

Title 5

BUSINESS TAXES, LICENSES AND REGULATIONS

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Chapter 5.04**BUSINESS LICENSES GENERALLY**

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5.04.010 Purpose.

The provisions of this chapter shall be deemed an exercise of the power of the city to license for revenue. (Ord. 429 § 1, 1981)

5.04.020 Definitions.

In construing the provisions of this chapter, save when otherwise declared or clearly apparent from the context, the following definitions shall be applied:

A. “Business” includes all activities engaged in with the object of gain, benefit or advantage to the licensee or to another person or class, directly or indirectly.

B. “Engage in business” or “engaging in business activities” means commencing, conducting or continuing in business and also the

exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves up to the public as conducting such business.

C. “Gross floor area” means the total area of all floors within the walls of a building.

D. “Person,” used interchangeably in this chapter, means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, corporation, association, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

E. “Premises” means all lands, structures and places, and the location at which the business activity of a particular business occurs, and which location is owned, leased, rented or occupied by the person or persons engaging in the business activity, and/or their agents, managers or employees. “Premises” of a business includes any offices, warehouses, storage rooms or other facilities upon or at which any part of the activity of the business occurs. (Ord. 429 § 2, 1981)

5.04.030 Imposition and collection required.

On or after the effective date of the ordinance codified in this chapter, there is levied upon and shall be collected from and paid as hereinafter provided, by every person, on account and for the privilege of engaging in business activities within the city, an annual license fee or occupation tax per calendar year, or any portion thereof, in a sum equal to the amounts set forth for the various business activities as classified in the schedules in SMC 5.04.040 and 5.04.050. Businesses which have premises within the city limits and engage in business activity outside the corporate city limits shall be taxed only upon that portion of the business or the premises occupied within the city limits. (Ord. 429 § 3, 1981)

5.04.040 Class A schedule – Amount per year.

Any business operating, located at, or occupying premises within the city which premises exceed 3,000 square feet in gross floor area

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shall be deemed “Class A” businesses under this chapter and pay an annual license fee as established by resolution; provided, that businesses more specifically defined in SMC 5.04.050 and 5.04.120 shall pay the license fee provided pursuant to those sections. (Ord. 2005-029 § 2; Ord. 429 § 4, 1981)

5.04.050 Class B schedule – Amount per year.

The business license fee for the following “Class B” businesses shall be as established by resolution:

A. All individuals practicing any of the following professions, whether solely, in partnership, in association or under professional service corporate form:

1. Accountants;
2. Architects;
3. Attorneys;
4. Audiologists;
5. Chiropractors;
6. Dentists;
7. Doctors;
8. Engineers;
9. Ophthalmologists;
10. Optometrists;
11. Physical therapists;
12. Physicians;
13. Podiatrists;
14. Surveyors;
15. Veterinarians.

B. Any business operating, located at, or occupying premises within the city which premises are 3,000 square feet or less in gross floor area shall be deemed “Class B” businesses under this chapter and pay an annual license fee as established by resolution; provided, that businesses more specifically defined in this section and SMC 5.04.120 shall pay the license fee provided pursuant to those sections.

C. All other businesses not included in Class A or Class B, including individually owned and operated part-time, home-owned, or domestic.

D. Mobile home parks, trailer courts and campgrounds.

E. Commercial rentals of premises exceeding 3,000 square feet. All premises rented from the person acting as lessor or landlord shall be deemed within the business activity of renting and the gross floor area of such rentals shall be totaled in determining applicability under this chapter.

F. Rentals of five or more residential dwelling units. All premises rented from the person acting as lessor or landlord shall be deemed within the business activity of renting and the total of all dwelling units of such rentals shall be totaled in determining applicability under this chapter.

G. Businesses located outside the corporate limits of the city and making retail sales and sales and deliveries within the city on a continuing basis.

H. Businesses located outside the corporate limits of the city engaged in the sale of services within the corporate limits of the city on a continuing basis. (Ord. 2005-029 § 2; Ord. 429 § 5, 1981)

5.04.060 Businesses with combined classifications – Fee determination.

Businesses operated at one location comprised of a combination of business activities under one ownership shall be required to procure only one license, the fee to be based upon the fee required for the activity falling within the higher classification, or upon the total gross floor area of the combination of activities. (Ord. 429 § 6, 1981)

5.04.070 License – Expiration date.

The business license referred to in this chapter shall expire at the end of the calendar year for which it is issued and a new license shall be required for each calendar year. A new applicant shall pay for the license fee applicable to his classification. (Ord. 429 § 7, 1981)

5.04.080 License – Application – Contents – Issuance.

Application for the license shall be made to and issued by the city clerk on forms provided by the city clerk, on which shall be stated the residence of the applicant, the nature of the

business or business activity in which the applicant desires to engage, the place where the business is proposed to be conducted and the amount of the fee prescribed by this chapter. If the city clerk finds the application to be correct, he or she shall, upon the payment of the fee, issue a license in accordance with this chapter. (Ord. 429 § 8, 1981)

5.04.090 Separate licenses required – Posting – Procedure following moving or sale.

The license shall be personal and nontransferable. In case business is transacted at two or more separate places by one person within the city, a separate license for each place in which business is transacted with the public shall be required in accordance with the classifications set forth in this chapter, and the person shall pay a fee for each place of business in accordance with the classification. Each license shall at all times be conspicuously posted in the place of business for which it is issued. Where a place of business of the taxpayer is changed, the taxpayer shall return the license to the city clerk and a new license shall be issued for the new place of business without charge. In the event of the sale of a business licensed under this chapter, the license may be transferred without charge to the new owner; provided, that the city clerk is given notice of the transfer within five days of the date of the transfer. (Ord. 429 § 9, 1981)

5.04.100 Licenses – Nontransferable.

No person to whom a license has been issued pursuant to this chapter shall suffer or allow any other person for whom a separate license is required to operate under or display such license, nor shall any such other person operate under or display such license. (Ord. 429 § 10, 1981)

5.04.110 License – Fee provisions.

The license fee and the tax levied in this chapter shall be in addition to any license fee or tax imposed or levied under any law or any other ordinance of the city except as otherwise expressly provided in this chapter. (Ord. 429 § 11, 1981)

5.04.120 Persons exempt from payment.

A. Any person paying a business and occupation tax or license fee under the terms of the city ordinances listed below, or amendments thereto, shall be exempt from the payment of any license or tax under this chapter:

1. Ordinance No. 98 (Dance halls);
2. Ordinance No. 246 (Amusement device distributors);
3. Ordinance No. 305 (Motor vehicle wrecking yards);
4. Ordinance No. 344 (Taxicabs);
5. Ordinance No. 369 (Pawn shops, second-hand dealers and junk yards);
6. Ordinance No. 423 (Public utilities);
7. Ordinance No. 449 (Firework stands).

B. The following business activities shall be exempt from the provisions of this chapter:

1. Rental of four or less residential dwelling units;
2. Rentals of commercial premises of less than 3,000 square feet in gross floor area;
3. Governmental activities (state, local or federal). (Ord. 494 § 1, 1986; Ord. 429 § 12, 1981)

5.04.130 License to be procured when – Delinquency charge.

There shall be assessed and collected in addition to the required annual license a delinquency charge of \$10.00 per month on \$25.00 license fees and \$20.00 per month on \$50.00 license fees for each calendar month or part of a calendar month accruing between the time such license is procured and the time when the same should have been procured under the terms of this chapter. License fees shall be as established by resolution. (Ord. 2005-029 § 2; Ord. 450 § 2, 1983; Ord. 429 § 13, 1981)

5.04.140 Collection of licenses authorized by city.

The licenses required under this chapter and all penalties thereon shall constitute a debt to the city, and may be collected by court proceeding in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies, and which

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remedy shall also include the right of the city to judgment for its costs and reasonable attorney's fees. (Ord. 429 § 14, 1981)

5.04.150 Recordkeeping and enforcement – Authority of clerk.

A. The city clerk shall keep full and accurate records of all funds received under the provisions of this chapter. Upon receipt of any license fee and/or penalties collected under the provisions of this chapter, he or she shall deposit the same to the credit of the current expense fund.

B. It is the duty of the city clerk to require all parties engaging in any business activity to procure such license, and should there be any license fee not paid by any person, it shall be the duty of the city clerk to initiate and/or enforce collection thereof in the manner provided in this chapter. (Ord. 429 § 15, 1981)

5.04.160 Responsibility of nonresidents.

The agents or other representatives of non-residents who are doing business in the city shall be personally responsible for the compliance with this chapter of their principals and the businesses they represent. (Ord. 429 § 18, 1981)

5.04.170 Revocation of license.

A. Licenses issued under the provisions of this chapter may be revoked by the action of the city council after notice and hearing, for any of the following causes:

1. Fraud, misrepresentation or false statement in the application for license;
2. Any violation of this chapter;
3. Conviction of any crime or misdemeanor involving moral turpitude; or
4. Conducting the business in an unlawful manner, or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

B. Notice of the hearing for the revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. The notice shall be mailed, postage prepaid, to the licensee at

his last known address at least five days prior to the date set for hearing. (Ord. 429 § 20, 1981)

5.04.180 Violations – Penalties.

A. Any person violating or failing to comply with any of the provisions of this chapter, upon conviction thereof, shall be guilty of a misdemeanor.

B. Any person which engages in or carries on any business subject to a tax under this chapter without having his business license so to do, shall be deemed guilty of a separate violation for each day during which the business is engaged in or carried on; and any person who fails or refuses to pay the license fee or tax or any part thereof on or before the due date shall be deemed to be operating without having his license so to do. (Ord. 429 § 17, 1981)

Chapter 5.08**AMBULANCES**

Sections:

- 5.08.010 Definitions.
- 5.08.020 Permits and license required.
- 5.08.030 Ambulance crew.
- 5.08.040 First aid equipment.
- 5.08.050 Public liability insurance.
- 5.08.060 Application for license.
- 5.08.070 Required information.
- 5.08.080 Annual license fee.
- 5.08.090 Revocation.
- 5.08.100 Penalties.

5.08.010 Definitions.

As used in this chapter:

A. "Ambulance" means and includes any motor vehicle acting as a common carrier for hire for the transportation or conveyance of the sick or injured.

B. "Operating an ambulance" applies to the operation of any ambulance licensed to operate within the city. It shall not apply to any ambulance which passes through the city in the delivery of fares picked up at points beyond the limits of the city.

C. "Ambulance licensee" means and includes any person, firm or corporation engaged in the business of carrying or transporting any sick or injured person, for hire, by the use of any automobile or vehicle designed or adapted for such purpose. (Ord. 267 § 1, 1972; Ord. 256 § 1, 1971)

5.08.020 Permits and license required.

No person, firm or corporation shall operate, or cause to be operated, any ambulance in the city without first securing from the city clerk a valid ambulance licensee's permit, provided any hospital or nursing home may provide ambulance service for its patient's only, without a permit. The number of persons, firms or corporations licensed shall be limited to not more than one person, firm or corporation for each 5,000 or fraction thereof of population within the limits of the city. To qualify for a license, the licensee must have at least

two ambulances, one of which must always be available within the city to answer emergency calls. (Ord. 267 § 2, 1972; Ord. 256 § 2, 1971)

5.08.030 Ambulance crew.

No person, firm or corporation shall operate any ambulance in the city without the same being attended by a crew of two able-bodied persons, at least one of whom shall be over the age of 21 years and shall hold a valid state vehicle operator's license and shall hold whatever first aid certificate that is required by state law. (Ord. 256 § 3, 1971)

5.08.040 First aid equipment.

Each ambulance shall at all times be equipped as follows:

A. First aid equipment consisting of leg and arm splints and standard 24 unit first aid kits as prescribed by the American Red Cross or the State of Washington Department of Labor and Industries;

B. Invalid couch-type bed on wheels;

C. Stretcher for a second patient on floor or hanger;

D. Bandages, tourniquets and splints;

E. Oxygen tank equipped with hose and face piece and reserve type of equipment for administering;

F. Fresh, clean linen and blankets sufficient for two patients;

G. Towels, male and female urinals, restraints, fire extinguisher, basin, fan and heater. (Ord. 256 § 4, 1971)

5.08.050 Public liability insurance.

No license shall be issued under this chapter for any ambulance until the same is covered with public liability insurance in the amount of not less than \$100,000 per person and \$200,000 per accident, and property damage insurance in the amount of \$50,000 for each accident or occurrence. (Ord. 256 § 5, 1971)

5.08.060 Application for license.

Application for an ambulance license permit shall be made to the clerk with an annual license fee as established by resolution. (Ord. 2005-029 § 2; Ord. 256 § 6, 1971)

5.08.070 Required information.

The applicant shall provide the city clerk with the following:

A. Name and address of the person, firm or corporation desiring such ambulance permit or license;

B. The number and description of ambulances owned by and operated by the applicant and location of each;

C. A policy of insurance as required by this chapter, which policy shall contain an endorsement providing that 10 days' notice to the city will be given by the insurance company in the event of any material change or cancellation. (Ord. 256 § 7, 1971)

5.08.080 Annual license fee.

The annual license fee shall be as established by resolution, which shall cover all ambulances covered by the company. The ambulance license shall expire on the last day of December next following the issuance thereof and may be renewed from year to year. (Ord. 2005-029 § 2; Ord. 256 § 8, 1971)

5.08.090 Revocation.

Any such license shall be subject to revocation upon conviction of the operator for failure to comply with the provisions of this chapter. (Ord. 256 § 9, 1971)

5.08.100 Penalties.

It shall be a misdemeanor for any person to violate or fail to comply with any of the provisions of this chapter. (Ord. 256 § 10, 1971)

Chapter 5.12

AMUSEMENT DEVICES

Sections:

- 5.12.010 Amusement device defined.
- 5.12.020 Automatic music machine defined.
- 5.12.030 Gambling devices prohibited.
- 5.12.040 License required – Amusement devices.
- 5.12.050 License required – Automatic music machines.
- 5.12.060 Distributor's license not required.
- 5.12.070 Duties of chief of police.
- 5.12.080 Violation – Penalty.

