

request shall be deemed a violation of sections 7.000 to 7.080.

7.075 Business License Year, Fee Schedule, Payments and Delinquency Charges.

(1) The business license year shall be the city's fiscal year, July 1st through June 30th.

(2) License fees shall be set by resolution of the council.

(3) The business license fee shall be paid annually in advance of the business license year. If a person begins engaging in business within the first six months (July to December) of the fiscal year, the fee shall be the amount charged for a full year; if a person begins engaging in business during the third quarter (January to March) of the fiscal year, one-half of the annual license fee will be charged for the remainder of the fiscal year; and if a person begins engaging in business during the fourth quarter (April to June) of the fiscal year, one-fourth of the annual license fee will be charged for the remainder of the fiscal year. In situations where a person intentionally engages in business for less than 31 days, one-fourth of the annual fee shall be charged.

(4) The business license fee shall be considered delinquent if not paid by August 1st of the business license year. If a person begins engaging in business after the start of the business license year, the fee shall be considered delinquent if the tax is not paid within 30 days after commencement of the business activity. The date that the business license fee is received by the city or the date of the postmark if remittance is made by mail shall be used in determining when the business license fee is paid.

(5) If the business license fee is not paid on or before the delinquency date, a delinquency charge equal to ten percent of the original business license fee due shall be added for each 30-day period, or fraction thereof, during which the business license fee and any accumulated delinquency charges remain unpaid. The total amount of the delinquency charge for any business license year shall not exceed 100 percent of the business license fee due for the year.

7.080 Transfer, Assignment or Refund of Business License.

(1) No transfer or assignment of any business license issued hereunder shall be valid or permitted except that whenever any person sells or transfers in whole a business for which such license has been paid and not refunded and the operation of the business has not materially changed, then the vendee thereof shall not be required to pay any additional license thereon for the balance of the business license year.

(2) In the event that a person discontinues business activity within the city, the person may be entitled to a prorated refund, based on two-thirds of the paid business license fee. The two-thirds business license fee subject to refund shall be prorated and refunded for each 30-day period remaining in the business license year. Refunds will be made only upon receipt of a written request, signed by both the vendee and the person discontinuing business and a refund check shall be issued within 30 days to the person discontinuing the business.

ADULT BUSINESSES

7.100 Purpose. The purpose of sections 7.100 to 7.185 is to provide for the regulation of certain types of adult business activities that the council finds present an extraordinary risk of being utilized to facilitate and conceal criminal conduct including offenses involving prostitution, controlled substances, theft, gambling, fraud, obscenity and often involving organized, systematic criminal activities. Therefore, sections 7.100 to 7.185 are intended to minimize such risk by providing for the strict regulation of such business activities and by prohibiting those persons who have previously been involved in such criminal conduct from participating in such business activities. In making this determination, the council has specifically considered the impact that such regulations will have upon the competitive nature of such business activities, and finds that the need for such regulations outweighs such impact.

7.105 Definitions. For the purpose of sections 7.100 to 7.185, the following definitions shall apply:

Adult business. The operation of any establishment(s), regardless of whether alcoholic beverages are served or not, to which the public has access, whether or not by purchase of an admission ticket or membership, and which is (are) utilized to present, as a substantial or significant portion of its entertainment, live performances that involve nudity.

Nudity or nude. Being devoid of a covering for the male or female genitalia consisting of an opaque material which does not simulate the organ covered, and, in the case of a female, exposing to view one or both breasts without a circular covering, centered on the nipple, that is at least three inches in diameter and does not simulate the organ covered.

7.110 Permits Required.

(1) It is a violation of this code for any person to engage in, conduct or carry on or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of any adult business unless a permit for such business has first been obtained from the city manager.

(2) It is a violation of this code for any person to entertain in any adult business or to be employed by any adult business unless a permit for such entertainment or employment has first been obtained from the city manager.

7.115 Fees.

(1) Every applicant for a permit to own, maintain, operate or conduct an adult business shall file an application with the city manager and pay a fee in an amount set by council resolution.

