greater fee shall apply.

(g) *Permit required; solicitor for charitable or religious purposes.* Any solicitor for charitable or religious purposes, as defined herein shall make application for permit to the City Clerk; provided, however, the provisions of this section shall not apply to any solicitor for charitable or religious purposes if the solicitations by such persons are conducted among the members thereof, voluntarily and without remuneration for the making of such solicitations, or the solicitations are in the form of collections or contributions at the regular assemblies or services of such persons. Such applicant shall provide the name and address of the applicant, the name and address of the person or organization represented, the dates during which activities will be conducted within the City, the identity of all persons who will solicit within the City, and such other information as the City Clerk or designee may find necessary to identify the solicitors and define the activities to be conducted. Any such permits shall be reviewed by the Mayor and City Council and may be denied or revoked under any circumstances as shown in subsections (d) and (e) of this section. No fee shall be charged for permits issued hereunder.

(h) *Operations regulated.* The following regulations shall apply to any peddler, transient merchant, or solicitor for charitable or religious purposes doing business within the City and required to obtain a license or permit hereunder:

- (1) No such person shall be permitted to locate and operate on any street within the City, except with the written permission of the Mayor and City Council;
- (2) No such person shall locate in or near the entrance to any house or place of business, or in any place so as to disrupt or impede pedestrian or vehicular traffic;
- (3) No such person shall operate in vehicular traffic lanes of the City or solicit directly from the motoring public;
- (4) If any officer of the City Police Department should determine that pedestrian or vehicular traffic congestion is such that public hazard or other unsafe conditions may result from such operation in the congested area, such officer shall have authority to require such peddler, transient merchant, or solicitor for charitable or religious purposes to move from the area;
- (5) No temporary shed, tent, or other temporary structure or covering shall be erected, except as may be approved by the City Director of Inspections, or designee;
- (6) Location of such person's operations on private property shall be with the express written permission of the property owner and merchants, and such operations shall comply with City zoning regulations and all safety and health code requirements of the County and City;
- (7) No such person shall harass or intimidate the public in any manner;
- (8) Each such person shall be required to display a valid license or permit issued by the City, or a copy thereof, in a manner which can be clearly observed by members of the public; provided, however, that each member or representative of a religious or charitable organization which has been issued a permit to solicit contributions within the City may, in lieu of displaying a copy of the permit, display an identification badge, in a manner which can be clearly observed by any person being solicited;
- (9) No peddler shall enter a private residence, place of business or other premises within the City under false pretenses for the purpose of peddling goods or services

or soliciting orders for the sale of goods or services. No peddler shall remain in or on such premises after the owner, occupant or other person in charge has requested the peddler to leave. No peddler shall go in or on such premises when the owner, occupant or other person in charge has displayed a "no soliciting" sign or other similar sign on the premises;

- (10) No such person shall openly display his goods for sale so as to be plainly visible to the motoring public from any direction, whether such motorists are traveling along a public thoroughfare or other right-of-way;
- (11) Such sales shall be permitted only within a C-2 or C-3 district;
- (12) A display shall not be erected or installed, nor shall any sales of goods and merchandise take place within 50 feet of the curb or paved edge of a public roadway; and
- (13) Such sales shall be permitted only on property where controlled vehicular ingress and egress and adequate offstreet parking is provided.

(i) *Loud noise and amplification devices prohibited.* No license or permit holder under this article shall shout, ring bells, blow horns, make loud noises or use any radio or amplifying system upon any of the streets, alleys, parks or other public places within the City for the purpose of attracting attention to the goods, wares or merchandise which such license or permit holder intends to sell.

(j) *Registered agent.*

- (1) Before any license shall be issued pursuant to this section, the applicant shall submit evidence with each license application under this division showing that such transient merchant has filed with the Clerk of the Superior Court of the County the name and permanent address of the transient merchant's registered agent as required by O.C.G.A. § 43-46-5. Such registered agent shall be a resident of the County and shall be an agent of such transient merchant upon whom any pro-

cess, notice or demand required or permitted by law to be served upon the transient merchant may be served in the same manner provided by law for the service of a summons or complaint. The registered agent shall agree in writing to act as such agent, and a copy of the agreement shall be filed with the license application.

- (2) Any such registered agent shall act in the same capacity and have the same duties and responsibilities and be subject to the same actions of the Superior Court as would any agent registered as required by the Transient Merchant Act of Georgia (O.C.G.A. § 43-46-1 et seq.).
- (3) No applicant which is a corporation and which submits evidence that the corporation is chartered by the State shall be required to secure a registered agent within the County.
- (4) No applicant who is a corporation chartered outside the State and which submits evidence that the corporation is currently registered with the Secretary of State of the State of Georgia shall be required to secure a registered agent within the County.

(k) *Penalty for violation.* Any person doing business within the City as a transient merchant or peddler, or engaged as a solicitor for charitable or religious purposes, who violates any provision hereof, shall be subject to immediate revocation of any license or permit issued hereunder and/or punishment as provided by section 1-12. (Code 1978, § 9-89; Ord. No. 1999-6, § I, 8-5-1999)

**Sec. 9-104. Charitable and noncommercial carwashes.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Carwash fundraiser* means any carwash conducted for charitable or noncommercial purposes and which does not require a business license to operate.

*Charitable* means and includes the words patriotic, philanthropic, religious, social service, welfare, benevolent, educational, civic or fraternal, either actual or purported.

*Charitable organizations* means any benevolent, philanthropic, patriotic, health, educational, recreational, fraternal, religious or civic organization, or any other person or organization having or purporting to have a charitable nature.

(b) *License.*

- (1) *Required.* No person or charitable organization shall conduct a carwash fundraiser within the City unless he or it has applied for and obtained from the City Clerk a license to do so.
- (2) *Application fee.* Application for each carwash fundraiser license shall be made to, and on forms presented by, the City Clerk. Applications shall be accompanied by a license fee established in the schedule of fees and charges.
- (3) *Contents of application.* The application shall include the name and address of the applicant, including the legal address and the name of a contact person and a description of the plan, character and method of operation in or by which the applicant proposes to conduct its carwash fundraiser activities. He shall also state the duration and the location at which the carwash fundraiser will be held. The City Manager or his designee shall approve the method of operation and location. The application shall also include the applicant's State Department of Revenue taxpayer identification number, or a copy of any applicable Internal Revenue Service nonprofit status designation, if the organization has one.
- (4) *Grounds for disapproval or revocation.* Any application for a license hereunder shall be reviewed by the City Manager or his designee to ensure compliance with zoning, safety and health code requirements of the City. The applicant must be approved by the City Manager, or by his designated representative, before a li-

cense may be issued. No application shall be approved and any license previously issued may be revoked if any investigation determines that:

- a. Any fraud, misrepresentation or false statement is contained in the application for a license;
- b. The business is operated or is proposed to be operated in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public; or
- c. Any violation of this section is committed.