5.12.010 Amusement device defined.

The term "amusement device" means any machine or device designed to be operated or used for playing a game of skill upon payment by insertion or otherwise of cash or other valuable consideration, excluding machines vending food articles or articles of merchandise. (Ord. 246 § 1, 1971)

5.12.020 Automatic music machine defined.

The term "automatic music machine" means and is deemed to include any music device which is automatically operated or played upon the insertion of a coin, token or slug. (Ord. 246 § 2, 1971)

5.12.030 Gambling devices prohibited.

No device which carries a federal gambling stamp shall be licensed or authorized under the provisions of this chapter or allowed to be operated within the city limits of the city. (Ord. 246 § 3, 1971)

5.12.040 License required – Amusement devices.

Each and every person, firm or corporation who shall operate or have in his or its control or possession within the city, an amusement device with the intent that the same shall be operated or used, shall apply for and secure a location license from the city clerk in such form as shall be prescribed by the city clerk, and shall pay an annual license fee, as estab-

lished by resolution, per calendar year or any portion thereof, the license payable on or before January 1st of each year for the ensuing calendar year. (Ord. 2005-029 § 2; Ord. 426 § 1, 1981; Ord. 246 § 4, 1971)

Chapter 5.16

DANCE HALLS

(Repealed by Ord. 2001-014)

5.12.050 License required – Automatic music machines.

Each and every person, firm or corporation who shall operate or have in his or its control or possession within the city, an automatic music machine with the intent that the same shall be operated or used, shall apply for and secure a location license from the city clerk and shall pay an annual license fee, as established by resolution, per calendar year or any portion thereof, the license payable on or before January 1st of each year for the ensuing calendar year. (Ord. 2005-029 § 2; Ord. 426 § 1, 1981; Ord. 246 § 5, 1971)

5.12.060 Distributor's license not required.

The owner or operator of a business where coin-operated amusement devices or music machines are located shall not be required to obtain a distributor's license in order to use such devices at that location. (Ord. 246 § 7, 1971)

5.12.070 Duties of chief of police.

It is the duty of the chief of police to inspect all amusement devices and automatic music machines located in the city and ascertain whether they are properly licensed in accordance with the provisions of this chapter. (Ord. 246 § 9, 1971)

5.12.080 Violation – Penalty.

Any violation or failure to comply with any of the provisions of this chapter shall constitute a misdemeanor and upon conviction thereof shall subject the offender to a fine in any sum not to exceed \$300.00 or imprisonment in the city jail for not to exceed 90 days or by both such fine and imprisonment. (Ord. 246 § 10, 1971)

Chapter 5.20

**PAWNSHOPS, SECONDHAND STORES
AND JUNKYARDS**

Sections:

- 5.20.010 License required.
- 5.20.020 Pawnbroker defined.
- 5.20.030 Secondhand dealer defined.
- 5.20.040 Junk dealer defined.
- 5.20.050 Application for license.
- 5.20.060 License fees.
- 5.20.070 Records required.
- 5.20.080 Transcript to be furnished.
- 5.20.090 False reporting.
- 5.20.100 Immediate reporting.
- 5.20.110 Retention of goods.
- 5.20.120 Minimum age requirement.
- 5.20.130 License revocation or suspension.
- 5.20.140 Violation.

5.20.010 License required.

It is unlawful and a misdemeanor for any person, firm or corporation to engage in the business of pawnbroker, secondhand dealer or junk dealer, or to conduct a pawnshop, a secondhand shop or junkyard, without obtaining a proper license pursuant to the provisions of this chapter. (Ord. 369 § 1, 1978)

5.20.020 Pawnbroker defined.

“Pawnbroker,” as used in this chapter, means and includes every person, firm or corporation who takes or receives by way of pledge, pawn or exchange, goods, wares or merchandise, or any kind of personal property whatsoever for security for the repayment of money loaned thereon. (Ord. 369 § 2, 1978)

5.20.030 Secondhand dealer defined.

“Secondhand dealer,” as used in this chapter, means and includes every person, firm or corporation engaged in part in the business of purchasing, selling, trading, bartering, accepting in trade or as partial payment for goods, or otherwise exchanging secondhand goods of any kind or description other than “junk” as defined in SMC 5.20.040; provided, however, that this section shall not apply to those persons engaged in the business of selling used or

secondhand motor vehicles or boats, nor automobile dealerships nor retail parts stores furnishing or selling reconditioned parts in the ordinary course of business, sales of wholly donated goods, and provided further, that this section shall not apply to those persons holding less than seven garage or yard sales, or the like, in any one-year period. (Ord. 369 § 3, 1978)

5.20.040 Junk dealer defined.

“Junk dealer,” as used in this chapter, means and includes every person, firm or corporation engaged in whole or in part in the business of buying, selling, bartering, trading or exchanging old rope, rubber, rags, empty bottles, paper, metals, baggings and such other worn out and discarded articles, materials and odds and ends as can be turned to some use or recycled; provided, however, it does not include and mean dealing in goods which can be used again for the purpose for which they were originally intended. (Ord. 369 § 4, 1978)

5.20.050 Application for license.

All applications for issuance or renewal of a pawnbroker’s license, secondhand dealer’s license or junk dealer’s license shall be made to and filed with the city clerk on forms furnished by the city for such purpose. Upon receipt of the completed application and license fee as provided under SMC 5.20.060 the clerk shall issue a license for the remainder of the calendar year, the license fee being prorated according to the date of issuance of the license, and renewal each and every January. The clerk shall forward a copy of the application to the chief of police. (Ord. 369 § 5, 1978)

5.20.060 License fees.

A. The license fee for a pawnbroker’s license shall be, and the same is fixed as established by resolution per annum and shall entitle the licensee to operate a secondhand shop or junkyard as defined in SMC 5.20.030 and 5.20.040, without additional licensing and payment of fees.

B. The license fee for a secondhand dealer’s license shall be, and the same is fixed as established by resolution per annum and

shall entitle the licensee to operate a junkyard as defined in SMC 5.20.040, without additional licensing and payment of fees.

C. The license fee for a junkyard dealer's license shall be and the same is fixed as established by resolution per annum. (Ord. 2005-029 § 2; Ord. 369 § 6, 1978)

5.20.070 Records required.

A. It is the duty of every pawnbroker or secondhand dealer or agent of either, before making any transaction included within the activities described in SMC 5.20.020 or 5.20.030 to verify the identity of the customer by some bona fide means of identification, and to maintain in his place of business a book or other permanent record in which shall be legibly written in ink in the English language at the time of each transaction a record thereof containing at a minimum the following:

1. The date of the transaction;
2. The name of the person or employee conducting the same;
3. The printed name, signature, age, sex, mailing address, street and house number, and telephone number of the person with whom the transaction is had, and the evidence by which the identity of the person was verified;
4. The name and address of the owner of the property received;
5. A description of the property received which shall include the name of the maker of the property or manufacturer thereof, and serial number, if the article has such marks on it, or any other inscription or identifying marks.

B. Such records and all articles received shall at all times during ordinary business hours, be open to inspection by any law enforcement officer. No entry made in the report shall be erased or in any manner obliterated or defaced, and such record shall be maintained for a period of three years from the date of the transaction. Forms shall be provided by the city for this recordkeeping requirement. (Ord. 369 § 7, 1978)

5.20.080 Transcript to be furnished.

A. It is the duty of every pawnbroker and secondhand dealer to deliver two copies of the record required by SMC 5.20.070 to the police department at the close of every calendar week, for all transactions occurring during the preceding week. The original shall be kept as part of the pawnbroker's or secondhand dealer's "housebook" as required by SMC 5.20.070. The fourth sheet shall serve as a receipt for the item received. Each sheet in the set shall carry the same number and any item received shall be marked with a number corresponding to the housebook number.

B. The chief of police shall furnish one copy of such record to the law enforcement department of the county. (Ord. 369 § 8, 1978)

5.20.090 False reporting.

Any person who supplies any false information or false identification to any pawnbroker, secondhand dealer, employee or agent thereof shall be guilty of a misdemeanor. (Ord. 369 § 9, 1978)

5.20.100 Immediate reporting.

It is the duty of every pawnbroker, secondhand dealer, employee or agent thereof, having good cause to believe any property in his possession has been previously lost or stolen to immediately report such fact to local law enforcement personnel, together with the name of the owner, if know, and the date and name of the person from whom the same was received by such pawnbroker, secondhand dealer, employee or agent. (Ord. 369 § 10, 1978)

5.20.110 Retention of goods.

No pawnbroker shall sell, remove or permit to be removed from his place of business, any property received, until four days after its receipt has been reported to the police department. (Ord. 369 § 11, 1978)

5.20.120 Minimum age requirement.

No pawnbroker or secondhand dealer shall make transactions described under this chapter with any person under the age of 18 years. (Ord. 369 § 12, 1978)

5.20.130 License revocation or suspension.

A. Upon application by the chief of police, the city council shall have the authority to suspend or revoke any license granted under this chapter.

B. No license shall be suspended or revoked until such time as the city council has called for a public hearing and provided written notice of the hearing to the licensee at least 10 days in advance of the date of the hearing; and, after the hearing, determined by a majority vote, that the license should be suspended or revoked for cause.

C. The following shall constitute cause for the suspension or revocation of licenses under this chapter, but shall not be deemed the exclusive causes for the revocation or suspension:

1. Failure to present true and correct information upon the license application.

2. Failure to keep the “housebook” or failure to supply law enforcement officials with weekly reports as required in this chapter.

3. Conviction of the licensee for dealing in stolen goods.

D. The decision of the city council may be appealed to the superior court; provided, that notice of such appeal is filed with the city council within 30 days from the date of the council’s action hereunder. (Ord. 2001-014 § 2; Ord. 369 § 13, 1978)

5.20.140 Violation.

Violation of this chapter is a misdemeanor. (Ord. 369 § 14, 1978)

Chapter 5.24

PEDDLERS AND SOLICITORS

Sections:

- 5.24.001 Purpose.
- 5.24.005 Religious, charitable, civic, political, or other similar organizations.
- 5.24.010 Definitions.
- 5.24.020 License – Fees.
- 5.24.025 License fees – Veterans’ exemption.
- 5.24.030 License – Expiration date.
- 5.24.040 License required.
- 5.24.045 License – Required – Exceptions.
- 5.24.050 Unlawful acts.
- 5.24.060 Financial responsibility.
- 5.24.070 License application and investigation.
- 5.24.080 License – Product or services sold.
- 5.24.090 Identification card.
- 5.24.100 License – Display.
- 5.24.110 Disclosure of product and purpose.
- 5.24.120 Receipt and notice to buyer.
- 5.24.130 Denial or revocation of license.
- 5.24.135 Appeals.
- 5.24.140 Penalty.

Editor’s note: The general provisions of the new license code are codified in Chapter 5.04 SMC.

Prior legislation: Ords. 6 and 2005-029.

5.24.001 Purpose.

The purpose of this chapter is to establish reasonable restrictions on peddling/soliciting activities within the city limits to protect and promote public safety, privacy, and welfare. This chapter is intended to be reasonable as to time, place, and manner restrictions and is not intended to infringe upon any constitutionally protected right.

Further, to promote voluntary compliance with this chapter, the city shall install a sign at each major entrance to the city. Each sign shall state, “Peddling, Soliciting, Canvassing Ordinances Enforced. Sequim Municipal Code 5.24.” (Ord. 2008-011 § 1)

5.24.005 Religious, charitable, civic, political, or other similar organizations.

A. To ensure privacy, all religious, charitable, civic, political, or other similar organizations intending to canvass or solicit within the city shall comply with the provisions set out in SMC 5.24.050(C) and (D). No other provisions of this chapter shall apply, unless a religious, charitable, civic, political, or other similar organization intends to solicit for money, then see subsection B of this section.

B. Religious, charitable, or political, civic, or other similar organizations canvassing or soliciting for money shall notify the planning department or code compliance officer that the organization will be canvassing or soliciting within the city limits. Nonprofit organizations shall also provide the planning department or code compliance officer with a copy of the organization's nonprofit certification and state charitable solicitation organization registration. No other requirements of this chapter, including fees, licensing, or other forms of individual information, shall be required. This section is adopted solely for assuring residents that a legitimate organization is canvassing or soliciting in the area and that residents' privacy is adequately protected.

This chapter is not intended to regulate religious or political free speech. Charitable solicitations are also not addressed herein. Chapter 19.09 RCW governs registration and regulation of charitable solicitation. (Ord. 2008-011 § 1)

5.24.010 Definitions.

For the purposes of this chapter:

"Peddler/solicitor" within the meaning of this chapter is any person who, without prior invitation from the occupant, goes from house to house, or place to place, in the city, selling or taking orders for, or offering to sell or take orders for, scheduling appointments for, or otherwise soliciting for goods, wares, merchandise or services, for present or future delivery, except those selling to entities holding business licenses. (Ord. 2008-011 § 1; Ord. 2006-012 § 1)

5.24.020 License – Fees.

The annual fee for a peddler/solicitor license is established by the license fee resolution. The fee shall be paid at the time of application and is nonrefundable. (Ord. 2008-011 § 1; Ord. 2006-012 § 2)

5.24.025 License fees – Veterans' exemption.

Veterans as defined in RCW 73.04.050 are exempt from payment of licensing fees. Any veteran asserting this exemption shall provide the planning department or code compliance officer proof of honorable discharge prior to the veteran receiving a peddler/solicitor license. (RCW 73.04.060). (Ord. 2008-011 § 1)

5.24.030 License – Expiration date.

Peddler/solicitor licenses expire annually on May 31st. (Ord. 2008-011 § 1; Ord. 2006-012 § 2)

5.24.040 License required.

It is unlawful for any person to engage in business as a peddler/solicitor in the city without first obtaining a city of Sequim peddler/solicitor license for each person selling on behalf of the business. Any peddler/solicitor as defined in this chapter shall apply for and receive a city peddler/solicitor license prior to engaging in such activity, unless the peddler/solicitor is exempt as indicated in SMC 5.24.045. (Ord. 2008-011 § 1)

5.24.045 License – Required – Exceptions.

No license shall be required for:

A. Any person selling, delivering, or peddling any agricultural, horticultural, or farm products which they may grow or raise (RCW 36.71.090); or

B. Any person who, as an agent, acts as a peddler/solicitor on behalf of a regulated utility; or

C. Any minors engaged in baby-sitting, lawn mowing, car washing, or other similar independent activities, unless the minor is acting on behalf of a person not a minor; or

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D. Any person who merely solicits orders for goods, which orders are to be accepted and goods delivered at a future time from a place outside of Washington State.