(2) Every applicant for a permit to entertain or be employed by any adult business shall file an application with the city manager and pay a fee in an amount set by council resolution.

7.120 Application for Adult Business Permit.

(1) An application for such an adult business permit shall set forth the following:

(a) Written proof that the applicant is at least eighteen years of age;

(b) Business occupation, or employment for the three years immediately preceding the date of application;

(c) The business license and permit history of the person in operating a business identical to or similar to those regulated by sections 7.100 to 7.185;

(d) Whether such person, previously operating such business in this or any other city or state under any license or permit, has had such license or permit revoked or suspended, the reason(s) therefor, and the business activity or occupation of the person subsequent to such action of suspension or revocation;

(e) The name, address, telephone number, birth date and principal occupation of the applicant and managing agent;

(f) The name, address, and telephone number of business or proposed business and a description of the nature of the business to be operated;

(g) Whether the business or proposed business is the undertaking of a sole proprietorship, partnership or corporation. If a partnership, the application shall set forth the names, birth dates, addresses, telephone numbers, principal occupations and respective ownership shares of each partner, whether general, limited, or silent. If a corporation, the application shall set forth the corporate name, a copy of the articles of incorporation, and the name, addresses, birth dates, telephone numbers and principal occupations of every officer, director and shareholder (having more than five percent of the outstanding shares) and the number of shares held by each;

(h) Any criminal convictions, or arrests relating to theft, controlled substances, gambling, prostitution, obscenity, fraud, tax evasion, or racketeering as defined in ORS chapter 166, of each applicant and natural person enumerated in subparagraphs (a) through (g) of this subsection;

(i) All residence addresses for the past three years of each natural person enumerated in subparagraphs (a) through (g) of this subsection;

(j) A personal financial statement of each natural person enumerated in subparagraphs (a) through (g) of this subsection, including the location of all of such persons' bank accounts, the amounts respectively deposited therein, and a complete listing of all outstanding debts and loans.

(2) Each applicant and natural person enumerated in subsection (1) of this section shall personally appear before the chief of police, or his designee, for fingerprinting and the taking of photographs.

(3) The application form required pursuant to this section, which contains personal and business information, shall remain confidential to the maximum extent permitted by law.

7.125 Application to Entertain in or be Employed by an Adult Business.

(1) An application for a permit to entertain or work in an adult business shall set forth the following:

(a) Written proof that the applicant is at least eighteen years of age;

(b) The name, address, telephone number, birth date and principal occupation of the applicant;

(c) The social security number of the applicant;

(d) The name of the business and the business address of the adult business(es) where the applicant intends to entertain or work, if known;

(e) The business, occupation, or employment history of applicant for

the three years immediately preceding date of application;

(f) Any arrests or criminal convictions relating to theft, controlled substances, gambling, obscenity, prostitution, fraud, tax evasion, or racketeering as defined in ORS chapter 166; and, in the case of any person who will carry out any work relating to security or maintaining order in an adult business, such as "bouncer", any arrests or convictions relating to harassment, assault, menacing or the use or possession of weapons as defined in state law.

(2) Each applicant shall personally appear before the chief of police or his designee for fingerprinting and the taking of photographs.

(3) The application form required by this section, which contains personal information, shall remain confidential to the maximum extent permitted by law.

7.130 Issuance and Renewal of Adult Business Permit.

(1) Upon the filing of an application for and payment of the required fee, the chief of police shall conduct an investigation of the applicant and the city manager shall issue such permit if no cause for denial as noted in sections 7.100 to 7.185 exists.