(c) *Number; duration.* No more than three carwash fundraisers shall be held by the same person or charitable organization during any 12-month period. The duration of the carwash fundraiser shall not exceed one day.

(d) *Conditions of operation.* The following conditions and requirements shall apply to any person or charitable organization conducting a carwash fundraiser within the City and required to obtain a license hereunder:

- (1) *Signs.* No more than two nonilluminated signs, not exceeding six square feet each in area shall be permitted for a carwash for which a license is required by the provisions of this section. Such sign shall pertain to the carwash fundraiser only. The sign shall only be permitted the day of the carwash fundraiser.
- (2) *Location.* All carwashes for which a license is required hereunder must be exclusively located and operated on property owned or leased (the term of which must be in excess of one year) by the person or charitable organization authorized to conduct such carwash. No such person shall locate in or near the entrance to any house or place of business, or in any place so as to disrupt or impede pedestrian or vehicular traffic.

- (3) *Solicitation.* No such person or charitable organization shall actively solicit directly from the motoring public.
- (4) *Public hazard.* If any officer of the City Police Department should determine that pedestrian or vehicular traffic congestion is such that a public hazard or other unsafe conditions may result from such operation in the congested area, such officer shall have authority to terminate the carwash fundraiser.
- (5) *Display license.* Each such person shall be required to display a valid license issued by the City, or a copy thereof, in a manner that can be clearly observed by members of the public.

(e) *Penalty for violation of section.* Any person or charitable organization conducting a carwash fundraiser within the City without the required license, or who otherwise violates any provision hereof, shall be subject to immediate revocation of any license issued hereunder and/or punishment as provided by section 1-12.

(Code 1978, § 9-90; Ord. No. 1997-10, § I, 8-7-1997)

### **Sec. 9-105. Adult in-home services.**

(a) *Definitions.* As used in this section, the following words shall have the meanings as set forth below unless otherwise required by context.

*Adult in-home services* means the performance of in-home services by a person who is unclothed or in such attire, costume or clothing (including transparent or diaphanous materials) so as to expose a specified anatomical area.

*Chief of Police* means the Chief of Police of the City of Hinesville or designee.

*City Manager* means the City Manager of the City of Hinesville or designee.

*Coordinator* means any person, whether as an agent, broker, employer, advisor or otherwise, of the person performing adult in-home services or of the person requesting adult in-home services, who by any means within the City, with or without compensation, arranges for or facilitates the performance of adult in-home services, including,

but not limited to, by offering, receiving, accepting or soliciting orders for adult in-home services, or by transmitting offers, solicitations, and acceptances of offers for the performance of adult in-home services on behalf of a person seeking to perform adult in-home services or a person requesting the performance of such services. The term "coordinator" shall not include a person who performs advertising services, or a telephone company, telegraph company, radio station, television station, or any newspaper or magazine that transmits information regarding adult in-home services.

*Entertainer* means a person who performs adult in-home services. For the purposes of this section, the term "entertainer" includes employees as well as independent contractors.

*In connection with the performance of adult in-home services* means during the performance of in-home services or during the period of time that the person performing in-home services is on the premises of the person requesting the services.

*In-home services* mean any personal or nonpersonal services performed for a fee on premises occupied by the person requesting the service as a permanent, part-time, or temporary residence, overnight or temporary lodging. The term "in-home services" shall include, but are not limited to, modeling, dancing, singing, and other forms of entertainment.

*Interested person* means any person performing the duties, in part or in whole, of coordinator, as well as all partners, if a partnership, and all officers and persons, having an ownership interest, if a corporation or other legal entity.

*Specified anatomical areas* means and shall include the following:

- (1) Less than completely and opaquely covered human genitals or pubic region, cleft of the buttocks, or any portion of the female breast below a point immediately above the top of the areola; or
- (2) Human male genitalia in discernibly turgid state, even if completely and opaquely covered.

(b) *License required.* It shall be unlawful for any person, association, firm, partnership, corporation or other legal entity to offer, engage in, conduct or carry on adult in-home services within the City without a valid adult in-home services license to do so. The issuance of such license shall not be deemed to authorize, condone, or make legal any activity or conduct that is illegal or unlawful under any other section of this Code or the laws of the State or the United States. Such license shall authorize the performance of adult in-home services only within a permanent, part-time, or temporary residence or other similar lodging.

(c) *Application for license; coordinator.* Any person, association, firm, partnership, corporation or other entity desiring to obtain a license so as to provide adult in-home services within the City limits as a coordinator, shall make application to the City Clerk. At the time of submitting such application, a nonrefundable fee payable in cash or by certified check in the amount of \$300.00 shall be paid to the City Clerk to defray, in part, the cost of investigation and report required by this section. Such application shall be made on forms furnished by the City, shall include, without limitation, and otherwise be accompanied by, the following:

- (1) The legal name, any alias, address, and date of birth of the applicant, and if other than an individual, the names of any and all owners, principals, partners, or other persons having an ownership interest therein (together with any and all relevant corporate documents evidencing the same). All applications shall be made in the name of the coordinator;
- (2) A copy of the applicant's driver's license or other State approved identification card, together with a current photograph of said applicant;
- (3) An affidavit from the publisher of the legal organ of the County showing that the applicant has caused to be published in such legal organ, once a week for two consecutive weeks, a notice showing the

name and address of the applicant, that the applicant seeks a license to provide adult in-home services;

- (4) The application shall also contain a form of oath providing that the information disclosed in the application is true and correct, and providing further that the applicant will abide by, observe and conduct his business according to the rules and regulations prescribed by the City for such businesses. The oath shall be taken by the applicant and the agent in charge of the business if different from or additional to the applicant;
- (5) A general description of the services and entertainment to be provided;
- (6) The business, occupation and employment history of the applicant (to include all interested persons) and each employee and/or agent thereof for five years immediately preceding the date of application;
- (7) Whether the applicant (to include all interested persons), or any agent or employee thereof, has had an adult in-home services license or similar type of license denied, revoked or suspended by any other governing authority, as well as the violations that led to the denial, suspension or revocation, together with the date and disposition of such, including any fine or sentence imposed, and whether or not the terms of the disposition have been completed;
- (8) Whether the applicant (to include all interested persons), or any agent or employee thereof, has ever been convicted of, entered a plea of or been adjudicated guilty (including pleas and adjudications pursuant to any first offender program), or entered a plea of nolo contendere, to a felony or misdemeanor, other than a minor traffic infraction which contains only a monetary fine as a penalty, and if so, the specified criminal act involved, the date and place of conviction or plea;

- (9) If the applicant does or proposes to do business under a trade name, then a copy of the trade name as properly recorded shall be provided; and
- (10) The applicant (to include all interested persons), and any agent or employee thereof, shall provide a signed and notarized consent, on forms prescribed by the State Crime Information Center, authorizing the release of their criminal records to the City Police Department.