1. Any person or organization claiming an exemption under this section shall complete a modified peddler/solicitor license application;

2. Any such person who asserts an exemption under this subsection shall complete a form at the planning department outlining the reasons for this exemption. This statement must include the name, physical and mailing addresses, phone number, and, if applicable, e-mail address for each of the following:

- a. Interstate business name;
- b. Customer service department;
- c. Order cancellation department, if different from customer service; and
- d. Regional or local supervisor;

3. The applicant shall also include information about the seller's cancellation policy. (Ord. 2008-011 § 1; Ord. 2006-012 § 2. Formerly 5.24.040)

5.24.050 Unlawful acts.

It is unlawful for any peddler/solicitor to:

A. Make untrue, deceptive, or misleading statements about the product or services sold for the purpose of procuring a sale or offer for sale;

B. Make any untrue, deceptive, or misleading statement regarding the purposes of his/her contact with a potential customer;

C. Sell before 8:00 a.m. or after 7:00 p.m. of any day without the specific prior consent of the prospective buyer;

D. Attempt to gain admittance at any residence at which a sign bearing the words "no peddlers," "no solicitors," "no trespassing," or words of similar import is posted, unless at the invitation or with the consent of the occupant thereof;

E. Remain at any location after the prospective buyer has asked the peddler/solicitor to leave. (Ord. 2008-011 § 1; Ord. 2006-012 § 2)

5.24.060 Financial responsibility.

Each applicant for a peddler/solicitor license who intends to peddle/solicit for contracting services shall submit to the planning department or code compliance officer a surety bond naming himself or herself and all of his or her agents as principals, and conditioned as provided by the general provisions of the new license code. (Ord. 2008-011 § 1; Ord. 2006-012 § 2)

5.24.070 License application and investigation.

Each individual seeking to secure a peddler/solicitor license shall apply in writing to the planning department or code compliance officer on forms provided by the city. A letter on company letterhead showing the applicant's name as an authorized agent to sell on the company's behalf is required at time of filing. The application for peddler/solicitor license shall include a "WATCH" criminal record check and may require applicant's fingerprints and require two photographs to be submitted.

If the investigation shows that the facts set forth in the application are true, that such peddler/solicitor proposes to engage in a lawful and legitimate commercial or professional enterprise, then the application shall be approved and the planning department will issue the license. The length of the investigation shall not exceed five business days from the date all requested information has been supplied to the city by the applicant. (Ord. 2008-011 § 1; Ord. 2006-012 § 2)

5.24.080 License – Product or services sold.

The license shall be endorsed with a statement of the type of product or service sold by the licensee. The license is valid only for the product or service specified. (Ord. 2008-011 § 1; Ord. 2006-012 § 2)

5.24.090 Identification card.

Each peddler/solicitor shall be issued an identification card showing:

- A. Business name;
- B. Peddler/solicitor name;

- C. Type of service or product;
 - D. Date of expiration;
 - E. Photo of peddler/solicitor;
 - F. City of Sequim logo;
 - G. City of Sequim authorized signature.
- (Ord. 2008-011 § 1; Ord. 2006-012 § 2)

5.24.100 License – Display.

All peddler/solicitors shall conspicuously display on their outer clothing their identification issued by the city when engaged in peddling/soliciting activities. (Ord. 2008-011 § 1; Ord. 2006-012 § 2)

5.24.110 Disclosure of product and purpose.

Each peddler/solicitor shall, immediately upon contacting the prospective buyer, disclose to the prospective buyer his/her name, company, and the product or service represented. If requested to do so, he/she shall leave the premises immediately. (Ord. 2008-011 § 1; Ord. 2006-012 § 2)

5.24.120 Receipt and notice to buyer.

Every peddler/solicitor must comply with all provisions included in 16 CFR Section 429.1 to avoid any unfair or deceptive practices; 16 CFR Section 429.1 includes, but is not limited to, the following:

A. Every sale, having a price of \$25.00 or more, made or order taken by a peddler/solicitor shall be evidenced by a signed receipt, contract, or other signed memorandum of the transaction, which shall be given to the purchaser. Such receipt, contract, or memorandum shall state: (1) the date and terms of the transaction; (2) the amount of any payment made; and (3) the name and address of the peddler/solicitor. The receipt shall also include, in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used, and in boldface type of a minimum size of 10 points, the following notice:

NOTICE TO BUYER

You, the buyer, may cancel this transaction at ANY TIME PRIOR TO MID-

NIGHT of the THIRD BUSINESS DAY after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

B. The peddler/solicitor must furnish to each buyer, at the time the buyer signs any sales contract or otherwise buys or agrees to buy goods or services from the peddler/solicitor, a completed form in duplicate, captioned “NOTICE OF CANCELLATION.” This notice of cancellation shall be attached to the contract, receipt, or memorandum and easily detachable, and shall contain in 10-point bold type the following information and statements in the same language, e.g., Spanish, as that used in such contract, receipt or memorandum:

NOTICE OF CANCELLATION

(Enter date of Transaction)

You may CANCEL this transaction, without any penalty or obligation, within THREE BUSINESS DAYS from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within TEN BUSINESS DAYS following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of

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your Notice of Cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this Cancellation Notice or any other written notice, or send a telegram to (name of seller) AT (Address of seller's place of business) NOT LATER THAN MIDNIGHT OF (Date).

I HEREBY CANCEL THIS TRANSACTION.

(date)

(Buyer's Signature)

C. The sending of any notice of cancellation within the specified period shall operate to cancel the purchase made or contract entered into, and the seller shall thereupon, without request, refund to the buyer any deposit or payment made, and in accordance with the notice of cancellation may reclaim from the buyer at the place of delivery any goods received by the buyer under such purchase or contract. (Ord. 2008-011 § 1; Ord. 2006-012 § 2)

5.24.130 Denial or revocation of license.

A. An application for a peddler/solicitor license will be denied or revoked if:

1. The applicant has been convicted of a felony within the past 10 years of the date of application, and the felony is directly related to the position sought (RCW 9.96A.020, 9.96A.050); or

2. The applicant has been the subject of repeated complaints of aggressive sales tactics by the residents of the city of Sequim. "Repeated complaints" means complaints from three or more independently contacted

individuals arising from three or more separate occasions.

B. If the city denies the applicant a peddler/solicitor license based upon either of the reasons outlined above, the city shall notify the applicant promptly via telephone, using the telephone number provided by the applicant in Section 1 of the peddler/solicitor license application. The city shall also notify the applicant of the reason(s) for denial of the peddler/solicitor license in writing, and the notification will be sent to the applicant at the applicant's permanent address provided in Section 1 of the peddler/solicitor license application. The city shall also post any revocations of peddler/solicitor licenses on the city's website.

C. The city shall also send a written notification of the city's reason(s) for the applicant's denial of a peddler/solicitor license to the business identified by the applicant in Section 3 of the peddler/solicitor application. The notification shall be sent to the principal place of business address identified in Section 3 of the peddler/solicitor license application. (Ord. 2008-011 § 1; Ord. 2006-012 § 2)

5.24.135 Appeals.

If an applicant has been denied a peddler/solicitor license and wishes to appeal this denial, the applicant may appeal to the city council and have the council review the application at the next city council meeting. If the applicant does not wish to have the application reviewed by the city council, the applicant may elect to have the application reviewed by a hearings officer within 30 days of receiving the denial notification. The decision made by either the city council or the hearings officer shall be final. (Ord. 2008-011 § 1)

5.24.140 Penalty.

Any person who sells or offers for sale or exposes for sale, at public or private sale, any goods, wares, or merchandise without a peddler/solicitor license or any person violating any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished as provided in SMC 1.12.010. (Ord. 2008-011 § 1)

Chapter 5.28**FOR-HIRE VEHICLES**

Sections:

- 5.28.010 Definitions.
- 5.28.020 License – Required.
- 5.28.030 License – Application – Required information.
- 5.28.040 License – Application – Inspection of vehicles.
- 5.28.050 Equipment.
- 5.28.060 License – Issuance.
- 5.28.070 Operation regulations.
- 5.28.080 Driver’s license – Qualifications.
- 5.28.085 Initial driver’s license – Required.
- 5.28.090 Driver’s license – Application – Information required.
- 5.28.100 Driver’s license – Application – Police endorsement.
- 5.28.110 Initial driver’s license – Fee.
- 5.28.115 Driver’s license – Term – Renewal – Fee.
- 5.28.120 Driver’s license – Exhibition required.
- 5.28.130 Driver’s license – Temporary.
- 5.28.140 Driver’s license – Nontransferable.
- 5.28.150 Fare – Filing – Posting required.
- 5.28.160 Fare – Overcharge.
- 5.28.170 Fare – Refusal to pay.
- 5.28.180 Fare – Schedule change.
- 5.28.190 Insurance requirement.
- 5.28.200 License denial or revocation.

5.28.010 Definitions.

The following definitions shall apply to the provisions of this chapter:

A. “For-hire vehicle” means any motor vehicle used for transportation of passengers for compensation and not operated over a fixed and defined route, except limousine charter carriers regulated under Chapter 81.90 RCW, charter party carriers of passengers and excursion service carriers regulated under Chapter 81.70 RCW, or a private, nonprofit corporation providing transportation services for compensation solely to elderly or handicapped persons as regulated under Chapter 81.66 RCW.

B. “Taxicab” means a chauffeur-driven vehicle available on call to carry a passenger

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between any two or more points for a fare determined by a taximeter, zone system or flat rate. (Ord. 2001-009)

5.28.020 License – Required.

Except as provided in this section, no person shall operate or permit a taxicab or for-hire vehicle owned or controlled by him/her to be operated as a vehicle for hire within the corporate limits of the city without first having obtained a city-issued for-hire vehicle license. Taxi companies and taxicabs licensed in the jurisdiction in which their principal office is located are not required to obtain a city of Sequim business (taxi) license in order to discharge fares within the city. (Ord. 2001-009)

5.28.030 License – Application – Required information.

In addition to all other information required of an applicant for a business license, an applicant for a for-hire vehicle license shall provide the following information:

A. Location of the taxicab zone applied for, together with any other location from which the taxicabs or for-hire vehicles are operated;

B. Full information concerning the ownership, the number and classification of vehicles to be operated, and the name, fictitious or otherwise, under which the applicant intends to operate;

C. The distinguishing color scheme, dress or design, including any monogram or insignia intended to be used upon the vehicle; such shall not resemble any police vehicle;

D. The rates proposed to be charged. (Ord. 2001-009)

5.28.040 License – Application – Inspection of vehicles.

Every licensee shall, before commencing operation, file with the clerk-treasurer a certificate of inspection showing all vehicles licensed pursuant to this chapter have been inspected by a reliable automotive concern, approved by the chief of police and certified as safe for taxicab operation by the automotive concern. Each 12 months thereafter, the vehicles must be reexamined by a reliable automotive concern and recertified as safe for

operation as a for-hire vehicle pursuant to the terms and conditions of this chapter. In addition to the inspections provided in this section and this chapter, all vehicles operating under the authority of this chapter shall be available for inspection at any time and at any place by the chief of police or his/her designee, who shall order any taxicab to cease operation immediately if it is determined the vehicle is in an unsafe condition. The owner or operator shall be notified in writing thereof. (Ord. 2001-009)

5.28.050 Equipment.

Every vehicle licensed under this chapter shall be equipped with an approved fire extinguisher and first aid kit and appropriate, lawful seatbelts or passenger restraint devices for all passengers including appropriate, lawful car seats and booster seats for children and infants. All vehicles operated as taxicabs shall have an illuminated taxi sign or roof light as approved by the chief of police, which roof light shall be illuminated at all times while the taxicab is in operation as such. Vehicles licensed under this chapter, but not operated as taxicabs, shall have distinguishing signs as approved by the chief of police. (Ord. 2001-009)

5.28.060 License – Issuance.

No business license to operate a taxicab or for-hire vehicle service shall be issued except by the city council, after review of the license application and inspection reports. Upon filing of an application, the city council shall fix a time and place for a public hearing thereon. Notice of such hearing shall be given to the applicant and to all persons to whom licenses under this chapter have been theretofore issued. Due notice shall also be given to the general public by posting a notice of such hearing on the bulletin board at the front entrance to the City Hall. Any interested person may file with the city council a memorandum in support of or opposition to the issuance of a business license to operate a taxicab service.

After conducting the appropriate hearing, should the city council find that further taxicab service in the city is in the best interest of the city and that the applicant is fit, willing, and able to perform such public transportation and

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to conform to the provisions of this chapter, then the city clerk shall issue the appropriate license to the applicant. The fee for said license shall be \$50.00, renewable annually. There shall be an additional fee of \$75.00 per year for each taxicab owned/operated by the licensee.

A. In making the above findings, the city council may take into consideration the number of taxicab businesses already in operation, whether existing transportation is adequate to meet the public need, the probable effect on increased service on local traffic conditions and the character, experience and responsibility of the applicant.

B. The city council may elect to deny the application in its discretion. (Ord. 2001-009)

5.28.070 Operation regulations.

The operation of a taxicab or for-hire business shall be governed by the following regulations, in addition to all other regulations of statute or ordinance:

A. No taxi stand or zone may be operated without the written permission of the owner or occupant of all adjoining premises.

B. No licensee shall permit more than three taxicabs to stand or wait at the same time in a taxi stand or zone or permit taxicab or for-hire vehicles to cruise the streets for passengers.

C. Every person engaged in the business of transporting passengers for hire under the provisions of this chapter shall file all information requested by any authorized peace officer in regard to the address of the house or place to or from which he has driven or caused to be driven any passenger, as well as descriptions, names and addresses of such passengers, if known to him.

D. No person shall operate a for-hire vehicle or taxicab without first having obtained a driver's license to do so.

E. No person shall operate or be in actual physical control of a for-hire vehicle or taxicab while under the influence of intoxicating liquor or drugs. Violation of this provision shall constitute grounds for summary revocation of the driver's license issued under this chapter.