(2) The application for a business permit shall be denied if:

(a) The applicant, or any other person who will be directly engaged in the management or operation of the business, or any person who owns five percent or more interest in the business, has previously owned or operated a business regulated by sections 7.100 to 7.185 and the license or permit for such business has been revoked for cause which would be grounds for revocation pursuant to sections 7.100 to 7.185, or if such business has been found to constitute a public nuisance and abatement has been ordered; or if such person has been convicted of or evidence exists that supports a finding by the preponder-

ance of the evidence the applicant or such other person has committed any criminal offense noted in section 7.120;

(b) The operation as proposed by the applicant would not comply with all applicable requirements of this code including but not limited to the building, health, planning, zoning and fire codes of the city;

(c) Any statement in the application is found to be false or any required information is withheld;

(d) Any employee is found to have committed any criminal offense noted in section 7.125 of this code, and such violation either occurred on the premises of the establishment subject to the permit, or was connected in such time and manner with the operation of the establishment, so that the person(s) in charge of the adult business knew, or should reasonably have known, that such violation(s) would occur.

(3) For the purpose of sections 7.100 to 7.185, the offenses listed in this section shall be considered to be defined by the statutes of the state unless otherwise specified. Any arrest or conviction for conduct other than that denoted by the statutes of the state or ordinances of the city specified in sections 7.100 to 7.185 shall be considered to be equivalent to one of such offenses if the elements of such offense for which the person was arrested or convicted would have constituted one of the above offenses under the applicable Oregon statutes or West Linn ordinance provisions.

(4) Notwithstanding the mandatory direction of subsection (2), the city manager may grant a permit, with the concurrence of the chief of police, despite the presence of one or more of the factors enumerated, if he concludes that the applicant has established to his satisfaction that the behavior evidenced by such factor is not likely to recur, or is remote in time, or occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of sections 7.100 to 7.185.

(5) The permit shall be for a term of one year, shall be nontransferable, shall expire on the first anniversary of its issuance, shall be valid only for a single location, and shall be displayed on such premises so as to be visible to patrons. When the business location is changed, the address of the new location shall be provided in writing to the city manager for approval at least 10 days prior to such change.

(6) Denial of a permit may be appealed to the city council by filing written notice of an appeal with the city manager within 10 days of the date of denial.

7.135 Issuance and Renewal of Permit to Entertain in or be Employed by an Adult Business.

(1) Upon receipt of an application to entertain in or be employed by an adult business, the chief of police shall conduct an investigation of the applicant and the city manager shall issue such permit if no cause for denial as noted in sections 7.100 to 7.185 exists.

(2) Application for a permit shall be denied if:

(a) The applicant has been convicted of or evidence exists that supports a finding by the preponderance of the evidence that the applicant has committed any criminal offense noted in section 7.125;

(b) Any statement in the application is found to be false.

(3) For the purpose of sections 7.100 to 7.185, the offenses listed in this section shall be considered to be defined by the statutes of the state unless otherwise specified. Any arrest or conviction for conduct other than that denoted by the statutes of the state or ordinances of the city specified in sections 7.100 to 7.185 shall be considered to be equivalent to one of such offenses if the elements of such offense for which the person was arrested or convicted would have constituted one of the above offenses under the applicable Oregon statutes or West Linn ordinance provisions.

(4) Notwithstanding the mandatory direction of subsection (2), the city manager may grant a permit, with the concurrence of

the chief of police, despite the presence of one or more of the factors enumerated, if he concludes that the applicant has established to his satisfaction that the behavior evidenced by such factor is not likely to recur, or is remote in time, or occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of sections 7.100 to 7.185.

(5) The permit shall be for a term of one year, shall be nontransferable, shall expire on the first anniversary of its issuance and shall be available for inspection at such premises in which the permittee is entertaining or employed.

(6) Denial of a permit may be appealed to the city council by filing written notice of an appeal with the city manager within ten days of the date of denial.

7.140 Revocation or Suspension of Permit.

(1) Any permit issued for an adult business pursuant to sections 7.100 to 7.185 may be revoked or suspended by the city manager, with the concurrence of the chief of police, for any cause which would be grounds for denial of a permit or where investigation reveals that any violation of the provisions of sections 7.100 to 7.185 or any offense noted in section 7.125 has been committed by any person who entertains or is employed on the premises and such offense is connected in time and manner with the operation of the establishment so that the person(s) in charge of such establishment knew, or should reasonably have known, that such violations would occur, or that such violations have been permitted to occur on the premises by the permit holder or any employee, or that a lawful inspection has been refused, or that such adult business activities cause significant litter, noise, vandalism, vehicular or pedestrian traffic congestion, or other locational problems in the area around such premises.