Any false statement or material misrepresentation in any application shall be grounds for revocation of any license granted hereunder. The provisions of this Code on general business licensing and occupational taxes shall apply in addition to the provisions of this section, unless otherwise expressly indicated.

(d) *Investigation; standards for granting license.* Within ten days of receipt of the completed application and all supporting materials required hereunder, the City Clerk or designee shall review the application and send a copy to the Chief of Police or designee to investigate the facts provided in the said application and supporting materials. The Chief of Police or designee shall have 30 days to investigate the facts provided in the application and supporting materials. Upon completion of the investigation, the City Manager shall grant the license if he finds:

- (1) The required fee has been paid;
- (2) The application conforms in all respects to the provisions of this section;
- (3) The application contains no false statements or material misrepresentations;
- (4) Neither the applicant nor any other interested person has had an adult in-home services license or other similar license or permit denied or revoked for cause by this City or any other County or municipality located in or out of the State prior to the date of application within the preceding five years;
- (5) The applicant and all interested persons are each at least 18 years of age;

- (6) The grant of such license will not cause a violation of and will not be in conflict with this section or any other law, ordinance or regulation of the City, the State or the United States; and
- (7) Neither the applicant nor any other interested person has been convicted in a court of competent jurisdiction of a felony or a crime not a felony involving moral turpitude within the last five years immediately prior to the filing of said application. The term "convicted" shall include an adjudication of guilt or a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime, and shall include any adjudication or other plea and/or conviction pursuant to a first-offender program.

(e) *License denial; hearing.*

- (1) *Denial.* A license may be denied to persons or entities that have failed to satisfy any of the requirements for issuance of such license under this section.
- (2) *Hearing.* The City shall provide an applicant whose license is denied with written notice of the decision to deny and reasons therefor within ten days of the decision. Notice shall be delivered in person or by certified mail. The applicant shall have ten days following the receipt of such notice to request a hearing before the Mayor and City Council, which hearing shall be held within 30 days of such request. The applicant shall be entitled to present evidence and examine witnesses at such hearing either with or without legal counsel. The Mayor and City Council shall make its decision within ten days of the hearing and shall promptly notify the applicant in writing.

(f) *License suspension and revocation; hearing.*

- (1) *Suspension and revocation.* Any of the following shall be grounds for suspension or revocation of a license granted under this section:
  - a. The making of any statement on an application for a license issued hereunder which is material and is later found to be false;

- b. Violation of any of the provisions, regulations or prohibitions of this section; or
- c. With respect to the coordinator and other interested persons, conviction of any of the crimes that would make such person or legal entity ineligible to hold a license hereunder.

(2) *Hearing.* Whenever the Mayor and City Council finds reasonable grounds exist to suspend or revoke a license issued hereunder, the Mayor and City Council shall schedule a hearing to consider such suspension or revocation and shall, at least ten days prior to the hearing, notify the licensee of the time and date of the hearing and the proposed action and the grounds therefor. The licensee shall be entitled to present evidence and cross-examine any witnesses at the hearing, with or without legal counsel. The City Council shall make its decision within ten days of the hearing and shall promptly notify the licensee in writing.

(g) *Transfer of licenses.* Licenses issued hereunder may be transferred to another person, partnership, firm, corporation or other legal entity; provided, that such person, partnership, firm, corporation or entity makes application to the City as for a new license and pays any appropriate fees and business or transfer taxes and that such person, firm, partnership, corporation or entity otherwise meets the requirements of this section for a new license. Any transfer allowed under this section may be denied or revoked on the same basis as for an application for a license hereunder.

(h) *Conditions of business operation; prohibited activities.* The providing of adult in-home services shall be expressly conditioned upon the following:

- (1) No adult in-home services shall be performed between the hours of 2:00 a.m. and 6:00 p.m. on any given day;
- (2) No coordinator shall employ or contract with a person under the age of 18 years or an adult entertainer who has not obtained a permit pursuant to this section;

- (3) No entertainer shall enter any premises in connection with the performance of adult in-home services unless such entertainer is in possession of the permit required by this section;
- (4) No entertainer shall enter, and no coordinator shall allow such entertainer to enter, any premises in connection with the performance of adult in-home services without a security escort, and said entertainer shall remain in the immediate physical presence (i.e., within eyesight) of said security escort at all times while on the subject premises;
- (5) Coordinators and entertainers must ensure that adult in-home services shall be performed at all times inside a closed building with all windows and doors covered so that the activities carried on inside cannot be viewed beyond the boundaries of the subject premises;
- (6) Coordinators and entertainers shall at all times fully comply with and otherwise observe all local, State and Federal ordinances, laws, and regulations without exception;
- (7) Commercial activity on or about the subject premises shall be strictly limited to such adult in-home services as are expressly authorized by this section, and no other commercial activity of any kind or nature shall be permitted (to include, without limitation, the requirement of an admission fee, the sale of food or beverages, etc.); and
- (8) Coordinators shall provide to the City Manager or designee advance notice of all adult entertainment services to be performed, to include the location, date and time thereof.

Failure to observe any of the foregoing conditions shall be grounds for suspension and/or revocation of the license and/or permit issued hereunder.

