CHAPTER 7-1. GENERAL PROVISIONS

Sec. 7-1-1. - Franchise required for certain transit services and utilities.

It shall be unlawful for any person, firm or corporation to operate a bus line or bus service, airport transit service, natural gas distribution system or electric utility company within the city without a contract or lease with or franchise from the city authorizing the particular business operated.

(Code 1968, § 95-2)

Cross reference— Vehicles for hire, Ch. 7-10; airports and aircraft, Ch. 10-2; energy services, Ch. 10-4.

Sec. 7-1-2. - Operation of business in contravention to franchise prohibited.

It shall be unlawful for any person, firm or corporation to operate any business within the city in contravention to any franchise granted by the city.

(Code 1968, § 95-3)

Sec. 7-1-3. - Future rights to purchase and terminate franchise.

No franchise shall hereafter be granted except upon condition that the city shall have the right at any time after fifteen (15) years from the granting thereof, to purchase the physical properties of the franchise holder and to terminate its franchise and all privileges enjoyed by it thereunder; provided the majority of the qualified taxpaying voters of the city voting thereon shall vote to do so; and provided that upon the petition of fifteen (15) percent of the qualified taxpaying voters to the council, the matter of acquisition of the property shall be submitted to an election to be determined by a vote of the qualified taxpaying voters voting thereon, which election shall be held at the next succeeding general election in the city, after at least twenty (20) days' notice in a newspaper published in the city, and provided that the owner of the physical property shall be compensated for the value thereof, considering solely the physical assets, the value to be determined by the report of the majority of three (3) arbitrators, one to be selected by the council, one by the owner of the physical property to be valued, and the third by the arbitrators so selected, but if the owner of the physical property shall refuse for thirty (30) days to select the arbitrator, then the judge of the court having jurisdiction over the case shall have authority to appoint a third arbitrator. The rights conferred by this section shall not be construed as applying to any exclusive jurisdiction conferred upon the Florida Public Service Commission.

(Laws of Fla. 1931, Ch. 15425, § 56)

CHAPTER 7-2. LOCAL BUSINESS TAXES[2]

Footnotes:

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Editor's note— Ord. No. 31-06, § 1, adopted Dec. 14, 2006, effective Jan. 1, 2007, amended the title of Chapter 7-2 to read as herein set out. Formerly, said chapter was entitled Occupational Licenses. Said ordinance further provided for a new Chapter 7-2, §§ 7-2-1—7-2-9, to read as herein set out.

Cross reference— Administration, Title II; condition precedent to granting of license to dealers in gasoline, § 3-4-49(b); adult entertainment, Ch. 7-3; ambulance franchise, Ch. 7-5; auctions, Ch. 7-6;

pawnbrokers, junk and secondhand dealers, Ch. 7-8; peddlers and solicitors, Ch. 7-9; vehicles for rent to the public, Ch. 7-10; wreckers and wrecker companies, Ch. 7-11; fees, Ch. 7-14; energy services, Ch. 10-4; buildings, construction and fire codes, Title XIV.

Sec. 7-2-1. - Local business tax.

(a) No person shall engage in or manage the business, profession or occupation or exercise any privilege mentioned and designated in this chapter, unless a city local business tax receipt shall have been procured from the city by the payment of the local business taxes set opposite such designation of the business, profession, occupation or privilege as set forth in this chapter.

(b) The persons upon whom the local business tax shall be levied shall be construed to be the following:

(1) Any person who maintains a permanent business location or branch office within the city for the privilege of engaging in or managing any business within the city's jurisdiction;

(2) Any person who maintains a permanent business location or branch office within the city for the privilege of engaging in or managing any profession or occupation within the city's jurisdiction;

(3) Any person who does not qualify under the provisions of (1) or (2) above and who transacts any business or engages in any occupation or profession in interstate commerce where such a local business tax is not prohibited by Section 8 of Article I of the United States Constitution.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-2. - Expiration date of receipts, term; proration of fee, penalty for late payment of tax.

(a) Local business tax receipts shall expire on the thirtieth day of September each year. No receipt shall be issued for more than one year. For each receipt obtained between the thirtieth day of September and the first day of April, the full tax for one year shall be paid, except as herein provided. For each receipt obtained from the first day of April to the thirtieth day of June, one-half the full tax for one year shall be paid and from the first day of July to the twenty-ninth day of September, one-fourth the full tax for one year shall be paid, except as herein provided.

(b) Local business taxes shall be due and payable and subject to delinquent payment penalties and remedies as provided for in F.S. Ch. 205. Such taxes for new businesses and transferred local business tax receipt shall be due and payable on or before the date that the business commences operations.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-3. - Transferability of receipts.

Local business tax receipts shall be good only for the business and the place named and for the person to whom issued, but receipts may be transferred when there is a bona fide sale, and transfer of the property used in the business, stock or trade or removal of same from one place to another, upon application to the city, and payment of a transfer fee of ten (10) percent of the annual local business tax amount, but not less than three dollars ($3.00) nor more than twenty-five dollars ($25.00).

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-4. - Certificate of occupancy required prior to issuance of receipt.

A certificate of occupancy, as defined in section 12-14-1 of this Code, issued by the building official shall be furnished to the city as a condition precedent to the issuance or transfer of a local business tax receipt for a business to be located in any new building or in any existing building undergoing a change in

occupancy classification. A business in an existing non-residential building may obtain a receipt by applying to the city; however, a local business tax receipt inspection certificate, as defined in section 12-14-1 of this Code, will be required in order to continue business.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-5. - Disposition of revenue from receipts.

All revenue derived from local business taxes hereby imposed shall be paid into the general fund of the city.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-6. - Display of receipt.

Every person having a local business tax receipt shall exhibit it when called upon to do so by an authorized officer of the city, and all receipts must be conspicuously displayed at all times.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-7. - Presentation of certificate required before issuance of receipt.

Every person carrying on or practicing any trade, profession or occupation for which a certificate, registration or license to practice the trade, profession or occupation is required by the laws of the state, is hereby required to present the certificate to the city upon demand therefor, before a local business tax receipt shall be issued to the person to carry on or practice his trade, profession or occupation in the city.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-8. - Advertising of business evidence of liability for receipt.

The fact that any person representing himself as engaged in any business, profession or occupation for the transaction of which a local business tax receipt is required, or that the person exhibited a sign or advertisement indicating the business, calling, profession or occupation shall be evidence of the liability of the person to procure a receipt.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-9. - Amount of local business tax.

The amount of the local business tax which shall be paid for the several firms, persons or organizations engaging in and managing businesses, professions or occupations for which a local business tax receipt is required is hereby fixed as follows:

(1) *Insurance companies.* The local business tax for insurance companies to do business in the city shall be based on the rate of two hundred ten dollars ($210.00) per company per agency.