F. Every person engaged in the business of operating taxicabs in the city of Sequim shall maintain a business address and a mailing

address where the owner can accept mail and a business telephone in working order that shall be answered during normal business hours, Monday through Friday, and during all hours of operation and shall at all times have at least two taxicabs which are licensed pursuant to this chapter and are capable of providing service in the city of Sequim.

G. Every person engaged in the taxicab or for-hire vehicle business in the city of Sequim shall maintain records of the number, location, and length of trips made each day and shall retain and preserve such information for at least two years and shall make such reports available to the city clerk or chief of police upon request.

H. Drivers of taxicabs and for-hire vehicles employed to carry passengers to a definite point shall take, the most direct route possible that will carry the passengers safely and expeditiously to the passengers' destination. (Ord. 2001-009)

5.28.080 Driver's license – Qualifications.

No person shall be permitted to obtain a driver's license for the driving of taxicabs or for-hire vehicles unless the following minimum requirements are met:

A. Possession of a valid Washington driver's license;

B. Having been a licensed driver for at least three years prior to the date of application for a license;

C. The ability to speak, read and write the English language;

D. Not being addicted to the use of intoxicating liquor or drugs within two years preceding the date of the application for a license;

E. Not having been convicted of a felony, or of operating a motor vehicle while under the influence of intoxicating liquor or drugs, or of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs, or of reckless driving, within five years preceding the date of the application for a license;

F. Not having been convicted of three or more moving violations during a one-year period during the five years preceding the date of the application for a license. (Ord. 2001-009)

5.28.085 Initial driver's license – Required.

A. All persons, except those holding a current taxicab or for-hire vehicle driver's license issued by the city of Sequim, are required to obtain an initial driver's license.

B. Licensees who cease, for reasons other than illness or injury, to be actively employed as a taxicab or for-hire vehicle driver for a period in excess of 90 days are required to obtain an initial driver's license. (Ord. 2001-009)

5.28.090 Driver's license – Application – Information required.

In addition to all other information required by the city clerk, the following information shall be required: the full name, address, residence; age, height, weight, color of eyes and hair; place of birth; length of time he or she has resided in the state; whether a citizen of the United States; whether previously licensed as a driver or chauffeur, and if so, when and where; whether such license has ever been revoked and for what cause. Such application shall be signed and sworn to by the applicant, and filed with the chief of police as a permanent record. Every applicant for a driver's license must submit to fingerprinting, photographing, and a criminal and driver's records check by the police department. (Ord. 2001-009)

5.28.100 Driver's license – Application – Police endorsement.

The chief of police or his designee shall make a recommendation to the clerk, within 10 working days of the filing of a complete application or the return of the criminal and driver's records check, to issue or not to issue a license permitting the person to drive a for-hire or taxicab vehicle. In arriving at his recommendation, the chief of police or his designee is authorized to conduct an appropriate investigation to assist in the determination of whether or not the qualifications for the driving of taxicabs or for-hire vehicles are met and the issuance of the license would be consistent with the public health, safety and welfare. (Ord. 2001-009)

5.28.110 Initial driver's license – Fee.

The fee for obtaining the initial for-hire driver's license shall be as established by resolution. The fee is not subject to proration. (Ord. 2006-003 § 2; Ord. 2005-029 § 2; Ord. 2001-009)

5.28.115 Driver's license – Term – Renewal – Fee.

Taxicab and for-hire vehicle driver's licenses shall be for a period of one year beginning January 1st of the year of application and expiring on December 31st. The licensee shall submit an abstract of driving record issued by the State of Washington Department of Licensing annually, on or before January 1st.

The fee for renewal of for-hire vehicle/taxicab driver's license shall be the same as a newly issued license and is not subject to proration. (Ord. 2006-003 § 2; Ord. 2001-009)

5.28.120 Driver's license – Exhibition required.

Each licensed driver shall wear his or her license prominently displayed on an outer garment and upon the request of any police officer or passenger, exhibit his/her license and photograph for inspection. (Ord. 2001-009)

5.28.130 Driver's license – Temporary.

The clerk may, on the recommendation of the chief of police, issue a temporary taxicab or for-hire driver's license, pending the completion of the investigation required pursuant to this chapter, effective only until the application is finally acted upon by the chief of police, and in no event, for a period longer than 90 days. (Ord. 2001-009)

5.28.140 Driver's license – Nontransferable.

No driver's license for operating a for-hire vehicle shall be transferable. (Ord. 2001-009)

5.28.150 Fare – Filing – Posting required.

Every person conducting or carrying on the business of transporting passengers for hire licensed pursuant to this chapter shall file a current fare schedule with the city clerk and chief of police as required by this chapter and

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shall post in a conspicuous place in every vehicle, the schedule of fares. (Ord. 2001-009)

5.28.160 Fare – Overcharge.

Any driver of a taxicab or for-hire vehicle who charges any passenger a fare higher than that provided in the schedule of fares filed with the city shall, in addition to any other penalty imposed by law, have his license to drive a for-hire vehicle or taxicab revoked. (Ord. 2001-009)

5.28.170 Fare – Refusal to pay.

It is unlawful for any person to refuse to pay the regular fare for a taxicab or for-hire vehicle, after having hired the same. (Ord. 2001-009)

5.28.180 Fare – Schedule change.

In the event the operator of a taxicab or for-hire vehicle desires to change the rates, he shall file an amended schedule with the chief of police and the city clerk at least five days prior to such change. (Ord. 2001-009)

5.28.190 Insurance requirement.

No business license or driver's license shall be issued under the provisions of this chapter unless the operator of the taxicab or for-hire vehicle business files with the city clerk a certificate of insurance naming the city as an additional insured in an amount of not less than coverage limits required by the state of Washington for for-hire vehicles. (Ord. 2001-009)

5.28.200 License denial or revocation.

In addition to grounds supporting denial or revocation of licenses set forth in any other chapter of this code, a license may also be denied or revoked upon a finding that:

A. Any applicant or licensee has omitted to disclose any material fact or has provided any misleading statement in the application for license; or

B. Any for-hire vehicle driver's license applicant or licensee has become disqualified under SMC 5.28.090 or applicable state law to hold a driver's license for the driving of taxicabs or for-hire vehicles; or

C. Any for-hire vehicle business license applicant or licensee fails to report the disqualification of a driver in his or her employ to the city clerk and chief of police. (Ord. 2001-009)

Chapter 5.32**UTILITIES**

Sections:

- 5.32.010 Purpose.
- 5.32.015 Definitions.
- 5.32.020 License required.
- 5.32.030 Taxes levied.
- 5.32.040 Quarterly installments – Due when.
- 5.32.050 Deductions from gross operating revenues.
- 5.32.060 Records to be kept.
- 5.32.070 Failure to pay tax.
- 5.32.080 Overpayments – Credits – Refunds – Appeals.
- 5.32.090 Notice of annexation.
- 5.32.100 Unconstitutionality.
- 5.32.110 Administration.
- 5.32.120 False returns.
- 5.32.130 Noncompliance – Civil penalty.

State law reference(s): Utility tax, RCW 82.16.010 et seq.; excise tax on telephone business, RCW 35A.82.060; network telephone service, RCW 35A.82.065; referendum procedure, RCW 35.21.706; minimum waiting period, RCW 35.21.865; tax limitation, RCW 35.21.870.

5.32.010 Purpose.

The provisions of the ordinance codified in this chapter shall be deemed to be an exercise of the power of the city to license for revenue. (Ord. 2005-035; Ord. 423 § 1, 1981)

5.32.015 Definitions.

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

“Cellular telephone service” means any two-way voice and/or data telephone or similar communications system based in whole or in substantial part on wireless radio communications, including cellular mobile service, and which is not subject to regulation by the Washington State Utilities and Transportation Commission that conflicts with or overrides this chapter. Cellular telephone service includes other wireless radio communications services

including, without limitation, specialized mobile radio, paging services, personal communications and data services, and any other evolving wireless radio communications technology that accomplishes a purpose substantially similar to cellular telephone service. Cellular telephone service is included within the definition of “telephone business” for the purposes of this chapter.

“Competitive telephone service” means the providing by any person, firm, or corporation of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under RCW Title 80 and for which a separate charge is made.

“Gross income” means the value proceeding or accruing from the performance of the particular public service business involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discounts, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses. In addition, when determining total gross income from cellular telephone service, “gross income” shall include all income from cellular telephone service (including roaming charges incurred outside this state) provided to customers whose place of primary use is in the city, regardless of the location of the facilities used to provide the service. The customer’s place of primary use is, with respect to each telephone: (1) the customer’s address shown on the telephone service company’s records; or (2) the customer’s place of residence if the telephone is for personal use, and in both cases must be located within the licensed service area of the home service provider. Roaming charges and cellular telephone charges to customers whose place of primary use is outside the city of Sequim will not be taxable even though those cellular services are provided within the city of Sequim. There is a rebuttable presumption that the address shown on the cellular telephone

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service company's records is the place of primary use and is accurate. If the cellular telephone service company knows or should have known that a customer's place of primary use address for a telephone is within the city, then the gross income from cellular telephone service provided to that customer with respect to that telephone is to be included in the company's gross income.

"Natural gas" or "gas," as used in this chapter, shall not include propane delivered by means other than distribution pipeline as defined in RCW 81.88.010(3), as presently enacted or hereafter amended.

"Network telephone service" means the providing by any person, firm, or corporation of access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication, or transmission for hire via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" includes interstate service, including toll service, originating from or received on telecommunications equipment or apparatus in this state if the charge for the service is billed to a person in this state. "Network telephone service" includes the provision of transmission to and from the site of an Internet provider via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" does not include the providing of competitive telephone service, the providing of cable television service, the providing of broadcast services by radio or television stations, or the provision of Internet service as defined in RCW 82.04.297, including the reception of dial-in connection, provided at the site of the Internet service provider.

"Telephone business" means the business of providing network telephone service and cellular telephone service, as those terms are defined in this section, and includes cooperative or farmer line telephone companies or associations operating an exchange. "Competitive telephone service" shall not be considered "telephone business." Telephone business

shall include 100 percent of the business and total gross income derived from calls originating and/or billed to subscribers within the city. (Ord. 2008-015 § 1; Ord. 2005-035)

State law reference(s): Similar provisions, RCW 82.04.065.

5.32.020 License required.

After the effective date of this chapter, no person, firm or corporation shall engage in or carry on any business, occupation, act or privilege for which a tax is imposed by SMC 5.32.030 without first having obtained, and being the holder of, a license so to do, to be known as an occupation license. Each such person, firm or corporation shall promptly apply to the city clerk for such license upon such forms as the city clerk shall deem reasonably necessary to enable the clerk's office to administer and enforce this chapter and, upon acceptance of such application by the clerk, the clerk shall thereupon issue such license to the applicant. The occupation license shall be personal and nontransferable and shall be valid as long as the licensee continues in the business and complies with this chapter. (Ord. 2005-035; Ord. 423 § 2, 1981)

5.32.030 Taxes levied.

In addition to the other business and license fees required by the ordinances of the city, the city levies upon all persons, firms, or corporations (including the city) engaged in certain business activities, a utilities tax as set forth herein.

From and after the effective date of the ordinance codified in this chapter, there is levied upon and shall be collected from every person, firm or corporation engaged in carrying on the following business for hire or for sale of a commodity or a service within or partly within the corporate limits of the city, the tax for the privilege of so doing business as hereinafter defined, as follows:

A. 1. Upon any telephone business there shall be levied a tax as established by Resolution R-2007-17 as adopted and as hereafter amended, which includes revenues from intrastate toll, derived from the operation of such

businesses within the city. Gross operating revenues for this purpose shall not include charges which are passed on to the subscribers by a telephone company pursuant to tariffs

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required by regulatory order to compensate for the cost to the company of the tax imposed by this chapter.

2. "Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service or coin telephone services, or providing telephonic, video, data or similar communication or transmission for hire, via a local telephone network, toll line or channel, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating an exchange. "Telephone business" does not include the providing of competitive telephone service, nor the providing of cable television service.

3. "Competitive telephone service" means the providing by any person of telephone equipment, apparatus or service, other than toll service, which is of a type which can be provided by persons that are not subject to regulation as telephone companies under RCW Title 80 and for which a separate charge is made.

B. There is levied a tax on the sale, delivery or distribution of electricity and electrical energy and for the privilege of carrying on the business, a tax to be equal to six percent of the total gross operating revenues derived from sales of such electricity to ultimate users within the city or as hereafter amended by resolution; provided, however, that there shall not be any tax levied for the installation charges of electrical units.

C. There is levied upon every person, firm, or corporation engaging in or carrying on a business of selling, wheeling, furnishing, distributing, or producing gas, whether manufactured or natural, for commercial or domestic use or purposes, a fee or tax in an amount which has been established by Resolution R-2007-17 and as hereafter amended by resolution.

D. There is levied upon every person, firm, or corporation engaging in or carrying on a business providing solid waste collection services, a tax in an amount which has been set by Resolution R-2007-17 and as hereafter amended by resolution.

E. There is levied upon every person (including the city) engaging in or carrying on the business of selling, furnishing, or distributing water, sewer, or drainage services, a tax in an amount which has been set by Resolution R-2007-17 and which shall be as amended by resolution in the future. (Ord. 2008-002 § 2; Ord. 2005-035; Ord. 423 § 3, 1981)

5.32.040 Quarterly installments – Due when.

A. The tax imposed by this chapter shall be due and payable in quarterly installments and remittance shall be made on or before the twentieth day of the month next succeeding the end of the quarterly period in which the tax accrued. Such quarterly periods are as follows:

1. First quarter: January, February and March.
2. Second quarter: April, May and June.
3. Third quarter: July, August and September.
4. Fourth quarter: October, November and December.

B. The first payment made under this chapter shall be made by April 30, 1982, for the three-month period ending March 31, 1982. On or before the due date the taxpayer shall file with the city clerk a written return, upon such form and setting forth such information as the clerk shall reasonably require, together with the payment of the amount of the tax. (Ord. 2005-035; Ord. 423 § 4, 1981)

5.32.050 Deductions from gross operating revenues.

In computing the tax there shall be deducted from the gross operating revenues the following items:

- A. The amount of credit losses and uncollectibles actually sustained by the taxpayer;
- B. Amounts derived from transactions in interstate or foreign commerce or from any business in which the city is prohibited from taxing under the Constitution of the United States or the Constitution of the state;
- C. Amounts derived by the taxpayer from the city. (Ord. 2005-035; Ord. 423 § 5, 1981)

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5.32.060 Records to be kept.