(i) *Entertainer permit required.* It shall be unlawful for any entertainer to be employed or otherwise retained by a coordinator or adult in-home services business without first obtaining a permit issued under the following terms:

- (1) *Permit application and investigation.* Before any person may work as an entertainer in connection with adult in-home services, he shall file a notice with the City Clerk of his intended employment on forms supplied by the City Clerk. The prospective employee shall supply a signed and notarized consent, on forms prescribed by the Georgia Crime Information Center, authorizing the release of his criminal records to the City Police Department. The City shall have 30 days to investigate the prospective employee. If the prospective employee is found to meet the requirements of this section, then upon certification by the City, Chief of Police or designee that such requirements have been met, and upon payment of the required permit fee, the City Manager shall issue a permit approving such employment. Upon receipt of such permit, the entertainer may begin performing adult in-home services as authorized herein. If approval is denied, the City Manager or designee shall provide said prospective employee the reasons for the denial and the prospective employee may, within ten days of said denial, apply to the City Council, which may uphold or reverse the decision.
- (2) *Qualifications.* Entertainers (as defined herein) shall be not less than 18 years of age. No entertainer shall have been convicted of a felony or other crime involving moral turpitude within the five years immediately preceding application for a permit. Any entertainer who is convicted of any such crimes shall not thereafter work as an entertainer for a period of five years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. The term "convicted" shall include an adjudication of guilt or a plea of guilty or nolo contendere or the

forfeiture of a bond when charged with a crime, and shall include any adjudication or other plea and/or conviction pursuant to a first offender program.

- (3) *Suspension or revocation of permit; procedure.* Violation by an entertainer of the provisions of this section and/or conviction of a felony or other crime involving moral turpitude shall subject such entertainer to suspension or revocation of the permit for issued hereunder. Whenever the Mayor and City Council find reasonable grounds exist to suspend or revoke a license issued hereunder, the Mayor and City Council shall schedule a hearing to consider such suspension or revocation and shall, at least ten days prior to the hearing, notify the permit holder of the time and date of the hearing and the proposed action and the grounds therefor. The permit holder shall be entitled to present evidence and cross-examine any witnesses at the hearing, with or without legal counsel. The Mayor and City Council shall make its decision within ten days of the hearing and shall promptly notify the licensee in writing.

(j) *Notices.* Any notice required or permitted to be given by the City Clerk or any office, division, department or other agency under this section to any licensee or other person may be given by either: personal delivery or by certified United States mail addressed to such person's last known address. If mailed, the notice's effective date shall be three days after the notice is postmarked.

(k) *Penalty for violation.* Any person violating any of the provisions of this section shall be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 per violation or by imprisonment for a period not to exceed six months, or both. In addition to such fine and/or imprisonment, violation of this section shall also be grounds for immediate suspension or revocation of the license and/or permit issued hereunder. (Code 1978, § 9-91; Ord. No. 1998-03, § I, 4-16-1998)

**Secs. 9-106—9-130. Reserved.**

## ARTICLE V. ADULT ENTERTAINMENT

### Sec. 9-131. Findings; public purpose.

(a) Based on the experiences of other counties and municipalities, including, but not limited to, Garden Grove, California and Warner-Robins, Georgia, whose experiences are found to be relevant to the problems faced by the City; and based on the documentary evidence and oral testimony presented by a law enforcement professional and deposition evidence by experts in sociology, who are familiar with conditions resulting in other localities, at the Mayor and City Council hearing on September 6, 2007; and based on the evidence and testimony of persons who have appeared before members of the City Mayor and City Council on other occasions, including the public hearing conducted on or about November 21, 1996, and on documentary evidence submitted to the Mayor and City Council, the Mayor and City Council takes note of the well-known and self-evident conditions and secondary effects attendant to the commercial exploitation of human sexuality, which do not vary greatly among the various communities within our country.

(b) It is the finding of the Mayor and City Council that public nudity (either partial or total) under certain circumstances, particularly circumstances related to establishments offering live nude entertainment or "adult entertainment," (whether such alcoholic beverages are sold on the premises or not) begets criminal behavior and tends to create undesirable community conditions. In the same manner, establishments offering cinematographic or video graphic adult entertainment have the same deleterious effects on the community.

(c) Among the acts of criminal behavior found to be associated with the commercial combination of live nudity and alcohol, live commercial nudity in general, and cinematographic or videographic adult entertainment are disorderly conduct, prostitution, public solicitation, public indecency, drug use and drug trafficking. Among the undesirable community conditions identified in other communities with the commercial combination of live nudity and alcohol, commercial nudity in general, and cinematographic or videographic adult enter-

tainment are depression of property values and acceleration of community blight in the surrounding neighborhood, increased allocation of and expenditure for law enforcement personnel to preserve law and order, and increased burden on the judicial system as a consequence of the criminal behavior hereinabove described. The Mayor and City Council finds it is reasonable to believe that some or all of these undesirable community conditions will result in the City, as well.

(d) Furthermore, it is the finding of the Mayor and City Council that other forms of adult entertainment including, but not limited to, adult book stores, adult novelty shops, adult video stores, peep shows, adult theaters, and massage parlors have an adverse effect upon the quality of life in surrounding communities.

(e) The Mayor and City Council finds that the negative secondary effects of adult entertainment establishments upon the City are similar whether the adult entertainment establishment features live nude dancing or sells video tapes depicting sexual activities. The Mayor and City Council therefore finds that it is in the best interests of the health, welfare, safety and morals of the community and the preservation of its businesses, neighborhoods, and of churches, schools, residential areas, public parks and children's day care facilities to prevent or reduce the adverse impacts of adult entertainment establishments. Therefore, the Mayor and City Council finds that licensing and regulations are necessary for any adult entertainment establishment. The board finds that these regulations promote the public welfare by furthering legitimate public and governmental interests, including but not limited to, reducing criminal activity and protecting against or eliminating undesirable community conditions and further finds that such will not infringe upon the protected Constitutional rights of freedom of speech or expression. To that end, the ordinance from which this article is derived is hereby adopted. (Ord. No. 2007-08, § 12-41, 9-20-2007)

### Sec. 9-132. Definitions.

Except as specifically defined herein, all words used in this article shall be as defined in the most recent edition of the New Illustrated Book of

Development Definitions (Rutgers). Words not defined herein or in the above book shall be construed to have the meaning given by common and ordinary use, and shall be interpreted within the context of the sentence and section in which they occur.

*Adult bookstore* means any commercial establishment in which more than ten square feet of floor space is used for the display or offer for sale of any book or publication, film, or other medium which depicts sexually explicit nudity or sexual conduct by its emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

*Adult entertainer* means any person employed by an adult entertainment establishment who exposes his "specified anatomical areas," as defined herein. For purposes of this definition, the term "adult entertainer" include employees as well as independent contractors.

*Adult entertainment* means entertainment that is characterized by an emphasis on the depiction, display or the featuring of "specified anatomical areas."