(2) *Professions.* The following local business taxes will be charged those individuals involved in the professions noted below and will not be subject to the schedule set out in subsection (3) herein:

   a. Engineers $236.25

   b. Architects 236.25

c. Certified public accountants 236.25

d. Dentists 236.25

e. Lawyers 236.25

f. Veterinarians 236.25

g. Doctors, physicians, surgeons, osteopaths, chiropractors, and naturopaths 236.25

h. Psychologists 78.75

(3) *Other businesses and occupations.*

a. Local business taxes shall be charged for all businesses active in the city under the terms of city ordinances by way of the following rate schedule utilizing the number of employees for each local business tax receipt as the principal basis of the tax amount charged. These taxes are to be levied for each separate location or place of business and would be applicable except where specifically exempt. These occupations and businesses shall use the following system as a method of computing tax charges:

Number of employees rate

1 ..... $26.25

2 ..... 52.50

3 ..... 98.44

4, 5 ..... 131.25

6, 7 ..... 210.00

8—11 ..... 288.75

12—17 ..... 367.50

18—26 ..... 498.75

27—38 ..... 656.25

39—58 ..... 840.00

59—86 ..... 1,050.00

87—130 ..... 1,312.50

131—195 ..... 1,640.63

196—295 ..... 2,034.38

296—420 ..... 2,493.75

421—670 ..... 3,018.75

671—1,000 and over 3,675.00

b. "Employee" shall be defined as all persons actively connected with the business working within the city limits. The owner of the business or any relative, whether receiving direct compensation or not, shall be considered an employee.

c. Computation of additional number of employees shall be:

1. Total annual hours worked divided by one thousand eight hundred (1,800) or average number of employees, whichever is applicable.

2. Total number of employees employed on September 1 of each year. Determination of the number of employees of the business may use either method or a combination of the above, whichever is applicable to their business, or an alternate system may be authorized by the mayor.

(4) *Coin-operated machines.* Local business taxes for businesses utilizing coin-operated or token-operated machines shall be based on the number of coin-operated or token-operated machines owned, operated or located upon the premises on any single day during the previous licensing year or, in the case of a new business, on an estimate for the current year, in the amount set forth below, or the employee schedule in subsection (3), whichever is greater:

a. Coin-operated or token-operated machines used in the operation of a self-service laundry, including, but not limited to, washers, dryers, dry cleaning machines, extractors, soap dispensers, etc., per year or fraction thereof, each $3.28

b. Coin-operated or token-operated machines used for food and drink dispensing, including ice machines, per year or fraction thereof, each 6.56

c. Other coin-operated or token operated machines, including, but not limited to, carwash, pinball, tobacco products, novelty items, jukebox and other miscellaneous machines not otherwise defined, per year or fraction thereof, each 6.56

d. Coin-operated or token-operated machines operated by authorized charities as per Internal Revenue Service listing ..... No charge

(5) *Separate charges.* Separate charges will be levied from the employee local business tax system and the additional categories noted above in the following instances:

a. Door-to-door sales and solicitations. Flat tax of one hundred five dollars ($105.00) or thirty-one dollars and fifty cents ($31.50), plus ten dollars and fifty cents ($10.50), with the local business tax receipt to be issued for a period of not more than thirty (30) days.

b. Temporary receipts. A local business tax receipt may be issued for a period of not more than thirty (30) days under this section. The local business tax shall be thirty-one dollars and fifty cents ($31.50), plus one-half (½) of the regular tax for the conduct of that particular type of business.

c. Use of streets, etc.

1. Each person, firm, corporation, association, company or other business entity who uses the streets, avenues, alleys or public roads of the city for unloading, distributing, disposing of or delivering goods, wares, or merchandise of any kind, which goods, wares, produce or merchandise was transported from a point without the city to a point within the city shall pay a local business tax not in excess of the tax paid for by local taxpayers engaged in the same business. This tax shall entitle the business entity to a local business tax receipt for the privilege of engaging in the above-referenced activities on the streets of the city.

2. Local business tax receipt holders shall be entitled to the following privileges:

i. Loading and unloading zones for commercial vehicles only. The loading zones shall be appropriately marked by the city and shall be required to be used by the receipt holder when available.

ii. Police and fire protection shall be provided while the vehicles are located within the city limits.

iii. The appropriate office of the city shall be required to make periodic inspections of vehicles in order to ensure that a receipt has been granted to the taxpayer's vehicle and that all other conditions and regulations have been met.

iv. Each receipt holder, as well as all interested city citizens, shall be entitled to review the files to be kept by the city containing information requested in the application for a receipt.

3. The following exemptions from the above requirements are hereby granted:

i. All vehicles which pay the state mileage tax to the state department of highway safety and motor vehicles pursuant to Florida Statutes.

ii. Ordinary commercial travelers who sell or exhibit for sale goods or merchandise to parties engaged in the business of buying and selling and dealing in the goods or merchandise.

iii. Sale of goods or merchandise donated by the owners thereof and the proceeds of which are to be applied to any charitable or philanthropic purposes.

iv. Vehicles used by any person taxed under this chapter for the sale and delivery of tangible personal property at either wholesale or retail from his place of business on which a receipt is paid shall not be construed to be separate places of business, and no taxes may be levied on such taxpayer's vehicles or the operators thereof as salesmen or otherwise.

(6) *Miscellaneous businesses.* Local business taxes for certain select businesses shall be as follows. These taxes are to be in lieu of those set forth above.

a. Clairvoyants, astrologers, fortune-tellers and palmists, per year $236.25

b. Tattoo artists, per year 236.25

c. Cable television companies, per year 1,312.50

d. Auctioneers, per year 210.00

e. Auctions, per thirty (30) days or portion thereof 210.00

(7) *Additional taxes for certain uses.* Additional local business taxes shall be levied for the following uses which shall be in addition to those set forth elsewhere in this section.

a. Business with dancing privileges, flat fee $157.50

b. Pool and billiard tables not covered under coin-operated machines, per table, per year 13.13

c. Pawnshops, small loan companies and consumer finance companies, per year 472.50

(8) *Tax increases.* Commencing effective on October 1, 2007, and every other year thereafter, the city council of the City of Pensacola may increase by ordinance the rates of local business taxes by up to five (5) percent; provided, however, such increases may not be enacted by less than a majority plus one vote of the city council.

(9) *Exemptions.* All exemptions provided for in Chapter 205, Florida Statutes, are hereby incorporated by reference.

(Ord. No. 31-06, § 1, 12-14-06)

CHAPTER 7-3. ADULT ENTERTAINMENT[3]

Footnotes:

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Editor's note— Ord. No. 4-99, § 1, adopted Jan. 14, 1999, repealed ch. 7-3, which pertained to similar subject matter, and replaced it with a new ch. 7-3 to read as herein set out. See Code Comparative Table.

ARTICLE I. - IN GENERAL

Sec. 7-3-1. - Purpose.

The intent of the city council in adopting this chapter is to establish reasonable and uniform regulations that will reduce the adverse effects adult entertainment businesses have upon the city, and to protect the health, safety, morals and welfare of the citizens and inhabitants of the city.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-2. - Construction.

This chapter shall be liberally construed to accomplish its purpose of licensing and regulating adult entertainment and related activities. Unless otherwise indicated, all provisions of this ordinance shall apply equally to all persons regardless of gender.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-3. - Definitions.