Each taxpayer shall keep records reflecting the amount of his gross operating revenues, and such records shall be open at all reasonable times to the inspection of the city clerk, or his duly authorized subordinates, for verification of the tax returns or for the fixing of the tax of a taxpayer who fails to make such returns. (Ord. 2005-035; Ord. 423 § 6, 1981)

5.32.070 Failure to pay tax.

If any person, firm or corporation subject to this chapter fails to pay any tax required by this chapter within 30 days after the due date thereof, there shall be added to the tax a penalty of 12 percent of the amount of the tax, and any tax due under this chapter and unpaid, and all penalties thereon, shall constitute a debt to the city and may be collected by court proceedings, which remedy shall be in addition to all other remedies, and shall include reasonable attorneys' fees. The city may, pursuant to Chapter 19.16 RCW, use a collection agency to collect taxes, interest, and penalties owed or assessed, or it may seek collection by court proceedings, which remedies shall be in addition to all other remedies. (Ord. 2005-035; Ord. 423 § 7, 1981)

5.32.080 Overpayments – Credits – Refunds – Appeals.

Any money paid to the city through error or otherwise not in payment of the tax imposed by this chapter or in excess of such tax shall, upon the request of the taxpayer, be credited against any tax due or to become due from such taxpayer hereunder or, upon the taxpayer ceasing to do business in the city, be refunded to the taxpayer. Any taxpayer aggrieved by the amount of tax, interest, or penalties determined by the clerk or finance director to be due under the provisions of this chapter may appeal such determinations to the city manager. Taxpayers shall be required to remit the amounts determined to be due under this chapter prior to filing an appeal. (Ord. 2005-035; Ord. 423 § 8, 1981)

5.32.090 Notice of annexation.

Whenever the boundaries of the city are extended by annexation, all persons, firms and corporations subject to this chapter will be provided copies of all annexation ordinances by the city. (Ord. 2005-035; Ord. 423 § 9, 1981)

5.32.100 Unconstitutionality.

The invalidity or unconstitutionality of any provision or section of this chapter shall not render any other provision or section of this chapter invalid or unconstitutional. (Ord. 2005-035; Ord. 423 § 10, 1981)

5.32.110 Administration.

The city clerk is authorized to adopt, publish and enforce, from time to time, such rules and regulations for the proper administration of this chapter as shall be necessary, and it shall be a violation of this chapter to violate or to fail to comply with any such rule or regulation lawfully promulgated hereunder. (Ord. 2005-035; Ord. 423 § 11, 1981)

5.32.120 False returns.

It is unlawful for any person, firm, or corporation subject to this chapter to fail or refuse to pay the tax when due, or for any person, firm, or corporation to make any false or fraudulent application or return or any false statement or representation in, or in connection with such return, or to aid or abet another in any attempt to evade payment of the tax, or any part thereof, or to testify falsely upon any investigation of the correctness of a return upon the hearing of an appeal or in any manner hinder or delay the city or any of its officers in carrying out the provisions of this chapter. (Ord. 2005-035)

5.32.130 Noncompliance – Civil penalty.

Any person, firm, or corporation subject to this chapter who fails or neglects to make tax returns or who makes a false statement or representation in or in connection with a utility tax return, or who otherwise violates or refuses to comply with this chapter, is subject to a cumulative penalty in the amount of \$100.00 per day for each violation, in addition to the nonpayment penalty imposed under SMC 5.32.070.

All penalties imposed under this chapter shall constitute a debt to the city. The city may, at its discretion, pursuant to Chapter 19.16 RCW, use a collection agency to collect taxes, interest, and penalties owed or assessed pursuant to this chapter, or the city may seek collection by court proceedings, which remedies shall be in addition to all other remedies. (Ord. 2005-035)

Chapter 5.36

WRECKING YARDS

Sections:

- 5.36.010 Definitions.
- 5.36.020 Permit required.
- 5.36.030 Permit required for each place of business.
- 5.36.040 Application for permit.
- 5.36.050 Issuance of permit – Posting.
- 5.36.060 *Repealed.*
- 5.36.070 Vesting of rights under permit.
- 5.36.080 Automatic cancellation of unused permit.
- 5.36.090 Expiration of permit – Renewal.
- 5.36.100 Conduct of business – Violation.
- 5.36.110 Burning operations – Restrictions.
- 5.36.120 Notice of intent to revoke.

5.36.010 Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section:

A. “Motor vehicle wrecker” means every person, firm, partnership, association or corporation engaged in the business of buying, selling or dealing in vehicles of a type required to be licensed under the laws of the state, for the purpose of wrecking, dismantling, disassembling or essentially changing the form of any motor vehicle.

B. “Motor vehicle wrecking yard” means an area outside of an enclosed building where motor vehicles are disassembled, dismantled or a junk area or where vehicles not in operable condition or used parts of motor vehicles are stored.

C. “Established place of business” means a building or enclosure which any motor vehicle wrecker occupies either continuously or at regular periods for the purpose of wrecking vehicles and where his books and records are kept and business is transacted.

D. “Vehicle” includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human

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or animal power or used exclusively upon stationary rails or tracks. (Ord. 305 § 1, 1974)

5.36.020 Permit required.

Any motor vehicle wrecker, as defined in this chapter, who engages in the business of wrecking motor vehicles or trailers within the corporate limits of the city without having first applied for and received a permit pursuant to the provisions of this chapter shall be guilty of a misdemeanor. (Ord. 305 § 2, 1974)

5.36.030 Permit required for each place of business.

The motor vehicle wrecker's permit as authorized by the provisions of this chapter shall be necessary for each and every place of business of a motor vehicle wrecker within the corporate limits of the city. The permit shall not be assignable or transferable. (Ord. 305 § 3, 1974)

5.36.040 Application for permit.

Application for a motor vehicle wrecker's permit shall be made on the form for this purpose furnished by the city clerk, shall be signed by the motor vehicle wrecker or his authorized agent, and shall include the following:

A. The name and address of the person, firm, partnership, association or corporation which will conduct the business of motor vehicle wrecking, and the trade or business name to be used in such business;

B. Names and residence addresses of all persons having an interest in the business, or, if the owner is a corporation, the names and addresses of the officers thereof;

C. The legal description and a definite plot plan of the location of the proposed motor vehicle wrecking yard;

D. Any other information that the city council may require. (Ord. 305 § 4, 1974)

5.36.050 Issuance of permit – Posting.

A. The application, together with a fee as established by resolution, shall be forwarded to the city clerk.

B. Upon receipt of the application, the city clerk shall, after approval by the planning commission and the city council, and when in conformity with the provisions of this section, issue a motor vehicle wrecker's permit authorizing the applicant to operate a motor vehicle wrecking yard at the location noted on the application. Upon receipt of the permit, the auto wrecker shall cause it to be permanently displayed in its place of business where it may be inspected by an investigating officer at any time. (Ord. 2005-029 § 2; Ord. 305 § 5, 1974)

5.36.060 Issuance of permit – Pending zoning change.

Repealed by Ord. 2001-014. (Ord. 305 § 6, 1974)

5.36.070 Vesting of rights under permit.

The right to construct and operate a wrecking yard in accordance with a motor vehicle wrecker's permit vests on the date that the party applies for their motor vehicle wrecker's permit if the permit is issued and is consistent with the zoning ordinances, building regulations and provisions of this section in force at the time of the application for the permit. (Ord. 305 § 7, 1974)

5.36.080 Automatic cancellation of unused permit.

The motor vehicle wrecker's permit to operate a motor vehicle wrecking yard at the location noted in the application for the permit will become void and automatically cancelled unless the party commences use of the property listed on the application as an active operating motor vehicle wrecking yard within 180 days from the date of the application. (Ord. 305 § 8, 1974)

5.36.090 Expiration of permit – Renewal.

A. A permit issued on this application shall remain in force until June 30th, next, or until revoked and may be renewed annually upon payment of a renewal fee of \$50.00. Any motor vehicle wrecker who fails or neglects to renew his license prior to July 1st of each year,

or whose permit is revoked, and who thereafter continues to do business, shall be guilty of a misdemeanor.

B. Whenever a motor vehicle wrecker ceases to do business as such or his permit has been revoked, he shall immediately surrender the permit to the city clerk. (Ord. 305 § 9, 1974)

5.36.100 Conduct of business – Violation.

A. Every motor vehicle wrecker issued a permit to engage in the business of motor vehicle wrecking within the corporate limits of the city shall conduct such business in accordance with the following requirements:

1. All wrecking, dismantling, disassembling or work substantially changing the form of any motor vehicle or trailer, including the burning thereof, and all storage of vehicles or parts of vehicles wrecked or to be wrecked, shall be conducted entirely inside a building or buildings or on premises entirely enclosed by a solid fence or wall at least eight feet in height. Such fence or wall shall at all times be maintained in good repair and in a neat, substantial and safe condition.

2. All gasoline, or other inflammable liquid shall be drained and removed from any motor vehicle within such building or buildings or fenced enclosure before such vehicle is wrecked, dismantled, disassembled, burned or substantially changed in form.

3. All vehicles, chassis, parts and accessories acquired by any motor vehicle wrecker shall be confined within the building or buildings or the fenced enclosure at such motor vehicle wrecker's established place of business.

4. Display of all vehicles, chassis, parts and accessories by any motor vehicle wrecker shall be confined within the building or buildings or the fenced enclosure at the established place of business of the motor vehicle wrecker.

B. Every person, firm, partnership, association or corporation violating this section shall be guilty of a misdemeanor. Violation of this section by any motor vehicle wrecker shall be cause for revocation of such motor vehicle wrecker's permit by the city council of the city. (Ord. 305 § 10, 1974)

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5.36.110 Burning operations – Restrictions.

No junk or other material shall be burned on the premises in any incinerator not meeting the requirements of the building code of the city. No junk, wrecked vehicles or other material shall be burned on the premises except in accordance with the ordinances of the city which govern burning with open fires. (Ord. 305 § 11, 1974)

5.36.120 Notice of intent to revoke.

Before any motor vehicle wrecker's permit is revoked by the city council, notice of intent to revoke shall be given to the holder of the permit by registered mail to such holder's address as stated in the application for permit. The notice shall designate a time and place for a hearing before the city council which shall not be less than 10 days from the date of the notice. (Ord. 305 § 12, 1974)

Chapter 5.40

ADULT ENTERTAINMENT

Sections:

- 5.40.010 Purpose and intent.
- 5.40.020 Findings.
- 5.40.030 Definitions.
- 5.40.040 Prohibition.
- 5.40.050 Regulated uses.
- 5.40.060 Sexually-oriented business permit required.
- 5.40.070 Investigation and application.
- 5.40.080 Issuance of permit.
- 5.40.090 Licenses for managers and entertainers of sexually-oriented businesses required.
- 5.40.100 Licenses required for sexually-oriented businesses – Fee.
- 5.40.110 Licenses for managers and entertainers of sexually-oriented businesses required – Fee.
- 5.40.120 Licenses for models and escorts.
- 5.40.130 Manager on premises.
- 5.40.140 License nontransferable.
- 5.40.150 License – Posting and display.
- 5.40.160 Specifications – Adult cabarets and adult theaters.
- 5.40.170 Standards of conduct and operation applicable to adult cabarets.
- 5.40.180 Regulations of adult bookstores, novelty stores, arcades and video stores.
- 5.40.190 Other video store regulations.
- 5.40.200 Exemptions.
- 5.40.210 License – Name of business and place of business.
- 5.40.220 Inspections.
- 5.40.230 Hours of operation.
- 5.40.240 Alcohol prohibited.
- 5.40.250 Barkers prohibited.
- 5.40.260 Recordkeeping requirements.
- 5.40.270 Denial, suspension or revocation of license or permit procedures – Appeal.
- 5.40.275 Suspension or revocation of license/permit – Duration.
- 5.40.280 Applicability to currently operating businesses.
- 5.40.290 Limitations of liability.

- 5.40.300 Penalties for violation.
- 5.40.310 Public nuisance/injunctions.

5.40.010 Purpose and intent.

It is the purpose of this chapter to regulate sexually-oriented businesses and related activities to promote health, safety, morals and general welfare of the citizens of the city of Sequim, and to establish reasonable and uniform regulations to prevent the deleterious location of sexually-oriented businesses within the city. It is not the intent of the city that it should be the purpose or effect of this chapter to impose a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent of the city that it should be the effect of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the State or Federal Constitutions, or to deny access by the distributors and exhibitors of sexually-oriented material to their intended market. Neither is it the intent of the city that it should be the purpose or effect of this chapter to condone or legitimize the distribution of obscene materials. (Ord. 2001-023 § 1)

5.40.020 Findings.

Based upon a wide range of evidence presented to the Sequim city council and to other jurisdictions, including but not limited to the testimony of law enforcement officers and members of public, and on other evidence, information, publications, articles, studies, documents, case law and material submitted to and reviewed and considered by the city council and staff, the councils of other cities within the region and in other jurisdictions, nonprofit organizations and other legislative bodies, the city council makes the following findings:

A. Certain conduct occurring on premises offering sexually-oriented business creates secondary impacts that are detrimental to the public health, safety and general welfare of the citizens of the city, and therefore such conduct must be regulated as provided herein.

B. Regulation of the sexually-oriented business industry through permitting and/or licensing is necessary because, in the absence

of such regulation, significant criminal activity has historically and regularly occurred.

C. Proximity between entertainers and patrons during adult entertainment performances can facilitate sexual contact, prostitution and related crimes. Concerns about crime and public sexual activity are legitimate and compelling concerns of the city, which demand reasonable regulation of adult entertainment establishments in order to protect the public health, safety and general welfare.

D. It is necessary to license entertainers in the sexually-oriented industry to prevent the exploitation of minors, to ensure that each such entertainer is an adult, and to ensure that such entertainers have not assumed a false name, which would make regulation of the entertainer difficult or impossible.