*Adult entertainment establishment* means and shall include the following types of business:

- (1) Any commercial establishment that employs or uses any person live, in any capacity in the sale or service of beverages or food while such person is unclothed or in such attire, costume or clothing, so as to expose any portion of his "specified anatomical areas," as defined herein;
- (2) Any commercial establishment which provides live entertainment where any person appears unclothed or in such attire, costume or clothing as to expose any portion of his "specified anatomical areas," as defined herein, or where such performances are distinguished or characterized by an emphasis on "specified sexual activities," as defined herein;
- (3) Any commercial establishment which holds, promotes, sponsors or allows any contest, promotion, special night, event or any other activity where live patrons of the establishment are encouraged or allowed to engage in any of the conduct described in subsections (1) and (2) of this definition;
- (4) Any commercial establishment having a substantial or significant portion of its stock in trade, books, magazines or other periodicals, videotapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" as defined herein or "specified anatomical areas" as defined herein or having a segment or section comprising more than ten square feet of its total floor space, devoted to the sale or display of such material or which derives more than five percent of its net sales from the sale or rental of such material;
- (5) Any commercial establishment utilizing an enclosed building with a capacity of 50 or more persons used for cinematographic or videographic presentation of material distinguished by or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, for observation by patrons therein;
- (6) Any adult motion picture theater, adult motion picture arcade, adult mini-motion picture theater, adult bookstore, adult video store, adult hotel, or adult motel, as defined herein;
- (7) The definition of "adult entertainment establishment" shall not include traditional or mainstream theater, which means a theater, movie theater, concert hall, museum, educational institution, or similar establishment which regularly features live or other performances or showings which are not distinguished or characterized by an emphasis on the depiction, display, or description or the featuring of "specified anatomical areas" or "specified sexual activities" in that the depiction, display, description or featuring is incidental to the primary purpose of any performance. Performances and show-

ings are regularly featured when they comprise at least 80 percent of all annual performances or showings.

- (8) Any commercial establishment which sells, lends, leases, gives, exhibits or otherwise disseminates to any person any device designed or marketed as useful primarily for the stimulation of human genital organs.

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

*Adult mini-motion picture theater* means an enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

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

*Adult motion picture theater* means an enclosed building with a capacity of 50 or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

*Adult video store* means any establishment having a substantial or significant portion of its stock in trade, video tapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," or an establishment with a segment or

section, comprising five percent of its total floor space, devoted to the sale or display of such material or which derives more than five percent of its net sales from videos which are characterized or distinguished or relating to "specified sexual activities" or "specified anatomical areas."

*Children's day care facility* means a structure or portion of a structure wherein is provided care and supervision of children away from their place of residence for less than 24 hours per day on a regular basis for compensation. For the purpose of this article, the term "children's day care facility" shall include but not be limited to the terms "nursery school," "early learning center," "pre-kindergarten," "private kindergarten," "play school," or "preschool."

*Nonconforming establishment* means an adult entertainment establishment which was lawfully operated as of the passage of the ordinance from which this article is derived, but is now in violation of the zoning restrictions imposed in section 9-145.

*Operator* means the manager or other person principally in charge of an adult entertainment establishment.

*Owner* means any individual or entity holding more than a 20 percent interest in an adult entertainment establishment.

*Premises* means the defined, closed or partitioned establishment, whether a room, shop or building, wherein adult entertainment is performed.

*Specified anatomical areas* means and shall include the following:

- (1) Less than completely and opaquely covered human genitals or pubic region, cleft of the buttocks, or female breast below a point immediately above the top of the areola; or
- (2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* means and includes any of the following:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty;
- (2) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;
- (3) Fondling or other erotic touching of nude human genitals, pubic region, buttocks or female breast;
- (4) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
- (5) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being.

(Ord. No. 2007-08, § 12-42, 9-20-2007; Ord. No. 2009-06, § I, 10-15-2009)

**Sec. 9-133. License required.**

It shall be unlawful for any person, association, partnership, or corporation to operate, engage in, conduct, or carry on, in or upon any premises within the area of the City an adult entertainment establishment as defined in this article without first procuring an annual license to do so, except as provided below when the Mayor and City Council fails to approve or deny an application for an adult entertainment license within 30 days as required by this article. The issuance of such an annual license shall not be deemed to authorize, condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the State or the United States. No annual license for an adult entertainment establishment shall be issued by the City if the premises to be used also holds a license to sell

alcoholic beverages or malt beverages and wine for consumption on the premises. Any premises licensed as an adult entertainment establishment shall not be eligible to apply at any time for a license to sell alcoholic beverages or malt beverages and wine for consumption on the premises. There shall be an annual regulatory fee for each adult entertainment establishment licensed within the City in the amount of \$750.00. The annual regulatory fee must be paid to the City Clerk within ten days after the City Clerk approves the initial application for an adult entertainment establishment license or a renewal thereof. In any event, no adult entertainment establishment license or renewal thereof shall be issued until the most recent annual regulatory fee has been paid. All licenses granted hereunder shall expire on December 31 of each year. Licensees who desire to renew their license shall file an application with the City Clerk on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal application received after November 30 shall pay, in addition to said annual regulatory fee, a late charge of 20 percent. If a license renewal application is received after January 1, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If a license application is received after January 1, investigative and administrative costs as hereinafter set forth in this article will be assessed. All licenses granted hereunder shall be for the calendar year and the full annual regulatory fee must be paid for a license renewal application filed prior to July 1 of the license year. One-half of a full annual regulatory fee shall be paid for a license renewal application filed after July 1 of the license year. Any person renewing any license issued hereunder who shall pay the annual regulatory fee, or any portion thereof, after January 1, shall, in addition to said annual regulatory fee and late charges, pay simple interest on the delinquent balance at the annual rate then charged by the Internal Revenue Service of the United States on unpaid federal income taxes.