(2) Any permit issued to any person to entertain or work in an adult business may be revoked or suspended by the city manager for any cause which would be grounds for denial of a permit.

(3) Any permit shall be revoked or suspended if any statement contained in the application therefor is found to have been false.

(4) The city manager, upon revocation or suspension of any permit issued pursuant to sections 7.100 to 7.185, shall give the permittee written notice of such revocation or suspension by causing notice to be served upon the permit holder at the business or residence address listed on the permit application. Service of such notice shall be accomplished either by mailing the notice by certified mail, return receipt requested, or at the option of the city manager, by personal service in the same manner as a summons served in an action at law. When notice is sent by certified mail and is returned, receipt unsigned, service of notice shall be accomplished by personal service in the same manner as a summons is served in an action at law. Refusal of the service by the person whose permit is suspended or revoked is prima facie evidence of receipt of the notice. Provided further, that service of notice upon the person in charge of a business during its hours of operation shall constitute prima facie evidence of notice to the person holding the permit to operate the business. Suspension or revocation shall be effective and final ten days after the giving of such notice, unless such suspension or revocation is appealed by filing a written notice of appeal to the city council with the city manager of the city.

7.145 Appeals. The filing of an appeal of a revocation or suspension of a permit under sections 7.100 to 7.185 shall stay the effectiveness of such suspension or revocation until the appeal is determined by the council. Upon receipt of notice of the appeal, the auditor shall give notice of the filing of the appeal to the city manager, who shall file a report with the council containing the reasons for such denial, revocation or suspension. The notice of appeal filed with the city manager shall contain an address for the appellant to which all notices required in sections 7.100 to 7.185 may be mailed. The city manager shall set a date for a council hearing upon the denial, revocation or

suspension. At the hearing the city manager shall report to the council his reasons for denying, revoking or suspending the permit. The person whose application has been denied or whose permit has been revoked or suspended shall have the right to call witnesses and be heard by council and file a written statement in his behalf. At the conclusion of the hearing, the council shall determine the appeal and the decision of the council shall be final. If the council denies the appeal, the revocation or suspension shall be effective immediately.

7.150 Duties of Adult Business Permit Holder.

(1) No person who has been issued a permit to operate a business regulated under sections 7.100 to 7.185 shall permit any person to engage in any conduct for which a permit is required by section 7.110(2) unless:

(a) Such person has a valid permit issued by the city manager to perform such act; and

(b) Written notice has been given to the city manager that such person will engage in such activity on the premises; and

(c) The name and current residence address of such person has been placed on file with the city manager.

(2) Upon termination of the employment of any such person, the business permit holder shall give written notice of such termination to the city manager within ten days of such termination. Further, the adult business permit holder shall, within ten days thereof, inform in writing the city manager of any change in the information required by section 7.120.

(3) A current, complete copy of all financial records required to be kept by an adult business permit holder for Oregon state and federal tax purposes regarding the operation of such business shall be maintained on such business premises. Such records shall be subject to inspection pursuant to section 7.180.

(4) No nude entertaining shall occur closer than ten feet from any patron.

(5) All nude entertaining shall only occur on a stage which is raised at least two feet from the level of the main floor in the adult business, and shall only be provided by persons who have a valid permit when required by sections 7.100 to 7.185.

(6) No person shall be admitted to an adult business as a patron or customer unless such person is eighteen years of age or older or accompanied by parent or guardian.

(7) No person under the age of eighteen shall entertain in or be employed by an adult business.

(8) No person employed by an adult business shall engage in any activity on any property in the vicinity of any adult business for the purpose of soliciting, beckoning, requesting, or suggesting to any person(s) to enter such premises as a patron.