For the purpose of this chapter, the following terms shall have the meaning set forth herein, unless the context clearly indicates otherwise.

Adult arcade means an establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors, videotape or playback and viewing devices, or similar machines, for viewing by five (5) or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by emphasis on the depiction or description of specified sexual activities or specified anatomical areas. For the purpose of this chapter, adult arcade is included within the definition of adult motion picture theater.

Adult bookstore means an establishment which sells, leases or rents adult material for any form of consideration, unless the adult material is accessible only by employees and either the gross income from the sale or rental of adult material comprises less than ten (10) percent of the gross income from the sale or rental of goods or services at the establishment or the individual items or adult material offered for sale or rental comprise less than fifteen (15) percent of the individual items publicly displayed at the establishment as stock in trade. It is an affirmative defense to an alleged violation of this chapter regarding operating an adult bookstore without an adult entertainment license if the alleged violator shows that the adult material is accessible only by employees and either the gross income from the sale or rental of adult material comprise less than ten (10) percent of the gross income from the sale or rental of goods or services at the establishment, and the individual items of adult material offered for sale or rental comprise less than fifteen (15) percent of the individual items publicly displayed at the establishment as stock in trade.

Adult booth means a small enclosure within an adult entertainment establishment accessible to any person (regardless of whether a fee is charged for access) for the purpose of viewing adult materials. The term "adult booth" does not include a hallway/foyer used primarily to enter or exit the establishment or its restrooms. However, only one (1) person shall be allowed to occupy a booth at any time.

Adult dancing establishment shall mean a commercial establishment that permits, suffers or allows employees on more than three (3) days in a sixty-day period to display or expose any part of the human body except for completely or opaquely covered specified anatomical areas or permits, suffers or allows employees to wear any covering, tape, pasties or other device that simulates or otherwise gives the

appearance of the display or exposure of any specified anatomical areas. Any establishment on whose premises any employee, who need not be the same employee, displays or exposes specified anatomical areas or wears any covering, tape, pasties or other device that simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas on more than three (3) days in a sixty-day period shall be deemed an adult dancing establishment and shall be required to obtain a license under this chapter. It shall be unlawful for any establishment licensed pursuant to this chapter, or unlicensed, to permit, suffer or allow any employee, or anyone within the establishment, to display or expose specified anatomical areas that are less than completely or opaquely covered.

Adult entertainment establishment means an adult motion picture theater, a leisure spa establishment, an adult bookstore, or an adult dancing establishment.

Adult materials means any one (1) 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 recordings, novelties and devices, which have, as their primary or dominant theme, matter depicting, illustrating, describing or relating to specified sexual activities or less than completely and opaquely covered specified anatomical areas; or

(b) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

Adult motel means any hotel or motel, boarding house, rooming house or other lodging which includes the word "adult" in any name it uses, and otherwise advertises outside the individual rooms the presentation of film, video or any other visual material or methods which has, as its primary or dominant theme, matters depicting, illustrating or relating to specified sexual activities for observation by patrons thereof. For the purposes of this chapter, an adult motel is included within the definition of adult motion picture theater.

Adult motion picture theater means an enclosed building, or a portion or part of an enclosed building, or an open-air theater designed to permit viewing by patrons seated in automobiles or other seating provisions, for any form of consideration, film, video or any other visual material or method which has, as its primary or dominant theme, matters depicting, illustrating or relating to specified sexual activities for observation by patrons thereof, and includes any hotel or motel, boarding house, room house or other lodging which, for any form of consideration, advertises the presentation of such film material. For the purposes of this chapter an adult motion picture theater includes an adult arcade, an adult motel, and an adult motion picture booth.

Alcoholic beverage means all beverages containing one-half of one (0.5) percent or more of alcohol by volume, including beer and wine.

Day care center means a facility that exists for the purpose of child care for five (5) or more children of ages that include pre-school.

Dense business area means all of that portion of the corporate limits of the city as defined in Chapter 12-14 of this Code.

Employee means a person who works or performs in a commercial establishment, irrespective of whether said person is paid a salary or wage by the owner or manager of the premises.

Establishment or *commercial establishment* means the site, physical plant, or premises or portion thereof, upon which certain activities or operations are being conducted for commercial or pecuniary gain. "Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss and shall be presumed where the establishment has an occupational license. Establishment or commercial establishment shall not mean premises that are operated usually or continuously as commercial theaters or playhouses that show works that contain serious literary or artistic merit.

Inspector means any person authorized by the mayor who shall inspect premises licensed under this chapter and take or require the actions authorized by this chapter in case of violations being found on licensed premises, and also inspect premises seeking to be licensed under this chapter and require corrections of unsatisfactory conditions found on said premises.

Leisure spa establishment means a site or premises or portion thereof, upon which any person performs any of the treatments, techniques or methods of treatment referred to as a leisure spa service, or where any leisure spa services are administered, practiced, used, given or applied, but shall not include the following: licensed health care facilities; licensed physicians or nurses engaged in the practice of their professions; educational or professional athletic facilities, if a leisure spa is a normal and usual practice in such facilities; or establishments which are exempt from regulation hereunder due to their licensure under F.S. Ch. 480 or 400.

Leisure spa patron means any person who receives, or pays to receive, a leisure spa service from a leisure spa technician for value.

Leisure spa service means any method of treating the external parts of the body, consisting of touching, rubbing, stroking, kneading, tapping, or vibrating; such treatments being performed by the hand or with any other body part, or by any mechanical or electrical instrument.

Leisure spa technician means any person who engages in the business of performing leisure spa treatments, techniques or methods of treatment referred to as leisure spa services.

Licensed premises means not only rooms and areas where adult materials regulated under this chapter, or adult activities regulated by this chapter, are sold, rented, leased, offered, presented or stored or where any form of adult entertainment is presented, but also all other areas within five hundred (500) feet of the room or area where adult materials or adult activities are regulated and over which the licensee has some dominion and control and to which customers or patrons may pass, and shall include all of the floor or land areas embraced within the plan appearing on or attached to the application for the license involved and designated as such on said plan.

Person means individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations, or entities.

Personal advertising means any communication on the part of any employee of an adult entertainment establishment that is designed to encourage a prospective patron to enter said establishment and is performed by repeatedly speaking in a raised tone of voice, by making prominent physical gestures, such as waving or repeatedly pointing, or by holding signs or other written statements. Personal advertising shall not include oral or physical references to an adult entertainment establishment by patrons or spectators.

Premises means a physical plant or location, which is enclosed by walls or any other enclosing structural device, or which is covered by a single roof, and shall include any structure, structures or land, or contiguous structures or land, within five hundred (500) feet of the physical plant or location, where such structures or land and the physical plant or location are under common ownership, control or possession.

Principal stockholder means any individual, partnership or corporation that owns or controls, legally or beneficially, ten (10) percent or more of a corporation's capital stock, and includes the officers, directors and principal stockholders of a corporation; provided, that if no stockholder of a corporation owns or controls, legally or beneficially, at least ten (10) percent of the capital stock, all stockholders shall be considered principal stockholders, and further provided, that if a corporation is registered with the securities and exchange commission or pursuant to F.S. Ch. 517 (including its amendments or its successor statutes), and its stock is for sale to the general public, it shall not be considered to have any principal stockholders.