(Ord. No. 2007-08, § 12-43, 9-20-2007)

**Sec. 9-134. On-premises operator required.**

An adult entertainment establishment shall have a designated person to serve as an on-premises operator. The operator shall be principally in charge of the establishment and shall be located on the premises during all operating hours. (Ord. No. 2007-08, § 12-44, 9-20-2007)

**Sec. 9-135. Application process and qualifications.**

(a) *Process.* Any person, association, partnership or corporation desiring to obtain a license to operate, engage in, conduct, or carry on any adult entertainment establishment in the incorporated areas of the City shall make application to the City Clerk. Such application shall be made on forms furnished by the City, shall be made in the name of the adult entertainment establishment by an applicant who is a natural person and an agent of the adult entertainment establishment and shall include the name of the operator, as defined in section 9-132 and of the owner, as defined in section 9-132. If the adult entertainment establishment is a corporation, then the agent, for purposes of making application for a license hereunder, shall be an officer of the corporation. If the adult entertainment establishment is a partnership, the agent for such purposes shall be a general partner. At the time of submitting such application, a nonrefundable fee payable in cash or by certified check in the amount of \$300.00 shall be paid to the City Clerk to defray, in part, the cost of investigation and report required by this article. The City Clerk shall issue a receipt showing that such application fee has been paid. The application for a license does not authorize the operation of, engaging in, conduct or carrying on of any adult entertainment establishment.

(b) *Contents.* Each application for an adult entertainment establishment license shall contain the following information:

- (1) The full true name and any other names used by the applicant, the operator and the owner;
- (2) The present address and telephone number of the applicant, the operator and the owner;

- (3) The previous addresses of the applicant, the operator and the owner, if any, for a period five years immediately prior to the date of the application and the dates of residence at each;
- (4) Acceptable written proof that the applicant, the operator and the owner are at least 18 years of age;
- (5) The operators' height, weight, color of eyes and hair and date and place of birth;
- (6) Two photographs of the operator at least two inches by two inches taken within the last six months;
- (7) The business, occupation or employment history of the applicant, the operator and the owner for the five years immediately preceding the date of the application;
- (8) The business license history of the adult entertainment establishment seeking a license and whether such establishment, in previous operations in this or any other location under license, has had such license or permit for an adult entertainment business or similar type of business revoked or suspended, the reason therefore and the business activity or occupation subsequent to such action of revocation or suspension;
- (9) If the application is made on behalf of a corporation, the name of the corporation, exactly as shown in its ordinances of incorporation or charter, together with the place and date of incorporation. If the application is on behalf of a limited partnership, a copy of the certificate of limited partnership filed with the City Clerk shall be provided. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply;
- (10) The names and addresses of the owner and the lessor of the real property upon which the adult entertainment establishment is to be operated, engaged in, conducted or carried on and a copy of the lease or rental agreement;

- (11) With respect to the applicant, the operator and the owner, all convictions, (excluding misdemeanor traffic violations unrelated to driving under the influence of drugs or alcohol) within the past five years, including a complete description of the crime or violation, the date of the crime or violation, date of conviction (including plea of guilty or nolo contendere), jurisdiction and any disposition, including any fine or sentence imposed and whether the terms of disposition have been fully completed. Each person required to disclose convictions hereunder shall also provide a signed and notarized



- consent, on forms prescribed by the Georgia Crime Information Center, authorizing the release of his criminal records to the permits unit of the City Police Department.
- (12) A complete set of fingerprints of the applicant and the operator
- (13) If the person or business entity on whose behalf an application for a license is doing business under a trade name, a copy of the trade name as properly recorded. If the application is made on behalf of a corporation, a copy of its authority to do business in the State, including ordinances of incorporation, trade name affidavit, if any, and last annual report, if any;
- (14) At least three character references for the applicant, the operator and the owner from individuals who are in no way related to the applicant or any operator or owner, and who are not or will not benefit financially in any way from the application if the license is granted. The City shall prepare forms consistent with the provisions of this subsection for the applicant, the operator and the owner, who shall submit all character references on such forms;
- (15) The address of the premises where the adult entertainment establishment will be operated, engaged in, conducted, or carried on;
- (16) A plat by a registered engineer or a registered land surveyor, licensed by the State, showing the location of the proposed premises where the adult entertainment establishment will be operated, engaged in, conducted or carried on in relation to the neighborhood, the surrounding zoning, its proximity to any residential area, church, school, public park or children's day care facility, establishment selling alcoholic beverages or malt beverages and wine or other adult entertainment establishment;
- (17) Each application for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by:
- a. If application is made on behalf of an individual, the individual;
  - b. If application is made on behalf of a partnership, by a general partner;
  - c. If application is made on behalf of a corporation, by the president of the corporation;
  - d. If application is made on behalf of any other organization or association, by the chief administrative official.
- (c) *Appearance by applicant.* The applicant shall personally appear before the City Clerk and produce proof that a nonrefundable application fee, in an amount established by resolution of the Mayor and City Council, has been paid and shall present the application containing the aforementioned and described information.
- (d) *Investigation; standards for granting of license.* The City shall have 30 days from the date of actual receipt of the application to investigate the facts provided in the application and the background of the applicant, the operator and the owner. The City Clerk shall stamp the date of actual receipt of each application on the first page thereof and notify the applicant of the actual receipt of the application within five business days of actual receipt of such application. The Mayor and City Council shall approve or deny any application for an adult entertainment establishment license within 30 days of actual receipt of such application. The application for an adult entertainment establishment license shall be granted if the City Clerk finds:
- (1) The required \$300.00 investigative fee has been paid;
  - (2) The applicant has not made a material misrepresentation in the application;
  - (3) Neither the applicant nor any of the operators or owners has been convicted or pled guilty or entered a plea of nolo contendere to any crime involving keep-

ing a place of prostitution, pandering, pimping, public indecency, prostitution, sodomy, solicitation of sodomy, masturbation for hire, sexual battery, rape, child molestation, enticing a child for indecent purposes, or any offense included in the definition of a "criminal offense against a victim who is a minor" as defined in O.C.G.A. § 42-1-12, within a period of five years. For purposes of this article, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which the applicant was allowed to avail himself of the Georgia First Offender Act, unless the applicant is later adjudicated guilty of having violated the terms of his first offender treatment;

- (4) Neither the applicant nor any of the operators or owners has had an adult entertainment establishment license or other similar license or permit revoked for cause by this City or any other city or municipality located in or out of this State prior to the date of application within the preceding five years;
- (5) The building, structure, equipment and location of the premises of the adult entertainment establishment as proposed by the applicant would comply with all applicable laws, including but not limited to health, zoning, distance, fire and safety requirements and standards;
- (6) The applicant is at least 18 years of age;
- (7) On the date the business for which a license is required herein commences, and thereafter, there will be an operator, as defined in section 9-1312 on the premises at all times during which the business is open;
- (8) The proposed premises will be located at least the minimum distances set forth in this article from any residential use, church, school, public park or children's day care facility or establishment licensed to sell alcoholic beverages or malt beverages and wine for consumption on the premises, or another adult entertainment establishment; and

- (9) The granting of such license will not cause a violation of and will not be in conflict with this article or any other law, ordinance or regulation, of the City, the State or the United States.