E. The evidence supporting the need to protect minors and families from the criminal and other unlawful activities associated with the operation of sexually-oriented businesses is compelling. The provisions of this chapter are necessary to ensure that sexually-oriented uses in Sequim are conducted a reasonable distance away from places where minors regularly gather, often in large numbers.

F. It is necessary to have a licensed manager on the premises of sexually-oriented businesses at such times as such establishments are offering sexually-oriented business so there will, at all necessary times, be an individual responsible for the overall operation of the establishment, including the actions of patrons, entertainers and other employees.

G. The license fees required herein are nominal fees imposed as necessary cost recoupment measures designed to help defray the substantial expenses incurred by the city in regulating the sexually-oriented businesses, and in increased police costs in enforcement.

H. Enterprises providing sexually-oriented businesses are increasingly associated with ongoing prostitution, disruptive conduct and other criminal activity. Such businesses are currently not subject to effective regulation and constitute an immediate threat to the public peace, health and safety. The hours of oper-

ation of such businesses have a significant impact on the occurrence of illegal drug transactions and other criminal activities.

I. Due to the information presented regarding the connection of prostitution with sexually-oriented businesses, there is concern over sexually-transmitted diseases, which is a legitimate health concern of the city and thus requires regulation of sexually-oriented businesses in order to protect the health, safety and well being of the public.

J. Many cities, including Seattle and Tacoma, have experienced negative secondary impacts from sexually-oriented business land uses. The skid row effect is one of these secondary impacts and is evident in certain parts of Seattle. Such an effect would be significantly magnified in Sequim due to the difference in size and characteristics of the city.

K. The city of Sequim may rely on the experiences and studies of other cities, counties and organizations in assessing the need for regulation of sexually-oriented business uses, operations and licensing.

L. The city takes notice of studies and experiences of other cities and counties in combating the specific adverse impacts of sexually-oriented businesses.

M. Regulation of sexually-oriented businesses should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than in response to an existing problem.

N. Increased levels of criminal activities occur in the vicinity of sexually-oriented businesses. Additionally, hidden ownership interests for the purpose of skimming profits, avoiding payment of taxes, and racketeering have historically occurred in sexually-oriented businesses, in the absence of regulations.

O. The city council therefore finds that the protection and the preservation of the public health, safety and welfare requires establishment of this chapter.

P. There are sufficient important and substantial government interests to provide a constitutional basis for reasonable regulation of time, place, and manner under which sexually-oriented businesses can operate.

Q. It is not the intent of this chapter to unconstitutionally suppress any speech activities protected by the First Amendment of the United States Constitution nor Article 1, Section 5 of the Washington State Constitution, but to enact content-neutral ordinances which address the secondary effects of sexually-oriented businesses, as well as the health problems associated with such businesses.

R. In a family community, sexually-oriented businesses are not uniformly compatible with community standards, as defined during the numerous public hearings.

S. The law enforcement resources available for responding to problems associated with or created by sexually-oriented businesses are limited and are best conserved by regulating and licensing sexually-oriented businesses and those associated with them.

T. In order to assure that all conditions, regulations, etc. are met, the city has established a reasonable time period for review of license applications. (Ord. 2001-023 § 1)

5.40.030 Definitions.

For the purposes of this chapter, certain terms and words are defined as follows:

A. “Sexually-oriented business” shall mean those businesses defined as follows:

1. “Adult arcade” shall mean an establishment containing any individual viewing areas or booths, where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions of specified sexual activities or specified anatomical areas.

2. “Adult bookstore,” “adult novelty store,” or “adult video store” shall mean a commercial establishment which has 30 percent or more of its inventory or floor space used for the sale or rental, for any form of consideration, of any one or more of the following:

a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations or sexually-oriented

paraphernalia or novelty items, which are characterized by the depiction, description or reproduction of specified sexual activities or specified anatomical areas.

b. An establishment may have other principal business purposes that do not involve the offering for sale or rental of materials depicting, describing or reproducing specified sexual activities or specified anatomical areas, and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as 30 percent or more of its inventory or floor space is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

c. Video stores that sell and/or rent video tapes or other photographic reproductions and associated equipment shall come within this definition if 30 percent or more of the inventory or floor space includes the rental or sale of video tapes or other photographic reproductions or associated equipment which are characterized by the depiction, description or reproduction of specified sexual activities or specified anatomical areas.

3. “Adult cabaret” shall mean a nightclub, bar, restaurant, or similar commercial establishment, whether or not alcoholic beverages are served, which features sexually-oriented live entertainment.

4. “Adult motel” means a hotel, motel, or similar commercial establishment:

a. Which offers sleeping accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

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b. Which offers a sleeping room for rent for a rental fee period of time that is less than 20 hours; or

c. Which allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 20 hours.

5. "Adult motion picture theater" shall mean a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions characterized by the depiction or description of specified anatomical areas or specified sexual activities are shown for any form of consideration.

6. "Adult theater" shall mean a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, features persons who appear live in a semi-nude or nude state, or live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities.

7. "Escort agency" means a person or business association that furnishes, offers to furnish, or advertises to furnish escorts as its business purpose for a fee, tip, or other consideration. This shall not include any escort service offered by a charity or nonprofit organization for medical assistance or assistance to the elderly or infirm.

8. "Nude or semi-nude model studio" shall mean any place where a person who appears nude or semi-nude, or displays specified anatomical areas, is provided for money or any other form of consideration, to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

B. "Barker" shall mean any person who is located at the entrance of or outside of a sexually-oriented business, and attempts to solicit business for the same by using voice or gestures.

C. "City" means the city of Sequim, Washington.

D. "Director" means the city manager, or designee.

E. "Employee" means any and all persons, including managers, entertainers, and independent contractors who work in or at or render

any services directly related to the operation of any sexually-oriented business of live entertainment, adult theater, or adult use establishments, whether or not such person is paid compensation by the operator of said business.

F. "Entertainer" means any person who provides sexually-oriented live entertainment in an adult cabaret or adult theater, whether or not they are an employee of the business and whether or not a fee is charged or accepted for such entertainment, and whether or not nude, semi-nude or clothed.

G. "Manager" means any person who manages, directs, administers, or is in charge of the affairs and/or the conduct of a sexually-oriented business.

H. "Escort" means a person who provides services for an escort service as defined herein, who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

I. "Establishment" shall mean and include any of the following:

1. The opening or commencement of any sexually-oriented business as a new business; or

2. The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented businesses defined herein; or

3. The addition of any of the sexually-oriented businesses defined herein to any other existing sexually-oriented business; or

4. The relocation of any such sexually-oriented business; or

5. An existing sexually-oriented business.

J. "Nude or state of nudity" shall mean the appearance or less than complete and opaque covering of the human anus, male genitals, female genitals, or the areola or nipple of the female breast.

K. "Operator" shall mean and include the owner, significant stockholder or significant owner of interest, permit holder, custodian, manager, operator, or person in charge of any permitted or licensed premises.

L. "Permitted and/or licensed premises" shall mean any premises that require a license and/or permit and that is classified as a sexually-oriented business.

M. "Permittee and/or licensee" shall mean a person in whose name a permit and/or license to operate a sexually-oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

N. "Person" shall mean any individual, firm, joint venture, co-partnership, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver or any other group or combination acting as a unit.

O. "Semi-nude" shall mean a state of dress in which clothing completely and opaquely covers no more than the genitals, pubic region, and areola and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

P. "Specified anatomical areas" shall mean and include any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, anus, or areola of the female breasts or any artificial depiction of the same; or

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

Q. "Specified criminal activities" shall mean any conviction for acts which are sexual crimes against children, sexual abuse, rape, or distribution of obscenity or erotic material to minors, prostitution, pandering, or racketeering.

R. "Specified sexual activity" shall mean and include any of the following:

1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts; or

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or

3. Masturbation, actual or simulated; or

4. Human genitals or artificial depictions of the same in a state of sexual stimulation, arousal or tumescence; or

5. Excretory functions as part of or in connection with any of the activities set forth in subsections (R)(1) through (4) of this section.

S. "Sexually-oriented live entertainment" means:

1. Any performance or dance of any type conducted in a commercial premises for a member or members of the public where such exhibition, performance or dance involves a person who is nude or semi-nude; or

2. Any exhibition, performance, or dance of any type conducted in a commercial premises for a member or members of the public where such exhibition, performance or dance is distinguished or characterized by the performer's exposure of specified anatomical areas or performance of specified sexual activities; or

3. Any exhibition, performance or dance intended to sexually stimulate a member of the public where such exhibition, performance or dance is performed for, arranged with, or engaged in with fewer than all members of the public on the premises at the time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance.

T. "Obscenity" shall mean the definition of lewd material provided by RCW 7.48.050, including any matter:

1. Which the average person applying contemporary community standards would find when considered as a whole, appeals to the prurient interests in sex; or

2. Which explicitly depicts or describes patently offensive representations or descriptions of:

- a. Ultimate sexual acts, normal or perverted, actual or simulated; or

- b. Masturbation, fellatio, cunnilingus, bestiality, excretory functions or lewd exhibitions of the genital or genital areas; or

- c. Violent or destructive sexual acts, including, but not limited to, human and or animal mutilation, dismemberment, rape and/or torture; or

- d. Has a dominant theme which appeals to the prurient interests of minors and sex; which is patently offensive because it

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affronts contemporary community standards relating the description or representation of sexual matters or sadomasochistic abuse; and

e. Which when considered as a whole lacks serious, literary, artistic, political or scientific value.

U. "Transfer of ownership or control of a sexually-oriented business" shall mean and include any of the following:

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

2. The transfer of securities which constitutes a controlling interest in the business, whether by sale, exchange, or similar means; or

3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control. (Ord. 2001-023 § 1)

5.40.040 Prohibition.

A. For the reasons stated in the recitals and in SMC 5.40.010 and 5.40.020, a person shall not use any property or premises for a sexually-oriented business within the city of Sequim, except as permitted in this chapter.

B. No person shall operate a sexually-oriented business, as defined in this chapter, in any zone district in the city except as specifically permitted or conditionally permitted by SMC Title 18, Zoning.

C. No person shall operate a sexually-oriented business without first being issued a city of Sequim business license as required by Chapter 5.04 SMC. (Ord. 2001-023 § 1)

5.40.050 Regulated uses.

All sexually-oriented businesses are subject to the provisions of SMC 5.40.040 and the regulations contained in this chapter. (Ord. 2001-023 § 1)

5.40.060 Sexually-oriented business permit required.

A. A person may not conduct or operate a sexually-oriented business without a permit issued by the city for the particular type of business.

B. The city manager, or designee, is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually-oriented business permits and related licenses. The city manager, along with the building official and/or his/her/their designee(s) are responsible for ascertaining whether a proposed sexually-oriented business for which a permit and/or license is being applied for complies with all requirements enumerated herein and all other applicable zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of the ordinance codified in this chapter.

C. An application for a sexually-oriented business permit shall be made on a form provided by the city. Each person desiring to operate a sexually-oriented business shall file with the city clerk or designee an application supplied by the city.

D. The completed application shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is an individual/sole proprietor:

a. The individual/owner shall state his/her legal name and any aliases, stage names, or previous names, date of birth, positive identification and submit satisfactory proof that he/she is 18 years of age or older, business, mailing address and business telephone number.

2. If the applicant is a partnership:

a. The partnership shall state its complete name, and the legal names of all partners, including their dates of birth, and submit satisfactory proof that each is 18 years of age and whether the partnership is general or limited, and a copy of the partnership agreement, if any.

3. If the applicant is a corporation:

a. The corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the state of Washington, the legal names, dates of birth, proof that each is 18 years of age or older and the capacity of all officers, directors and principal stockholders, the name of the registered corporate agent, and

the address of the registered office for service of process.

b. As a part of the application process, each officer, director, or principal stockholder, as defined above, shall provide the city clerk or designee with an affidavit attesting to their identity and relationship to the corporation. Principal stockholders shall mean those persons who own 10 percent or greater interest in the sexually-oriented business.

c. Whether the applicant or a partner, corporate officer, or director of the applicant holds another license under this chapter or a license for a similar live adult entertainment or sexually-oriented business, including a motion picture theater and a panorama, from the jurisdiction of another city or county or state, and, if so, the name and address of each other licensed business.

d. A summary of the business history of the applicant and applicant control persons in owning or operating the live adult entertainment or other sexually-oriented business, providing names, addresses, and dates of operation for the businesses and whether a business license or live adult entertainment establishment license has been revoked or suspended and the reason for the revocation or suspension.

e. For the applicant and all applicant control persons, all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions, including the dates of conviction, nature of the crime, name and location of the court, and disposition.

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

g. Authorization for the jurisdiction and the jurisdiction's agents and employees to seek information to confirm statements set forth in the application.

h. The location and doing-business-as name of the proposed live adult entertainment establishment, including a legal description of the property, street address, and

telephone number, together with the name and mailing address of each owner and lessee of the property.

i. A complete set of fingerprints for the applicant or each applicant control person, taken by the law enforcement agency for the jurisdiction, or such other entity as authorized by the law enforcement agency.

j. A scale drawing or diagram showing the configuration of the premises for the proposed live adult entertainment establishment, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms, and service areas must be clearly marked on the drawing. An application for a license for a live adult entertainment establishment must include building plans that demonstrate conformance with the jurisdiction's building code requirements.

k. Applicants for a permit and/or license under this chapter shall have a continuing duty to promptly supplement application information required in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within 30 days from the date of such change by supplementing the application on file with the city finance department shall be grounds for suspension of a permit and/or license.

l. In the event the city manager or designee determines or learns at any time that the applicant has improperly completed the application for a proposed sexually-oriented business permit or license, he/she shall promptly notify the applicant of such fact and allow the applicant 10 days to properly complete the application. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application).

m. The applicant must be qualified according to the provisions of this section, must have a current city business license, and the premises must be inspected and found to be

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in compliance with all health, fire, and building codes applicable in the city.

n. The applicant shall be required to pay a preliminary nonrefundable processing fee established by resolution at the time of filing an application under this section. Note: This is a processing fee. License fees shall also be required in the event the application is approved.

o. The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually-oriented business permit.

p. The application form for licenses and permits issued under this chapter shall contain a provision providing that under penalty of perjury the applicant verifies that the information contained therein is true to the best of his/her knowledge.

q. Attached to the license shall be a one-and-one-half-inch by two-inch color photograph of the applicant, including corporate applicants, showing the full face of the same, taken by the city, at a charge of \$2.00, to be paid by the applicant at the time of the application. The license, when issued, shall have affixed to it the photograph of the applicant. (Ord. 2001-023 § 1)

5.40.070 Investigation and application.

A. Upon receipt of an application properly filed with the city clerk or designee, and upon payment of the nonrefundable processing fee, the city manager or designee shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the various departments of the city or other agencies responsible for enforcement of health, fire, and building codes and laws. Each department or agency shall promptly conduct an investigation of the application and the proposed sexually-oriented business. Said investigation shall be completed within 20 working days of receipt of the application by the city clerk or designee, unless circumstances support extending the same. If so, the city shall inform the applicant of the same and why. At the conclusion of its investigation, an appropriate representative of

each department or agency shall indicate on the photocopy of the application its recommendation as to approval or disapproval of the application, date it, sign it, forward it to the city clerk or designee, and in the event that the department or agency recommendation is for disapproval, the specific reasons for the recommendation shall be stated, citing applicable laws, regulations and reasons.