Private performance means modeling, posing, or the display or exposure of any portions of or the entire human body, including specified anatomical areas, whether completely and opaquely covered or not, by an employee of an adult entertainment establishment to a patron, while the patron is in an area not accessible during such display to all other persons in the establishment.

Religious institution means a building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith. Includes temples, synagogues or other places of assembly for the purposes of organized religion.

School means an institution of learning for minors, whether public or private, which offers instruction in those courses of study required by F.S. Ch. 233. This definition includes a nursery school, kindergarten, elementary school, junior high school, middle school, senior high school, or any special institution of learning under the jurisdiction of the state department of education, but it does not include a vocational or professional institution or an institution of higher education, including a community or junior college, college or university.

Specified anatomical areas means:

(a) (i) Human genitals or pubic region;

(ii) The human cleavage of the human buttocks;

(iii) A portion of the human female mammary gland (commonly referred to as the female breast) including the nipple and the areola (the darker colored area of the breast surrounding the nipple) and an outside area of such gland wherein such outside area is (i) reasonably compact and contiguous to the areola and (ii) contains at least the nipple and the areola and one-quarter (¼) of the outside surface area of such gland.

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified criminal act means a violation of this chapter; an offense under F.S. Ch. 800 (Lewdness Indecent Exposure); an offense under F.S. § 806.01, 806.10, 806.111 or 806.13(2)(c) (Arson and Criminal Mischief); an offense under F.S. Ch. 796 (Prostitution); an offense under F.S. § 847.013 or 847.014 (Obscenity); an offense under F.S. § 877.03 (Breach of the Peace); an offense under F.S. § 893.13 (Possession or Sale of Controlled Substances); an offense under F.S. § 849.09(2), 849.10 or 849.25(3) (Gambling); an offense under F.S. Ch. 794 (Sexual Battery); an offense under F.S. Ch. 826 (Bigamy, Incest); or violation of analogous (to above statutes) laws or ordinances of another city or state or federal government or successor statutes to above statutes.

Specified sexual activities means:

(a) Human genitals in a state of sexual stimulation, arousal or tumescence;

(b) Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, urolagnia or zooerasty;

(c) Fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;

(d) Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

Straddle dance, also known as a "lap dance" or "face dance," means the use by an employee, whether clothed or not, of any part of his body to massage, rub, stroke, knead, caress or fondle the genital or pubic area of a patron, while on the premises, or the placing of the genital or pubic area of an employee in contact with the face of a patron, while on the premises.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 1, 4-29-99; Ord. No. 20-09, § 1, 6-25-09)

Secs. 7-3-4—7-3-10. - Reserved.

ARTICLE II. - REGULATORY PROVISIONS

Sec. 7-3-11. - Responsibility.

Ultimate responsibility for the administration of this chapter is vested in the mayor, who shall be responsible for the issuance of all licenses referenced hereunder. All references to the mayor in this chapter shall also refer to his or her designee.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 61, 9-9-10)

Sec. 7-3-12. - License required.

(1) *Requirement.* No adult bookstore, leisure spa establishment, adult motion picture theater or adult dancing establishment shall be permitted to do business in the city without having first obtained a license as required under this chapter. For adult bookstores, leisure spa establishments, adult motion picture theaters or adult dancing establishments legally in existence and operating on the date of adoption of this chapter, permission to operate is hereby granted until an application for a license under this chapter is filed with the mayor not later than forty-five (45) days following the adoption of this chapter, and thereafter for so long a time as is necessary for the mayor to issue or to deny issuance of a license under this chapter.

(2) *Classification.* Adult entertainment establishment licenses referred to in this chapter shall be one (1) of four (4) separate types of licenses which are classified as follows:

   (a) Adult bookstore;

   (b) Adult motion picture theater;

   (c) Leisure spa;

   (d) Adult dancing establishment.

An adult entertainment establishment shall be limited to one (1) of the four (4) classes of licenses and thereby limited to the one (1) type of activity for which the license is issued. However, a given adult entertainment business operating with a valid occupational license on the date of adoption of this chapter, shall be allowed to apply for and receive those licenses necessary to operate the types of adult entertainment it offered immediately prior to the date of adoption of this chapter, provided it complies with all other requirements of this chapter.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 62, 9-9-10)

Sec. 7-3-13. - Disqualification.

(1) *Noncompliance of premises.* No license shall be issued as a result of investigations by the city which determine that the proposed licensed premises does not meet each and every one (1) of the general and special requirements for the type of license applied for as established in article III, article IV, article V, article VI and article VII of this chapter, except as provided in section 7-3-99, or if the proposed licensed premises fails to satisfy all applicable building, zoning, health and fire regulations, ordinances or statutes, whether federal, state or local; further, no license shall be issued based on false information given in the application for license.

(2) *Issuance of license where prior license has been revoked or suspended.* No license shall be issued to:

   (a) Any individual, partnership or corporation whose license under this chapter is suspended or revoked;

   (b) Any partnership, a partner of which has a license presently suspended or revoked under this chapter;

   (c) Any corporation of which an officer, director or principal stockholder presently has his license under this chapter suspended or revoked; or

   (d) Any individual who is, or was at the time of suspension, a partner in a partnership or an officer, director or principal stockholder of a corporation, whose license under this chapter is presently suspended.

(3) *Prohibited by law or court order.* No license shall be issued when its issuance would violate a statute, ordinance, law or when an order from a court of law prohibits the applicant from obtaining an adult entertainment or occupational license in the city.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-14. - License application; application fee.

(1) *Required information and documents.* Any individual, partnership or corporation desiring to engage in the business of operating an adult bookstore, leisure spa establishment, adult motion picture theater or adult dancing establishment, shall file an application with the mayor. The application shall contain, at a minimum, the following information, and shall be accompanied by the following information and/or documents:

(a) If the applicant is:

(i) An individual—his legal name and all aliases used by him; or

(ii) A partnership—the full name of the partnership and the legal names and all aliases used by all of the partners, whether general or limited, accompanied by, if in existence, a copy of the written partnership agreement; or

(iii) A corporation—the exact corporate name, the date of incorporation, evidence that the corporation is in good standing, and the legal names and all aliases used and the capacity of all the officers, directors and principal stockholders;

(b) If the business is to be conducted under the name other than that of the applicant, the business name and the county of registration under F.S. § 865.09, (or its successor statute).