The City Clerk shall deny the application for an adult entertainment establishment license if the application fails to meet any requirement contained in this article.

(Ord. No. 2007-08, § 12-45, 9-20-2007)

**Sec. 9-136. Regulation of adult entertainment establishments.**

(a) *Location.* No adult entertainment establishment shall be located:

- (1) Within 1,000 feet of any parcel of land that falls within any of the following zoning districts, as defined by the Zoning Ordinance of the City and the official Zoning Map of the City: R-1, R-2, R-3, R-4, R-TH, R-A-1, MH, MH-2, or PUD;
- (2) Within 1,000 feet of any parcel of land on which a church, school, college campus, public park or children's day care facility is located;
- (3) Within 1,000 feet of any parcel of land upon which another adult entertainment establishment regulated or defined hereunder is located.
- (4) Within 1,000 feet of any parcel of land upon which an establishment is located that is licensed to sell alcoholic beverages.

For purposes of this section, distance shall be by airline measurement from the property line, using the closest points on the property lines of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.

(b) *Adult entertainment establishment employees.* Employees of an adult entertainment establishment shall be not less than 18 years of age. No employee employed as an adult entertainer shall have been convicted of an offense described in this article within the five years immediately preceding the proposed employment at or by an adult

entertainment establishment. Any adult entertainer who is convicted of any such crimes while employed as an adult entertainer shall not thereafter work on any licensed premises for a period of five years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. The term "licensed premises" shall mean the premises where an adult entertainment establishment for which a license is obtained pursuant to this article operates, conducts or carries on its business. The term "convicted" shall include an adjudication of guilt or a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime in a court of competent jurisdiction.

(c) *Hours of operation.* An adult entertainment establishment may be open only between the hours of 8:00 a.m. and 2:00 a.m.

(d) *Display of licenses.* An adult entertainment establishment licensee shall conspicuously display the license required by this article.

(e) *Performance area.* All dancing by adult entertainers at adult entertainment establishments shall occur on a platform intended for that purpose, which is raised at least 18 inches from the level of the floor.

(f) *Lighting.* All areas of an adult entertainment establishment licensed hereunder shall be fully lighted at all times patrons are present. Full lighting shall mean illumination equal to 3.5 footcandles per square foot.

(g) *Covering of windows and doors.* All adult entertainment which is licensed and permitted by this article shall be carried on inside a closed building with all windows and doors covered so that the activities carried on inside cannot be viewed from the immediate areas surrounding the outside of the building.

(Ord. No. 2007-08, § 12-46, 9-20-2007)

#### **Sec. 9-137. Conduct or activities prohibited.**

(a) *Advertising without license.* No person, partnership, corporation or other entity shall advertise or cause to be advertised an adult entertainment establishment without a valid adult entertainment establishment license issued pursuant to this article.

(b) *Employment of minors or unpermitted persons.* No adult entertainment establishment licensee shall employ or contract with a person under the age of 18 years or an adult entertainer who has not obtained a permit pursuant to this article.

(c) *Contact between patrons, employees.* No dancing or other performance by an adult entertainer at an adult entertainment establishment shall occur closer than four feet to any patron. No patron, customer or guest shall be permitted to touch, caress or fondle any specified anatomical area of or any part of the body or clothing of any adult entertainer. No patron shall directly pay or give any gratuity to any adult entertainer. No adult entertainer shall solicit any pay or gratuity from any patron.

(d) *Engaging in specified sexual activities prohibited.* No adult entertainer, other employee, patron or other person at an adult entertainment establishment shall be allowed to engage in any specified sexual activity as defined in section 9-132, on the premises of any adult entertainment establishment.

(e) *Public indecency prohibited.* No adult entertainer, other employee, patron or other person at an adult entertainment establishment shall, while on the premises of an adult entertainment establishment, commit the offense of public indecency as defined in O.C.G.A. § 16-6-8. (Ord. No. 2007-08, § 12-47, 9-20-2007)

#### **Sec. 9-138. Unlawful operation declared nuisance.**

Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this article shall be and the same is hereby declared to be unlawful and a public nuisance. The City may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof in the manner provided by law. It may take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such adult entertainment establishment and restrain and enjoin any person

from operating, engaging in, conducting or carrying on an adult entertainment establishment contrary to the provisions of this article. (Ord. No. 2007-08, § 12-49, 9-20-2007)

**Sec. 9-139. Conditions of adult entertainment establishment.**

(a) *Cleaning of licensed premises.* All adult entertainment establishments shall be kept in a clean, sanitary condition, and shall be in full compliance with all applicable ordinances and regulations of the City and the State.

(b) *Inspection of licensed premises.* The City Fire Marshal shall have the authority to regularly inspect adult entertainment establishments, to determine compliance with and enforce all applicable fire, health and other codes of the City.

(c) *Inspection for unsanitary or unsafe conditions.* The City Police Department shall have the authority to periodically inspect adult entertainment establishments to determine compliance with and enforce all provisions of this article and other applicable ordinances, regulations and laws. (Ord. No. 2007-08, § 12-50, 9-20-2007)

**Sec. 9-140. Denial, suspension or revocation of license; hearing.**

(a) *Grounds.*

- (1) A license may be denied to persons or entities that have submitted an incomplete application or that have failed to satisfy any of the requirements of this article.
- (2) Any of the following shall be grounds for suspension or revocation of a license:
  - a. The making of any statement on an application for a license issued hereunder which is material and is later found to be false;
  - b. Violation of any of the regulations or prohibitions of this article;
  - c. With respect to the applicant, the operator and the owner, conviction of or a plea of guilty or nolo contendere to any of the crimes which would

make such person or adult entertainment establishment ineligible to hold a license as outlined above.