B. A department or agency shall recommend disapproval of an application if it finds that the proposed sexually-oriented business will be in violation of any provision of any statute, code, ordinance, regulation, or other law in effect in the city, or if the applicant does not meet the conditions as specified in this chapter. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the city clerk or designee. (Ord. 2001-023 § 1)

5.40.080 Issuance of permit.

A. The city manager or designee shall grant or deny an application for a permit within 30 days from the date of its proper filing unless the city or applicant establishes a good reason for an extension.

B. Grant of Application for Permit.

1. The city manager or designee shall grant the application unless one or more of the criteria set forth in subsection (C) of this section, Denial of Application for Permit, is present.

2. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually-oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that it can be easily read at any time. It shall be valid for the period of time provided in this chapter.

C. Denial of Application for Permit. The city manager or designee shall deny the application for any of the following reasons:

1. An applicant is under 18 years of age or will be employing a person under 18 years of age.

2. An applicant is overdue on his/her payment to the city of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually-oriented business.

3. An applicant has failed to provide information required by this chapter, SMC 5.40.060, or the application for the issuance of the permit, or has falsely answered a question or request for information on the application form.

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

5. The applicant has failed to comply with any city codes or other state or federal regulations or court order.

6. The applicant has been convicted, forfeited bail or otherwise had an adverse finding against him or her for a specified criminal activity within the four years prior to the application date. (Ord. 2001-023 § 1)

5.40.090 Licenses for managers and entertainers of sexually-oriented businesses required.

A. A person may not work as a manager, assistant manager, or entertainer at a live adult entertainment establishment without a manager’s or an entertainer’s license issued by the city. An applicant for a manager or entertainer’s license must complete an application on forms provided by the clerk or designee containing the information identified in this subsection. A nonrefundable application fee must accompany the application. The clerk or designee shall provide a copy of the application to the law enforcement agency of the jurisdiction for its review, investigation, and recommendation. An application for a manager or entertainer’s license must be signed by the applicant and certified to be true under penalty of perjury. The manager’s or entertainer’s license application must require the following information:

1. The applicant’s name, mailing address, home telephone number, date and place of birth, fingerprints taken by the law enforcement agency of the jurisdiction or such other entity as authorized by the local law

enforcement agency, and any stage names or nicknames used in entertaining;

2. The name and address of each live adult entertainment establishment at which the applicant intends to work;

3. Documentation that the applicant has attained the age of 18 years. Any two of the following are acceptable as documentation of age:

a. A motor vehicle operator’s license issued by a state, bearing the applicant’s photograph and date of birth;

b. A state-issued identification card bearing the applicant’s photograph and date of birth;

c. A passport issued by the United States of America;

d. An immigration card issued by the United States of America; or

e. Other identification that the jurisdiction determines to be acceptable and reliable;

f. A complete statement of all convictions of the applicant for misdemeanor or felony violations in the jurisdiction or another city, county, or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions;

g. A description of the applicant’s principal activities or services to be rendered;

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

i. Authorization for the city and its agents and employees to investigate and confirm statements in the application.

B. The clerk or designee may request additional information or clarification if necessary to determine compliance with this chapter.

C. The contents of an application for an entertainer’s license and any additional information submitted by an applicant for an entertainer’s license are subject to public disclosure under Chapter 42.17 RCW. Nothing in this subsection prohibits the exchange of information among government agencies for law enforcement or licensing purposes.

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D. An entertainer shall provide the entertainer's license to the live adult entertainment establishment manager on duty on the premises before the entertainer's performance. The manager shall retain the license of the entertainer so as to be readily available for inspection by the jurisdiction during business hours of the live adult entertainment establishment.

E. The clerk or designee shall issue a live adult entertainment establishment manager's or entertainer's license within 14 days from the date the complete application and fee are received unless the clerk or designee determines that the applicant failed to provide information required to be supplied according to this chapter, made a false, misleading or fraudulent statement of material fact in the application, failed to meet a requirement for issuance of a license under this chapter, failed to comply with any city codes or other state regulations, or has been convicted, forfeited bail or otherwise had an adverse finding against him or her for a specified criminal activity within the four years prior to the application date. If the clerk or designee determines that the applicant does not qualify for the license, then he/she shall deny the application in writing and shall cite the specific reasons for the denial, including applicable laws. If the clerk or designee fails to approve or deny an application for a live adult entertainment establishment manager's license within 14 days of filing of a complete application, the applicant may, subject to all other applicable laws, commence work as a live adult entertainment establishment until notified by the city designee that the license is denied, but the city designee may not extend the application review time for more than an additional 20 days.

F. An applicant for an entertainer or manager's license must be issued a temporary license upon receipt of a complete license application and fee. The temporary license automatically expires on the fourteenth day following the filing of the complete license application and fee unless the clerk or designee fails to approve or deny the license application, in which case the temporary license is valid until approval or denial of the application or

until the final determination of an appeal from a denial of the application. The city designee may not extend the application review time for more than an additional 20 days. (Ord. 2001-023 § 1)

5.40.100 Licenses required for sexually-oriented businesses – Fee.

A. No sexually-oriented business shall be operated or maintained in the city of Sequim unless the owner or operator has obtained a sexually-oriented business permit as set forth in this chapter, and the applicable licenses from the clerk or designee.

B. The annual fee for a sexually-oriented business license shall be established in resolution, in the amount provided as the annual fee for an adult entertainment business license. The amount shall be used for the cost of administration and enforcement of this chapter.

C. The above-referenced licenses expire on the thirty-first day of December each year. Application for renewal must be made no later than 30 days before expiration.

D. The clerk or designee shall renew a license upon application unless he/she is aware of a fact that would disqualify the applicant from being issued the license for which the applicant seeks renewal and if the application complies with this chapter. The clerk or designee shall provide written notice to the licensee of the decision not to renew the license. The notice must include the reason for the decision not to renew and inform the licensee of the right to appeal the decision to the designated hearing body.

E. The applicant must be 18 years of age or older. (Ord. 2001-023 § 1)

5.40.110 Licenses for managers and entertainers of sexually-oriented businesses required – Fee.

A. No person shall work as a manager or entertainer at any sexually-oriented business without having first obtained the appropriate entertainer or manager's license from the city, as described above. A nonrefundable processing fee established by resolution shall accompany the application.

B. The annual fee for such a license shall be established by resolution, in the amount provided as the annual fee for an adult entertainer/manager license. The amount shall be used for the cost of administration and enforcement of this chapter.

C. The above-referenced licenses expire one year after the date of issuance or renewal, and must be renewed no later than 14 days prior to the expiration date.

D. The clerk or designee shall renew a license upon application unless he/she is aware of a fact that would disqualify the applicant from being issued the license for which the applicant seeks renewal and if the application complies with this chapter. The clerk or designee shall provide written notice to the licensee of the decision not to renew the license. The notice must include the reason for the decision not to renew and inform the licensee of the right to appeal the decision to the designated hearing body. (Ord. 2001-023 § 1)

5.40.120 Licenses for models and escorts.

No person shall work as a model at a nude or semi-nude model studio or as an escort as defined herein without having first obtained a model or escort license from the clerk or designee.

A. Each such applicant shall complete an application containing the information identified in SMC 5.40.090 and the same procedures shall be followed as set forth in SMC 5.40.110. A nonrefundable processing fee established by resolution shall accompany the application.

B. The annual fee for such a license shall be established by resolution, in the amount provided as the annual fee for an adult entertainer/manager license. The amount shall be used for the cost of administration and enforcement of this chapter.

C. The above-referenced licenses expire one year after the date of issuance or renewal, and must be renewed no later than 14 days prior to the expiration date.

D. The applicant must be 18 years of age or older. (Ord. 2001-023 § 1)

5.40.130 Manager on premises.

A licensed manager shall be on duty at all sexually-oriented business premises at all times, whether the business provides live or other performances. The responsibilities of the manager include but are not limited to:

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

B. The licensed manager on duty shall not be an entertainer.

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

D. The manager is responsible for and must ensure that the actions of members of the public, the entertainers, and all other employees comply with this chapter. (Ord. 2001-023 § 1)

5.40.140 License nontransferable.

No license or permit issued pursuant to this chapter shall be transferable. (Ord. 2001-023 § 1)

5.40.150 License – Posting and display.

A. Every entertainer, manager, escort or model shall post his/her license in his/her work area so that it is readily available for public inspection.

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B. Every person, corporation, partnership, or association licensed under this chapter shall display its license in a prominent place within the establishment. In the case of adult cabarets, the name of the manager on duty shall be prominently posted during business hours. (Ord. 2001-023 § 1)

5.40.160 Specifications – Adult cabarets and adult theaters.

A. Separation of Sexually-Oriented Live Entertainment Performance Area. The portion of adult cabaret, adult theater or any other premises in which sexually-oriented live entertainment is performed shall be either:

1. A stage or platform, visible to all members of the public at the premises, at least 24 inches in elevation above the level of the patron seating areas, and shall be separated by a distance of at least six feet from all areas of the premises to which patrons have access. A continuous railing at least three feet in height and located at least six feet from all points of the sexually-oriented live entertainment performance area shall separate the performance area and the patron areas; or

2. A private table stage comprised of seating, beverage tray, and entertainment surface. The beverage tray shall be no more than 38 inches from the floor and the performance surface shall be no less than 50 inches above the floor level. Additionally, the outermost edge of the entertainment surface shall be separated from the outermost edge of the beverage tray by no less than 24 inches measured horizontally. All private table stages shall be visible from the entrance of the establishment and from a manager's station and shall not be obscured by any curtain, door, wall or other enclosure.

B. Lighting. Sufficient lighting shall be provided and equally distributed in and about the parts of the premises which are open to and used by patrons so that all objects are plainly visible at all times, and so that on any part of the premises which are open to and used by patrons a program, menu, or list printed in eight point type will be readable by the human eye with 20/20 vision from two feet away.

C. Submittal of Plans. Building plans and lighting calculations showing conformance with the requirements of this section shall be included with any application for an adult cabaret or adult theater business license. Building plans must be in compliance with all building, planning and other applicable state, local and federal regulations. (Ord. 2001-023 § 1)

5.40.170 Standards of conduct and operation applicable to adult cabarets.

A. Standards for Patrons, Employees and Entertainers. The following standards of conduct must be adhered to by patrons, entertainers and/or employees of adult cabarets at all times live performances are provided:

1. No employee or entertainer shall be unclothed or in less than opaque and complete attire, costume or clothing so as to expose to view any portion of female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except in the performance areas described in SMC 5.40.160(A).

2. An employee or entertainer mingling with the public may not be unclothed or in less than opaque and complete attire, costume, or clothing as described in subsection (A)(1) of this section.

3. An employee or entertainer mingling with a member of the public may not conduct a dance, performance, or exhibition in or about the nonperformance area of the live adult entertainment establishment unless that dance, performance, or exhibition is performed at a distance of at least six feet from the member of the public for whom the dance, performance, or exhibition is performed. The distance of six feet is measured from the torso of the dancer to the torso of the member of the public.

4. No patron or customer shall go into or upon the sexually-oriented live performance areas described in SMC 5.40.160(A).

5. No member of the public, employee or entertainer or patron shall allow, encourage, or knowingly permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, pubic area, or genitals of themselves or another.

6. An employee or entertainer may not caress, fondle, or erotically touch a member of the public or another employee. An employee may not encourage or permit a member of the public to caress, fondle, or erotically touch that employee. A member of the public may not caress, fondle or erotically touch an employee or entertainer.

7. No employee or entertainer shall perform acts of or acts which simulate sexual intercourse, masturbation, bestiality, sodomy, oral copulation, flagellation, or any sexual acts the performance of which are prohibited by law.

8. No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection.

9. No entertainer shall be visible from any public place outside the premises during the actual or apparent hours of his/her employment or performance on the premises.

10. No tip or gratuity or other payment offered to or accepted by an adult entertainer may be offered or accepted prior to any performance, dance or exhibition provided by the entertainer. No entertainer performing in the performance area shall be permitted to accept any form of gratuity or other payment offered directly to the entertainer by any patron. Any gratuity or other payment offered to any entertainer performing upon any stage area must be placed upon the stage or platform separation rail, or in the case of private table stages, placed directly upon the table stage surface. Any gratuity or tip or other payment offered to any adult entertainer conducting any performance, dance or exhibition in or about the non-stage area of the adult entertainment establishment shall be placed into a receptacle provided for receipt of gratuities by the adult entertainment establishment or provided through a manger on duty on the premises.

11. It is unlawful for any entertainer, employee, manager, or waitperson to perform more than one such function at an adult cabaret on the same business day.

12. Except as provided in subsection (A)(10) of this section, no customer or patron of an adult cabaret shall give to an entertainer,

either directly or indirectly, or otherwise provide an entertainer with, a gratuity or other payment, except an initial entrance fee or similar fee set out by the premises.