(c) Whether the applicant or any of the other individuals listed pursuant to paragraph (a) has, within the five-year period immediately preceding the date of the application, been convicted of a specified criminal act, and if so, the particular criminal act involved and the place of conviction;

(d) Whether the applicant or any of the other individuals listed pursuant to paragraph (a), above, has had a license issued under this chapter previously suspended or revoked or has been partner in a partnership or an officer, director or principal stockholder of a corporation whose license issued under this chapter has previously been suspended or revoked, including the date of suspension or revocation;

(e) The classification of the license for which the application is being filed;

(f) Whether the applicant holds any other adult entertainment establishment licenses in any state in the United States and, if so, the number and locations of such licensed premises and whether any such licenses have been suspended or revoked;

(g) The location of the proposed establishment, including, if known, a list of employees, or if there will be no employees, a statement to that effect; and

(h) A floor plan drawn to substantially accurate scale of the proposed licensed premises indicating the areas to be covered by the license, all windows, doors, entrances and exits and the fixed structural features of the proposed licensed premises. The term "fixed structural features" shall include walls, stages, immovable partitions, projection booths, admission booths, concession booths or stands, immovable counters and similar structures that are intended to be permanent.

(2) *Application fee.* Each application shall be accompanied by a nonrefundable fee of four hundred dollars ($400.00) payable at the time the application is filed. In the event a license is approved, said fee shall be applied to the license fee required for the first year pursuant to section 7-3-24 of this chapter.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 63, 9-9-10)

Sec. 7-3-15. - Investigation.

Upon receipt of an application properly filed with the mayor, and upon payment of the application fee, the mayor shall verify the information required by subsection 7-3-14(1) of this chapter. The investigation shall be concluded within ninety (90) days from the date of the application. The mayor shall state on the application the results and findings of his or her investigation, recommending either approval or denial of the application.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 64, 9-9-10)

Sec. 7-3-16. - Approval procedure; appeal.

(1) *Approval and issuance.* Upon the completion of the review of an application, the mayor shall approve or deny the application. If approved, the mayor shall issue the license upon the payment of the appropriate license fee provided for herein.

(2) *Disapproval and denial.* If the mayor disapproves the application, he shall indicate the reason therefore upon the application, or in a separate writing, and shall deny the application. If the application is denied, the mayor shall notify the applicant of the disapproval and the reasons therefore. Notification shall be by regular U.S. mail or hand delivery and shall be sent to the address on the license application, which shall be considered the correct address.

(3) *False information.* Notwithstanding any other provision in this chapter, the mayor shall deny any application for a license in which the applicant has supplied false or untrue information.

(4) *Time period.* The mayor shall approve or disapprove all applications within ninety (90) days from the date a completed application has been submitted. Upon the expiration of ninety (90) days, the applicant shall be permitted to initiate operation of the adult entertainment establishment and the license shall be issued and forwarded to the applicant, unless the mayor notifies the applicant of a preliminary denial of the application. A preliminary denial shall specify on the license application the reasons therefore, and shall be sent within seven (7) days of the action via regular U.S. mail or hand delivery to the address specified in the application which shall be considered the correct address.

(5) *Revocation.* Should a license be issued as a result of false information, misrepresentation of fact, or mistake of fact, it shall be revoked. If the application is revoked, the mayor shall notify the licensee of the revocation and the reasons therefore. Notification shall be by regular U.S. mail or hand delivery and shall be sent to the address on the license application, which shall be considered the correct address.

(6) *Appeal.* Within fifteen (15) days after the mailing of either a notice of denial or preliminary denial of a license pursuant to an application, or a notification of the revocation of a license, the applicant or licensee may appeal to the city council. In the case of a denial of a license, if the city council finds that the initial application should have been approved or a license issued, it shall so order and upon payment of the appropriate license fee, as provided in section 7-3-24, the mayor shall issue the license. In the case of a revocation of an issued license, if the city council finds the license should not have been revoked, it shall order the reissue of the license. The appeal shall have been concluded within sixty (60) days of its filing unless continued by the city council for good cause, but in no event more than ninety (90) days after its filing.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 65, 9-9-10)

Sec. 7-3-17. - Limitation on licenses and licensed premises.

Except as provided in section 7-3-12, not more than one (1) license shall be issued and in effect for any single adult entertainment establishment within the city. No building, premises, structure, or other facility that allows, contains or offers any classification of adult entertainment as provided for in section 7-

3-3 or 7-3-12(2) above, shall allow, contain or offer any other classification of adult entertainment. A licensed premises may be owned by a licensee or may be leased by the licensee from a person not a licensee so long as the lessee who is operating the licensed premises undergoes the equivalent licensing process under this chapter; provided, that a licensee who is a tenant or lessee may not surrender his tenancy or lease to the owner or lessor if by so doing the said owner or lessor will take possession, control and operation of the licensed premises and the business licensed under this chapter, unless the license is transferred as provided in section 7-3-20 and further provided, that a licensee who is the owner of the licensed premises may not lease or otherwise give up possession, control and operation of the licensed premises and the business licensed under this chapter to any other individual, partnership or corporation, unless the license is transferred as provided in section 7-3-20.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-18. - Display of license; mutilation prohibited.

All licensees licensed under this chapter shall display their licenses in conspicuous places on their licensed premises, in clear, transparent cover or frame. The license shall be available for inspection at all times by the public. No person shall mutilate, cover, obstruct or remove a license so displayed.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-19. - Term of license; renewals.

(1) *Term.* All licenses issued under this chapter, except new licenses, shall be annual licenses which shall be paid for on or before October 1st and shall expire on September 30th of the following year. A licensee beginning business after October 1st and before April 1st may obtain a new license upon application therefore and the payment of the appropriate license fee and such license shall expire on the following September 30th. A licensee beginning business after March 31st and before October 1st may obtain a new license upon application therefore and the payment of one-half (½) of the appropriate license fee herein required for the annual license and such license shall expire on September 30th of the same year. The provisions of this subsection shall not affect the provisions of section 7-3-14.

(2) *Renewals.* A licensee under this chapter shall be entitled to a renewal of his annual license from year to year as a matter of course, on or before October 1st by presenting the license for the previous year or satisfactory evidence of its loss or destruction to the mayor and by paying the appropriate license fee. A license that is not renewed by October 1st of each year shall be considered delinquent, and, in addition to the regular license fee, subject to a delinquency penalty of ten (10) percent of the license fee for the month of October, or any fraction thereof, and an additional penalty of ten (10) percent of the license fee for each additional month, or fraction thereof, thereafter until paid, provided that the total delinquency penalty shall not exceed twenty-five (25) percent of the license fee. All licenses not renewed within one hundred and twenty (120) days of September 30th shall be terminated.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 66, 9-9-10)

Sec. 7-3-20. - Transfer of license.

When a licensee shall have made a bona fide sale of the business for which he is licensed under this chapter to conduct, he may obtain a transfer of the license issued under this chapter to the purchaser of said business, but only if, before the transfer, the application of the purchaser shall be approved by the mayor in accordance with the same procedure provided for herein in the case of issuance of new licenses. Before the issuance of any transfer of license, the transferee shall pay a transfer fee of ten (10)

percent of the appropriate annual license fee. Licenses issued under this chapter shall not be transferable in any other way than provided in this section.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 67 9-9-10)

Sec. 7-3-21. - Licensee moving to new location; changing name of business.