(b) *Denial; procedure.* Within 30 days of the actual receipt of an application for an adult entertainment establishment license, the Mayor and City Council shall either approve or deny the application. In no event shall the decision whether to approve or deny the adult entertainment establishment license application be withheld for more than 30 days after actual receipt of the application. In the event that such an application is held without decision for a period of more than 30 days, however, the license application shall be deemed approved, and expressive conduct may begin immediately notwithstanding the fact that no license has been issued. The City Clerk shall issue an adult entertainment establishment license to an applicant who informs the City Clerk of the fact that an application has been submitted, but no decision has been made thereon for a period of more than 30 days following actual receipt of the application. Notwithstanding the fact that the license provided by this section shall not be a prerequisite to the commencement of business operations contemplated by the application, the City Clerk shall issue an adult entertainment establishment license under such circumstances within three business days of actual receipt of written notice by the applicant of such circumstances. In the event that the Mayor and City Council denies an application for an adult entertainment establishment license, notice of such denial shall be delivered to the applicant in person or by certified mail within five business days of such denial. Any person aggrieved by any decision of the City, its officials, employees or agents pursuant to this article, may seek review of such decision by filing an appropriate pleading in the superior court of Liberty County or any other court of competent jurisdiction including, but not limited to, a mandamus petition pursuant to O.C.G.A. §§ 9-6-20—9-6-28. Any person aggrieved by any decision of the City, its officials, employees, or agents pursuant to this article may also seek review of such decision by filing a petition for writ of certiorari or an appeal to the superior court.

(c) *Suspension or revocation; procedure.* Whenever the City Clerk finds reasonable grounds exist to suspend or revoke a license issued hereunder, the Clerk shall schedule a hearing to consider such suspension or revocation and shall, at least 20 days prior to the hearing, notify the licensee of the time and date of the hearing and the proposed action and the grounds therefore. The licensee shall be entitled to present evidence and cross examine any witnesses at the hearing, with or without legal counsel. The Mayor and City Council shall make its decision within ten days of the hearing and shall notify the licensee in writing within five business days of the decision. (Ord. No. 2007-08, § 12-51, 9-20-2007)

**Sec. 9-141. Miscellaneous provisions.**

Nothing contained in this article shall be deemed to permit or condone any activity whatsoever which is otherwise found to be obscene, lewd or illegal under applicable code, regulation or statute which provides any prohibition upon nudity or sexual activity. Further the activities and uses which are regulated and permitted by this article shall only be allowed if they are not obscene or lewd and not in violation of any other such prohibitions on nudity or sexual activity. (Ord. No. 2007-08, § 12-52, 9-20-2007)

**Sec. 9-142. Automatic license forfeiture for nonuse.**

Any holder of any license hereunder who shall, for a period of three consecutive months after the license has been issued, cease to operate the business and sale of the product or products authorized, shall, after the said three-month period, automatically forfeit the license without the necessity of any further action. (Ord. No. 2007-08, § 12-55, 9-20-2007)

**Sec. 9-143. Repeal of conflicting provisions.**

All resolutions or ordinances, or parts thereof, in conflict with this article are hereby repealed; provided, however, that the provision in section 12-167 shall remain in full force and effect and shall be applied in a manner consistent with the provisions of this article. (Ord. No. 2007-08, § 12-56, 9-20-2007)

**Sec. 9-144. Physical layout of establishment.**

Any adult entertainment establishment having available for customers, patrons or members any booth, room, or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

- (1) *Access.* Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the establishment, and shall be unobstructed by any curtain, door, lock, or other control-type or view-obstructing devices or materials.
- (2) *Construction.* Every booth, room or cubicle shall meet the following construction requirements:
  - a. Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any nonpublic areas by a wall.
  - b. Have at least one side totally open to a public lighted area or aisle so that there is an unobstructed view of anyone occupying the booth from the area in which the cash register for the adult entertainment establishment is located.
  - c. All walls shall be solid and without openings, extended from the floor to a height of not less than six feet and be light colored, nonabsorbent, smooth-textured and easily cleanable.
  - d. The floor must be light colored, nonabsorbent, smooth-textured and easily cleaned.
  - e. The lighting level of each booth, room or cubicle when not in use shall be a minimum of ten footcandles at all times, as measured from the floor.
- (3) *Occupants.* Only one individual shall occupy a booth, room or cubicle at any time. No occupant of the same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the

booth, room or cubicle. No individual shall damage or deface any portion of the booth, room or cubicle.

(Ord. No. 2007-08, § 12-57, 9-20-2007)

**Sec. 9-145. Nonconforming uses.**

(a) *Registering nonconforming use.* Any owner of an adult entertainment establishment in any district which was operated within the law prior to the adoption of the ordinance from which this article is derived, claiming a nonconforming use, which was rendered a legal nonconforming use at the time of adoption of the ordinance from which this article is derived, shall register such legal nonconforming use with the Liberty County Consolidated Planning Commission (LCPC) within six months from said effective date of the ordinance from which this article is derived. Such registration shall constitute a rebuttable presumption that said owner enjoys the protection afforded to nonconforming uses provided for herein. A zoning permit shall be issued by the LCPC for all registered legal nonconforming uses.

(b) *Failure to register.* Failure to register, as required hereunder, shall constitute a rebuttable presumption that said owner does not enjoy the protection afforded to nonconforming uses in this definition.

(c) *Sale or conveyance of property within five years.* In the event of the sale or other conveyance of the property within five years of the date of adoption of the ordinance from which this article is derived, the new property owner shall make application to transfer the zoning permit for the registered legal nonconforming use to the purchaser in order that the purchaser may enjoy the same protection afforded to nonconforming uses provided for herein.

(d) *Abandonment.* In the event of the abandonment of use for 12 consecutive months, the zoning permit for the registered legal nonconforming use shall be null and void and the above regulations shall apply.

(e) *Sale or conveyance of property after five years.* In the event of the sale or other conveyance of the property at any time after five years from the date of adoption of the ordinance from which

this article is derived, the zoning permit for the registered legal nonconforming use shall be null and void and the above regulations shall apply.

(f) *Corporate ownership provision and other business entities.* All registering owners who are corporations having ten or less stockholders shall list the names and addresses of all stockholders and the percentage of stock owned by each. If a named stockholder therein is another corporation, the same information shall be given for the stockholding corporation. If the identity of the stockholders or their percentage of ownership should change, that information shall be sent to the director of planning or his designated representative for processing. Any change in 30 percent or more of the voting stock of the corporation shall constitute a conveyance for the purposes of this section. All other registering owners who are business entities shall list the names and addresses of the partners and/or managers with an ownership interest in the business entity. For partnerships, limited partnerships, limited liability partnerships, and limited liability companies, any transaction in which 30 percent or more of an ownership interest is transferred from one person or group of persons to one person or group of persons so that control in interest of the grantee is transferred or assigned to another person or group of persons shall constitute a conveyance for the purposes of this section.

(g) *Trust provision.* Any change in a beneficial interest in a trust agreement shall constitute a conveyance for the purposes of this section.

(Ord. No. 2007-08, § 12-58, 9-20-2007)