13. Entertainers are required to use separate restroom facilities.

14. At least one sign on each private table stage in English, 12 point print or larger, shall be conspicuously displayed stating the following:

CITY OF SEQUIM ENTERTAINMENT REGULATIONS:

(a) Entertainers may not extend any portion of their body beyond the edge of the performance stage;

(b) Touching or any physical contact is prohibited and may lead to arrest of patron and/or entertainer;

(c) Entertainers are not permitted to accept tips or gratuities or other payments directly from patrons. All tips or gratuities or other payments must be placed upon the stage surface, railing, or placed in common receptacle.

15. At least two additional signs, readable from at least 20 feet distance, shall be posted in the premises. One shall be posted conspicuously at the entrance to the establishment, and the other shall be conspicuously placed within the entertainer's dressing room. These signs shall state the following:

THE ADULT CABARET OR ADULT THEATER IS REGULATED BY THE CITY OF SEQUIM.

ENTERTAINERS ARE:

(a) Not permitted to engage in any type of sexual conduct.

(b) Not permitted to appear semi-nude or nude except on stage.

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(c) Entertainers are not permitted to accept tips or gratuities or other payments directly from patrons. All tips or gratuities or other payments must be placed upon the stage surface, railing, or placed in common receptacle.

(d) Touching between patrons and entertainers is prohibited and may lead to arrest of patron and/or entertainer.

16. There must be at least one employee not an entertainer on duty and situated in any public area at all times that any patron, member or customer is present inside the premises.

17. Doors to areas on the premises which are available for use by persons other than the owner, manager, operator or their agents or employees may not be locked during business hours.

18. No person may operate or maintain any warning system or device, of any nature or kind, for the purpose of warning or aiding and abetting the warning of patrons, members, customers or any other persons that police officers or health, fire or building inspectors are approaching or have entered the premises.

B. Standards for Owner or Operator of Adult Cabarets or Adult Theaters. At any adult cabaret or adult theater where live performances are provided:

1. Admission must be restricted to persons of the age of 18 years or more pursuant to RCW 9.68A.150, and the identification of all patrons must be checked by the employees of the premises.

2. Sufficient lighting shall be provided in or about the parts of the premises which are open to and used by the public so that all objects are plainly visible at all times, and allows for the reading of a program, menu, or list printed in eight point type by the human eye with 20/20 vision from two feet away.

3. It is unlawful for any manager to perform more than one such function at an adult cabaret on the same business day, and it is unlawful for any manager to allow or permit any entertainer, employee, manager, or wait-person to perform more than one such function at an adult cabaret on the same business day.

4. All prices, costs, charges of any services, performances, products, function or items for which a charge or cost is to be paid shall be listed and identified, in English, on a chart, sign or similar board, of sufficient size to be readable at 20 feet, conspicuously displayed and visible from the entrance area of the establishment. (Ord. 2001-023 § 1)

5.40.180 Regulations of adult bookstores, novelty stores, arcades and video stores.

All adult bookstores, adult novelty stores, adult arcades, or adult video stores having facilities for customers' viewing of depictions of human nudity and/or specified sexual activity of any nature, including depictions of specified sexual activities, shall comply with the following regulations:

A. Construction/Maintenance.

1. The viewing areas within the sexually-oriented adult arcade premises shall each be visible from the entrance of the establishment and from a manager's station and shall not be obscured by any curtain, door, wall or other enclosure. As used in this section "viewing area" means the area where a patron or customer would be positioned while watching a film, video or other viewing device.

2. All areas shall be maintained in a clean and sanitary condition at all times with sufficient lighting so that all objects are plainly visible at all times or listed print in eight point type will be readable by the human eye with 20/20 vision from two feet away.

3. Restrooms may not contain video reproduction equipment.

4. No steps or risers are allowed in any adult arcade booth or station.

5. No adult arcade station or booth shall have more than one stool type seat. In order to prevent obscuring the occupant of an adult arcade station or booth from view, no stool for seating within an adult arcade station or booth shall have any seat back or sides.

6. All ventilation devices between the adult arcade booths must be covered by a permanently affixed ventilation cover. Ventilation holes may only be located one foot from the top of the booth walls or one foot from the

bottom of the booth walls. There may not be any other holes or openings (“glory holes,” etc.) in the booths.

7. No person may operate any kind of warning device or system for the purpose of warning or aiding or abetting the warning of any patron, employee or other persons that the police, health, fire or building inspector or other public officials are approaching or entering the premises.

8. The licensee shall not permit any doors to public areas on the premises to be locked during business hours, in violation of the applicable provisions of the Sequim Building Code, Uniform Fire Code, and National Fire Protection Association Code, or other applicable codes.

9. No person under 18 years of age shall be permitted in such premises. The employees shall check identification of all who enter.

B. Unlawful Conduct. The following conduct or activity is unlawful:

1. Masturbation or sexual activity of any kind in viewing booths.

2. Two or more customers in a viewing booth at the same time.

3. For the owner or manager to knowingly allow any of the disallowed conduct.

4. Noncompliance with any other regulations set forth in this chapter.

C. Signs. At least two signs shall be conspicuously and permanently posted on the premises in readable English type from 10 feet away, advising customers using viewing booths that:

1. Masturbation in such booths is prohibited and unlawful.

2. That it is unlawful for more than one customer to occupy a viewing booth at any time.

3. Violations are subject to criminal prosecution. (Ord. 2001-023 § 1)

5.40.190 Other video store regulations.

Video stores that do not fit the definition of a sexually-oriented business as provided above but that sell or otherwise distribute films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of spec-

ified sexual activities or specified anatomical areas, and less than 30 percent of their revenues inventory or floor space includes such items, shall be subject to state regulations, and the following:

A. All such items as are described above shall be physically segregated and closed off from other portions of the store such that these items are not visible and/or accessible from other portions of the store.

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

C. Signs, in English, readable at a distance of 20 feet shall be posted at the entrance to the area where such items are displayed stating that persons under the age of 18 are not allowed access to the area where “erotic” items as defined by state statute and/or court order are displayed.

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

E. Rental or sale of obscene material (as defined herein) shall be considered a moral nuisance, and subject to abatement pursuant to this chapter and RCW 7.48.058.

F. Employees of such video stores shall check identification for the age of all persons renting or purchasing such “erotic” items.

G. The store shall not employ anyone under 18 if the store sells or otherwise distributes films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. (Ord. 2001-023 § 1)

5.40.200 Exemptions.

This chapter shall not be construed to prohibit:

A. A person appearing in a state of nudity or semi-nudity, modeling in a class operated by: a proprietary school, licensed by the state of Washington; a college, junior college, or university supported entirely or partly by taxation; a private college university which maintains and operates educational programs in

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which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or the modeling of clothing or lingerie in a full-service restaurant where no consideration is charged, whether directly or indirectly, specified anatomical areas are opaquely covered and not exposed by the model and the models are not within six feet of any patron of the restaurant;

B. Plays, operas, musicals, or other dramatic works that are not obscene;

C. Classes, seminars, and lectures held for serious scientific or educational purposes that are not obscene; or

D. Exhibitions, performances, expressions or dances that are not obscene. (Ord. 2001-023 § 1)

5.40.210 License – Name of business and place of business.

No person granted a permit and/or license pursuant to this chapter shall operate a sexually-oriented business under a name not specified in his/her license, nor shall he/she conduct business under any designation or at a location not specified in his/her permit and/or license. (Ord. 2001-023 § 1)

5.40.220 Inspections.

A. All books and records required to be kept pursuant to this chapter shall be open to inspection by the chief of police or designee of the city of Sequim during the hours when the licensed premises is open for business. The purpose of such inspection shall be to determine if the books and records meet the requirements of this chapter.

B. The licensed premises shall be (as an implied condition of receiving a sexually-oriented business permit and/or license) open to inspection by the city's chief of police, fire or health officials, or their designees during the hours when the sexually-oriented business premises is open for business. The purpose of such inspection shall be to determine if the licensed premises is operated in accordance with the requirements of this chapter. It is hereby expressly declared that unannounced inspections are necessary to ensure compliance with this chapter. (Ord. 2001-023 § 1)

5.40.230 Hours of operation.

It is unlawful for any sexually-oriented business premises, except adult motels, to be conducted, operated, or otherwise open to the public between the hours of 4:00 a.m. and 11:00 a.m. (Ord. 2001-023 § 1)

5.40.240 Alcohol prohibited.

Alcoholic beverages are prohibited from being served or present at any business subject to regulation under this chapter. (Ord. 2001-023 § 1)

5.40.250 Barkers prohibited.

The use of "barkers" as defined herein by any sexually-oriented business, or business offering sexually-oriented material, shall be prohibited. (Ord. 2001-023 § 1)

5.40.260 Recordkeeping requirements.

A. Within 30 days following each calendar quarter, each sexually-oriented business licensee shall file with the clerk or designee a verified report showing the licensee's gross receipts and amounts paid to entertainers, models, or escorts, if applicable, by quarter for the preceding calendar year.

B. Each sexually-oriented business licensee shall maintain and retain for a period of two years from the date of termination of employment the names, addresses, Social Security numbers and ages of all persons employed or otherwise retained as entertainers, models, and escorts by the licensee. (Ord. 2001-023 § 1)

5.40.270 Denial, suspension or revocation of license or permit procedures – Appeal.

A. When the clerk or designee refuses to grant a license or permit, or revokes or suspends the same, the applicant shall be notified in writing of the same, describing the reasons therefore, and shall inform the applicant of his right to appeal to the city board of adjustment within 10 days of the date of the written notice by filing a written notice of appeal with the city clerk containing a statement of the specific reasons for the appeal and a statement of the relief requested.

B. Whenever the clerk or designee has found or determined that any violation or change in circumstances of this chapter has occurred, s/he shall issue a notice of violation and suspension or revocation (“notice”) to the licensee or permit holder.

The notice shall include the following:

1. Name(s) of person(s) involved.
2. Description of the violation(s), including date and section of this chapter violated.
3. Description of the administrative action taken.
4. Rights of appeal as set forth above.

The notice shall be served either personally or by mailing a copy of the notice by certified mail, postage prepaid, return receipt requested, to the licensee at his or her last known address. Proof of personal service shall be made at the time of service by a written declaration under penalty of perjury, executed by the person affecting the service, declaring the time, date, and the manner by which service was made. The decision may be appealed to the city board of adjustment if request for appeal is filed with the city clerk within 10 days of date of the notice. Said request shall be in writing, state specific reasons for the appeal, and the relief requested.

C. The suspension or revocation of a license shall be immediately effective unless a stay thereof is specifically requested in the written request for an appeal.

D. Within 10 days of receiving a timely appeal, the city clerk shall forward the administrative record of the licensing decision to the city board of adjustment.

E. When an applicant has appealed the clerk’s or designee’s decision according to the provisions hereof, the city board of adjustment shall review the administrative record at the next regularly scheduled meeting for which proper notice can be given. Written notice of the date and time of the scheduled meeting will be given to the applicant by the city clerk by mailing the same, postage prepaid, to the applicant at the address shown on the license or permit application.

F. If the licensee appeals the notice to the city board of adjustment, the licensee shall be afforded a reasonable opportunity to be heard as to the violation and action taken. The applicant and clerk or designee shall be given an opportunity to argue the merits of the issues of the appeal before the city board of adjustment. Oral argument by each party shall not exceed 10 minutes and shall be limited to the administrative record before the city board of adjustment.

G. The city board of adjustment shall uphold the clerk’s or designee’s decision unless it finds the decision is not supported by substantial evidence in the administrative record. The clerk or designee shall have the initial burden of proof.

H. The city board of adjustment shall issue a written decision within 10 days of hearing the appeal. The city board of adjustment may uphold the clerk’s or designee’s decision and deny the permit, overrule the clerk’s or designee’s decision and grant the permit, or remand the matter to the clerk or designee for further review and action. The clerk or designee shall complete further action or review within 30 days of receiving the remand.

I. The decision by the city board of adjustment shall constitute final administrative review. The applicant shall be responsible for the cost of any preparation of record for appeal.

J. Either party may seek judicial review of a final decision of the city board of adjustment as provided by law.

K. The applicant shall be responsible for the cost of any preparation of record for appeal. (Ord. 2001-023 § 1)

5.40.275 Suspension or revocation of license/permit – Duration.

A. The city shall suspend any license as required by this chapter for a period of 30 days upon the licensee’s first violation of this chapter or other applicable ordinances, statutes, or regulations.

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B. The city shall suspend any license required by this chapter for a period of 90 days upon the licensee's second violation within a 24-month period of this chapter or other applicable ordinances, statutes or regulations.

C. The city shall revoke any license required by this chapter for a period of two years upon the licensee's third, or any subsequent, violation of this chapter or other applicable ordinances, statutes or regulations.

D. Notwithstanding the other provisions of this chapter, the city shall revoke or deny the renewal of any license required by this chapter for two years if the licensee has made any false or misleading statements or misrepresentations to the city.

E. Application for a new license may be made following the expiration of the applicable revocation period. (Ord. 2001-023 § 1)

5.40.280 Applicability to currently operating businesses.

Any sexually-oriented business legally operating upon the effective date of this chapter shall be exempted from the permit and application requirements of SMC 5.40.060, 5.40.070 and 5.40.080 for the remainder of 2001. This section shall not be construed to exempt any legally operating adult bookstore from ceasing to operate portions of such business as an adult arcade pursuant to other regulations. (Ord. 2001-023 § 1)

5.40.290 Limitations of liability.

None of the provisions of this chapter are intended to create a cause of action or provide the basis for a claim against the city, its officials, or employees for the performance or the failure to perform a duty or obligation running to a specific individual or specific individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public. (Ord. 2001-023 § 1)

5.40.300 Penalties for violation.

Any person violating any provision(s) of this chapter shall be guilty of a misdemeanor. Any person convicted of such a violation shall be punished by a fine of not more than \$1,000

or a jail term of not more than 90 days, or both. Each such person is guilty of a separate misdemeanor for each and every day which any violation of this chapter is committed, continued, or permitted by any such person and said person shall be punished accordingly. Any persons violating any of the provisions of this chapter shall also be subject to license suspension or revocation and nuisance abatement as set forth herein. (Ord. 2001-023 § 1)

5.40.310 Public nuisance/injunctions.

Any sexually-oriented businesses in violation of this chapter shall be deemed a public nuisance, which, in addition to all other remedies, may be abated by injunctive relief. (Ord. 2001-023 § 1)