(1) *New location.* Subject to all other applicable legal requirements, a licensee may move his licensed premises to a new location and operate at the new location upon approval by the mayor of the licensee's application for a change of location. The licensee shall submit to the mayor an application for a change of location, accompanied by an application fee of four hundred dollars ($400.00) at the time the application is filed. The application will contain, or have attached to it, a plan drawn to substantially accurate scale of the licensed premises at the location indicating the area to be included in the proposed licensed premises, all windows, doors, entrances and exits and the fixed structural features of the proposed licensed premises. The term "fixed structural features" shall have the same meaning as in subsection 7-3-14(l)(h). Upon approval, which approval shall be subject to all other applicable legal requirements, of the application, there shall be issued to the licensee a license for the proposed location without the payment of any further fee other than the application fee for a change of location. The licensee's application for a change of location shall be approved or denied by the mayor within forty-five (45) days of its submittal.

(2) *Change of name.* No licensee may change the name of the business located at his licensed premises without first giving the mayor thirty (30) days' notice, in writing, of such change and without first making payment to the city of a three dollar ($3.00) change-of-name fee.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 67, 9-9-10; Ord. No. 16-10, § 68, 9-9-10)

Sec. 7-3-22. - Suspension of license.

(1) *Violations of health, building, zoning or fire provisions.* In the event the mayor learns or finds upon sufficient cause that a licensed adult entertainment establishment is operating in violation of a health, building, zoning or fire statute, ordinance, or regulation, whether federal, state, or local, contrary to the requirements of this chapter, he shall promptly notify the licensee of the violation and shall grant the licensee the right to exhaust applicable administrative remedies to correct said violations. Should the licensee fail to either correct the violation or to obtain an administrative reversal of the mayor's finding, the mayor shall forthwith suspend the license, and shall notify the licensee of the suspension. The suspension shall remain in effect until the violation of the provision in question has been corrected.

(2) *Other violations.* In the event a jury or other trier of fact in a court of law finds that a licensee has violated any of the criminal provisions of this chapter, or has committed a specified criminal act as defined hereinunder, whether or not an adjudication of guilt has been entered, the mayor shall forthwith suspend the license for fifteen (15) days, and shall notify the licensee of the suspension.

(3) *Suspension of license.*

(a) *Procedure.* Notification of violations or suspension of a license or revocation of a license shall be by regular U.S. mail or hand delivery and shall be sent to the address on the license application, which shall be considered the correct address.

(b) *Periods of suspension.*

(1) In the event three (3) or more violations of the criminal provisions of this chapter, or specified criminal acts occur at a single adult entertainment establishment within a two-year period, and convictions result from at least three (3) of the violations, the mayor shall, upon the date of the third conviction, suspend the license, and notify the licensee of the suspension. The suspension shall remain in effect for a period of thirty (30) days.

(2) In the event one (1) or more violations of the criminal provisions of this chapter, or specified criminal acts occur at the establishment within a period of two (2) years from the date of the violation from which the last conviction resulted for which the license was suspended for thirty (30) days under subsection (b)(1), but not including any time during which the license was suspended for thirty (30) days, and a conviction results from one (1) or more of the violations, the mayor shall, upon the date of the first conviction, suspend the license again, and notify the licensee of the suspension. The suspension shall remain in effect for a period of ninety (90) days.

(3) In the event one (1) or more violations of the criminal provisions of this chapter, or specified criminal acts occur within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for ninety (90) days, and a conviction results from one (1) or more of the violations, the mayor shall, upon the date of the first conviction, suspend the license again, and notify the licensee of the suspension. The suspension shall remain in effect for a period of one hundred eighty (180) days.

(4) The transfer or renewal of a license pursuant to this chapter shall not defeat the terms of subsections (b)(1) through (3).

(c) *Effective date of suspension.* All periods of suspension shall begin fifteen (15) days after the date that the mayor mails or delivers the notice of suspension to the licensee or on the date the licensee surrenders his or her license to the mayor, whichever happens first.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 2, 4-29-99; Ord. No. 16-10, § 69, 9-9-10)

Sec. 7-3-23. - General appeals.

Appeals alleging error in the denial, suspension or revocation of a license or permit under this chapter shall be by petition for a formal hearing before the city council of the City of Pensacola, Florida. A notice of intent to appeal shall be filed with the city clerk within fifteen (15) days after the mailing of a notice of denial, suspension or revocation of a license or permit. Thereafter, and upon payment of a fee of one hundred dollars ($100.00) to cover administrative costs, a hearing will be scheduled within forty-five (45) days. The clerk shall give the petitioning party at least ten (10) days written notice of the time and place for the hearing.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-24. - License fee.

(1) *Levy of fees.* There are hereby levied the following annual license fees under this chapter:

(a) Adult bookstore—Four hundred dollars ($400.00);

(b) Leisure spa establishment—Four hundred and fifty dollars ($450.00);

(c) Adult motion picture theaters, as follows:

(i) Having only adult motion picture booths—Fifty dollars ($50.00) for each booth; or

(ii) Having only a hall or auditorium—Five dollars and fifty cents ($5.50) for each seat or place; or

(iii) Designed to permit viewing by patrons seated in automobiles—Three dollars and fifty cents ($3.50) for each speaker or parking space; or

(iv) Having a combination of any of the foregoing the license fee applicable to each under subparagraphs (i), (ii), and (iii);

(v) Adult motel—Eight hundred dollars ($800.00).

(d) Adult dancing establishment—Four hundred dollars ($400.00).

(2) *License fee as regulatory fee.* The license fees collected under this chapter are fees paid for the purpose of examination and inspection of licensed premises under this chapter and the administration thereof and are declared to be regulatory fees in addition to and not in lieu of the occupational license taxes imposed by other sections of this Code. The payment of a license fee under this chapter shall not relieve any licensee or other person of a liability for and the responsibility of paying an occupational license fee where the same is required by other sections of this Code, and for doing such acts and providing such information as may be required by this Code.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-25. - Records and reports; consent by licensee.

Each licensee shall keep such records and make such reports as may be required by the mayor in order to implement this chapter and carry out its purpose. By applying for a license under this chapter, an individual, partnership or corporation shall be deemed to have consented to the provisions of this chapter and to the exercise by the mayor and other interested agencies of the powers designated herein in the manner therein specified.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 70, 9-9-10)

Secs. 7-3-26—7-3-35. - Reserved.

ARTICLE III. - REQUIREMENTS FOR ALL ADULT ENTERTAINMENT ESTABLISHMENTS

Sec. 7-3-36. - General requirements.

In addition to the special requirements contained in articles IV, V, VI, and VII of this chapter, each licensed premise shall:

(a) Conform to all applicable building laws, ordinances or regulations, whether federal, state or local;

(b) Conform to all applicable fire laws, ordinances or regulations, whether federal, state or local;

(c) Conform to all applicable health laws, ordinances or regulations, whether federal, state or local;

(d) Have each and every glass area that faces a public thoroughfare or through which casual passersby can see the materials or activity inside the licensed premises covered over by black paint or other opaque covering; provided that this requirement shall not apply if the uncovered glass area exposes to public view only a lobby or anteroom containing no material or activities of an adult nature. Such lobby or anteroom may contain a reception center or desk and chairs or couches for customers to use while waiting.