7.155 Prohibited Conduct in Adult Business.

(1) It is unlawful for any person while engaging in nude entertaining in an adult business to come into physical contact with any patron.

(2) It is unlawful for any person while engaging in nude entertaining in an adult business to directly or indirectly accept any gratuity.

(3) It is unlawful for any person who performs nude entertainment in an adult business, while not entertaining, to come into physical contact with any patrons or to appear in any area to which patrons have access, while in a state of nudity.

7.160 Advertising Restrictions. No adult business regulated under sections 7.100 to 7.185 shall cause to be placed or maintained, in such a location as can be viewed by persons in any public street, any sign(s), photographic, pictorial or other graphic representation(s) that depict in whole or in part, or any page, poster or other printed matter bearing a verbal description or narrative account of, the following:

(1) Sadomasochistic abuse, sexual conduct or sexual excitement, as defined in ORS 167.060; or

(2) Nudity.

7.165 Hours of Operation. No nude entertainment shall occur in an adult business between the hours of 2:00 a.m. and 8:00 a.m.

7.170 Exterior Design Restrictions. No adult business shall have a window or door on the exterior wall which permits an interior view of the premises from the street or sidewalk.

7.175 Maintenance of Premises in Violation Declared a Nuisance--Abatement. Any establishment maintained in violation of the provisions of sections 7.100 to 7.185 is declared to be a public nuisance. The city attorney is authorized to bring any action or suit to abate such nuisance by seeking injunctive or any other appropriate relief in any appropriate forum when he or she has reasonable cause to believe a nuisance under this section exists, regardless of whether or not any individual has been convicted of a violation of sections 7.100 to 7.185.

7.180 Inspection of Premises. A police officer or other city employee designated by the city manager may, during the hours the establishment is open for business, upon presentation of proper identification, inspect those portions of any premises in which an adult business regulated under sections 7.100 to 7.185 is conducted that are open to or frequented by patrons and the records kept on the premises as required by section 7.150. Such inspection shall be limited in scope to that necessary to determine compliance with the regulatory provisions of sections 7.100 to 7.185. Except when an emergency exists, the police officer or city employee shall obtain the consent of the person on the premises who is in charge of the establishment before entering the establishment. Failure to permit the inspection shall be grounds for revocation or suspension of the permit required by sections 7.100 to 7.185. If the inspection is not permitted, the police officer or city employee may obtain a warrant of the municipal court authorizing entry for the purpose of inspection.

(2) No warrant shall be issued under the terms of sections 7.100 to 7.185 until an affidavit has been filed with the municipal court, showing probable cause for the inspection, by stating the purpose and extent of the proposed inspection, citing sections 7.100 to 7.185 as the basis for the inspection, whether it is an inspection instituted by complaint, and other specific or general information concerning the business in question.

(3) No person shall interfere with or attempt to prevent a police officer or city employee from entering upon private premises and inspecting any business when an emergency exists or the police officer or city employee exhibits a warrant authorizing entry.

7.185 Penalty.

(1) The violation of any provision of sections 7.100 to 7.185 shall subject the violator to suspension or revocation of the involved permit pursuant to section 7.140 as well as judicial proceedings as noted in section 7.175.

(2) Violation of any provision of section 7.155 is punishable upon conviction by a fine of not more than \$500 or by imprisonment not to exceed six months, or both.

ALARM SYSTEMS

7.200 Purpose and Scope.

(1) The purpose of sections 7.200 to 7.250 is to protect the emergency services of the city from misuse.

(2) Sections 7.200 to 7.250 govern emergency alarm systems, require permits, establish fees, provide for allocation of revenues and deficits, provide for revocation of permits, provide for punishment of violations and establish a system of administration.

7.205 Definitions. As used in sections 7.200 to 7.250, the following words and phrases shall have the meanings given to them in this section:

Alarm business. The business by any individual, partnership, corporation, or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or