(e) Conform to the requirements of Chapter 381, Florida Statutes, and the rules and regulations of the Florida Department of Healthmade pursuant thereto. Each licensed premises shall be deemed to be a "place serving the public" for the purpose of sanitary facilities.

(f) Conform to the following sanitary facilities requirements:

(i) Water supply—The water supply must be adequate, of safe, sanitary quality and from an approved source in accordance with provisions of applicable codes.

(ii) Plumbing—Plumbing shall be sized, installed and maintained in accordance with provisions of applicable codes.

(iii) Restrooms—All licensed premises shall be provided with adequate and conveniently located toilet facilities for its employees and patrons in accordance with provisions of applicable codes. All toilet facilities must be of readily cleanable design and be kept clean, in good repair and free from objectionable odors. Restrooms must be vented to the outside of any building, be equipped with mechanical exhaust systems and be well lighted. Floors shall be of impervious easily cleanable materials. Walls shall be smooth, nonabsorbent and easily cleanable. Toilet tissue shall be provided. Easily cleanable receptacles shall be provided for waste materials and such receptacles in toilet rooms for women shall be covered. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing doors. Such doors shall not be left open except during cleaning or maintenance. Toilet rooms shall not open directly into food service or preparation areas (beverage is considered a "food"). Hand washing signs shall be posted in each toilet room used by employees.

(g) Conform to the requirements of the Life Safety Code.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-37. - Advertising.

No establishment regulated under this chapter shall:

(1) Display a sign advertising the presentation of any activity prohibited by a Florida statute, or any ordinance of the city; or

(2) Erect, install, maintain, alter or operate any sign in violation of applicable ordinances of the city; or

(3) Engage in, encourage, or permit, any form of personal advertising for the commercial benefit of the establishment or for the commercial benefit of any individual who displays or exhibits less than completely and opaquely covered specified anatomical areas within the establishment; or

(4) Display signs or any other building treatments on the exterior of the structure wherein the business is conducted or on the property upon which the structure is located, or upon any other property within the city which utilize the depiction of the nude human figure, whether male or female, or any words that refer to specified anatomical areas or specified sexual activities.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-38. - Entrance to adult entertainment establishment.

(1) The entrance to any adult entertainment establishment shall be designed in such a manner that no person outside the building or property can see materials offered to patrons or depictions of specified anatomical areas within the adult entertainment establishment.

(2) Immediately inside the entrance of any adult entertainment establishment there shall be posted a well-lighted sign which shall read as follows:

NOTICE

THIS ESTABLISHMENT OFFERS MATERIAL OR ENTERTAINMENT HAVING ADULT CONTENT. SUCH MATERIALS OR ENTERTAINMENT ARE FOR ADULTS ONLY. IF THIS OR NUDITY WOULD OFFEND YOU, DO NOT ENTER.

Such sign shall be clear and legible and the text thereof shall be set forth in letters of uniform size having a height of not less than one (1) inch nor more than two (2) inches.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 3, 4-29-99)

Sec. 7-3-39. - Operation of unlicensed premises unlawful.

It shall be unlawful for any person to operate an adult bookstore, adult motion picture theater, leisure spa establishment or adult dancing establishment unless such business shall have a currently valid license therefor under this chapter, which license shall not be under suspension or either permanently or conditionally revoked.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-40. - License required of commercial establishments advertising adult entertainment.

Any establishment that displays within one hundred (100) feet of its premises a sign or other form of advertisement capable of leading a reasonable person to believe that said establishment offers, presents, permits or engages in any activity required by this chapter to be licensed shall obtain an adult entertainment license for said activity.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-41. - Proscriptions where alcoholic beverages are sold, dispensed or permitted.

The display of less than opaquely or completely covered specified anatomical areas or the wearing by employees of any covering, tape, pasties or other device that simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas shall not be permitted on a licensed premises where alcoholic beverages are sold, dispensed, permitted or consumed (except normal restroom functions occurring in restroom facilities). It shall be unlawful for any employee to exhibit less than completely and opaquely covered specified anatomical areas or to wear any covering, tape, pasties or other device that simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas while selling or dispensing any form of food or beverage.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 4, 4-29-99)

Sec. 7-3-42. - Admissions of minors unlawful.

Except as provided in section 7-3-60, it shall be unlawful for a licensee to admit or to permit the admission of minors within a licensed premises. This chapter shall not apply to conduct the regulation of which has been preempted to the state under Chapter 847, Florida Statutes.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-43. - Sale to minors unlawful.

Except as provided in section 7-3-60, it shall be unlawful for any person to sell, barter or give, or to offer to sell, barter or give, to any minor, any service, material, or device on the premises of any adult bookstore, adult motion picture theater, leisure spa establishment or adult dancing establishment.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-44. - Permitting violations of ordinance or illegal acts prohibited.

It shall be unlawful for a licensee, owner or employee to permit, suffer or allow violations of this chapter or illegal acts to take place on the licensed premises, if the licensee or employee knows or has reason to know that such violations or illegal acts are taking place.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 5, 4-29-99)

Sec. 7-3-45. - Permits for employees in licensed premises.

(1) *Adult entertainment permit required.* Unless specifically excluded below, it shall be unlawful for any person to obtain employment as an employee in an establishment licensed under this chapter, for any form of consideration, unless and until such person shall have first obtained an adult entertainment permit or temporary permit from the mayor. All references to the mayor in this chapter shall also refer to his or her designee. This section shall not apply to employees engaged exclusively in performing janitorial, maintenance or other services, not including bartending, table service or entertaining.

(2) *Qualifications.* Employees of a licensee on a licensed premises shall not be less than eighteen (18) years of age.

(3) *Application for an issuance of adult entertainment permit.*

(a) Permission is hereby granted for an employee working at an establishment legally in operation under this chapter on the date of adoption of this chapter to continue working until an application for a permit under this chapter is filed with the mayor, not later than forty-five (45) days for adult bookstores, leisure spa establishments, adult motion picture theaters, and seventy-five (75) days for adult dancing establishments, from the date of adoption of this chapter, and for a period, after filing of an application, not to exceed twenty-one (21) days.

(b) All present and prospective employees employed on the premises of an adult entertainment establishment shall file an application for an adult entertainment permit with the mayor.

(c) All applications shall be accompanied by a nonrefundable payment of a thirty dollar ($30.00) fee.

(d) At the time an applicant applies for a permit and completes all requirements for the issuance of a permit, he shall be issued a temporary permit valid for twenty-one (21) days. No later than twenty-one (21) days from the filing of an application, the mayor shall issue a permit.

(e) It shall be the duty of the mayor to issue the applicant a written permit which shall be signed by the mayor, and shall bear the name, all aliases, age, signature and photograph of the applicant. The mayor shall procure the fingerprints and a photograph of the applicant, the applicant's address, sex, and the name(s) of all entertainment establishments where the applicant is to work or perform and shall keep the same on file. The fingerprints, names of establishment(s) and photograph of the applicant shall be furnished by the applicant at the time of the filing of his application. Upon delivery of the permit to the applicant, the applicant may begin working on the licensed premises as a permanent employee.

There shall be submitted with each application for a permit, proof of the applicant's age. Such proof may be provided by production of the applicant's driver's license, passport, or a certified copy of his birth certificate.

(f) No permit shall be issued when its issuance would violate a statute, ordinance, law or when an order from a court of law prohibits the applicant from obtaining an adult entertainment permit in the city.

(4) *Revocation.* Should a permit be issued as a result of false information, misrepresentation of fact or mistake of fact, it shall be revoked.

(5) *Expiration and renewal.* A permit under this chapter shall expire one (1) year from the date of issuance. A permittee under this chapter shall be entitled to a renewal of his permit as a matter of

course, except when said permit has been suspended or revoked, upon presentation of his previous permit or presentation of an affidavit as to its destruction to the police chief and payment of a thirty dollar ($30.00) fee.

(6) *Possession of permit required.* It shall be unlawful for an employee, as defined in this chapter, to work or perform in an adult entertainment establishment without being in possession of a valid adult entertainment permit.

(7) *Violations.* Any person who violates the provisions of this section, or otherwise fails to secure a permit as required by this section, shall be prosecuted and punished in accordance with section 1-1-8 of this Code.

(8) *Suspension of permit.*

(a) *Conviction for violation of article VIII.* In the event a permittee commits one (1) or more violations of article VIII of this chapter, and a conviction results from at least one (1) of the violations, the mayor shall, upon the date of the conviction, suspend the permit, and notify the permittee of the suspension. The suspension shall remain in effect for a period of ninety (90) days.

(b) *Effective date of suspension.* The period of the suspension shall begin fifteen (15) days after the date the mayor mails or delivers the notice of suspension to the permittee or on the date the permittee surrenders his permit to the mayor, whichever happens first.

(9) *Appeal.* If an application for a permit is denied or if a permit is suspended or revoked, the applicant or permittee may, within fifteen (15) days after the mailing of a notice of denial or suspension or revocation, appeal to the city council. If the applicant or permittee does not appeal the denial, suspension or revocation of a permit, the applicant or permittee shall be deemed to have failed to have exhausted his administrative remedies.

(10) *Replacement of lost permits.* Replacements for lost permits shall be obtained by completing an application as required in this section. All applications for replacement permits shall be accompanied by a ten dollar ($10.00) fee.

(11) *Change of address, name or place of employment.* Whenever any person, after applying for or receiving an adult entertainment permit, shall move from the residential address named in such application, or in the permit issued to him, such person shall, within thirty (30) days, submit written notice to the mayor of such change and shall make a payment to the city in the amount of three dollars ($3.00) for change-of-address fee. In no event shall this eliminate or modify the requirements of this section as to change of business location.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 6, 4-29-99; Ord. No. 31-02, §§ 1, 2, 9-26-02; Ord. No. 16-10, § 71, 9-9-10)

Secs. 7-3-46—7-3-55. - Reserved.

ARTICLE IV. - REQUIREMENTS FOR LEISURE SPA ESTABLISHMENTS

Sec. 7-3-56. - Leisure spa establishments.

(1) It shall be unlawful for any person, firm or corporation to operate, own, conduct, carry on, or permit to be operated, owned, conducted or carried on, any leisure spa establishment of any type or kind, including, but not limited to, leisure spa, leisure spa service business, or any leisure spa business or service offered in conjunction with, or as part of, any health club, health spa, resort or health resort, gymnasium, athletic club, or other business, without compliance with the provisions of this chapter.

(2) In addition to the general requirements contained in Article III, a leisure spa establishment shall observe the following special requirements:

(a) Dressing rooms shall be proportioned to the maximum number of persons or patrons who are expected to be in them at one (1) time, excluding attendants and assistants, and providing a minimum of twelve (12) square feet per person or patron. Separate dressing rooms shall be provided for men and women. Floors shall be of a smooth, impervious material with a nonslip surface and shall be covered at the wall junction for thorough cleaning. Each dressing room area shall contain floor drains. Partition walls shall be covered from the floor to thirty (30) inches above the floor with ceramic tile or other impervious material.

(b) One (1) shower shall be provided for each ten (10) men or women, based upon the maximum number of persons who are expected to be using shower facilities at one (1) time, and separate shower facilities shall be provided for men and women. Floors and partition walls shall be constructed as required in subsection (a) for dressing rooms. Each shower will be constructed of ceramic tile, other impervious material, or single molded material. Each shower shall provide hot and cold running water.

(c) One (1) locker shall be provided for each patron who is expected to be on the licensed premises at one time, which shall be of sufficient size to hold clothing and other articles of wearing apparel. Each locker shall be capable of being locked by the patron with no one else having the key so long as the patron is using the locker, or the locker shall be under the constant attention and supervision of the attendant.

(d) Each room or enclosure where leisure spa services are performed shall be provided with lighting of a minimum of five (5) footcandles as measured four (4) feet above the floor, which lights shall remain on at all times during business hours, and one (1) light capable of providing fifty (50) footcandles of light in all corners of leisure spas, bath, shower or toilet rooms which light shall be turned on when cleaning these areas.

(e) The premises shall have adequate equipment for disinfecting and cleaning undisposable instruments and materials used in administering leisure spa services. Such materials and instruments shall be cleaned after each use. Methods of cleaning and sanitizing shall be consistent with the practices accepted by the National Sanitation Foundation, American Academy of Sanitarians or Center for Disease Control.

(f) Closed cabinets shall be provided for use of all storage equipment, supplies and clean linens. All used and soiled linens and towels shall be kept in water soluble linen bags designed to hold infectious linen and kept in covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage cabinets.

(g) Clean linen and towels shall be provided for each leisure spa patron. No common use of towels or linens shall be permitted.

(h) Oils, creams, lotions or other preparations used in administering leisure spa services shall be kept in clean containers or cabinets.

(i) Each room or enclosure where leisure spa services are performed shall contain a hand washing sink with hot and cold running water. Each technician shall wash his hands in hot running water, using soap or disinfectant before and after administering a massage to each patron.

(j) All walls, ceilings, floors, pools, lavatories, showers, bathtubs, steam rooms, and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms, shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use.

(k) In the event male and female patrons are served, separate rooms or enclosures for leisure spa services shall be provided.

(l) No person shall consume food or beverages in leisure spa work areas, nor shall there be any smoking in leisure spa work areas.

(m) Animals, except guide dogs, shall not be permitted in leisure spa establishments.

(n) The premises of leisure spa establishments shall be equipped with a service sink for custodial services, which sink shall be located in a janitorial room or custodial room separate from leisure spa service rooms. Such sink is to be properly connected to hot and cold running water and sewer system.

(o) Leisure spa services on a person by another person who displays or exhibits less than completely and opaquely covered specified anatomical areas are prohibited.

(p) No person shall perform leisure spa services on the genitals or pubic area of another person.

(q) It shall be unlawful for a leisure spa employee or owner to perform leisure spa services on a patron of the opposite sex.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 7, 4-29-99)

Sec. 7-3-57. - Leisure spa technician.

No leisure spa technician shall administer leisure spa services to any person:

(1) If said leisure spa technician believes, knows or should know that he or she is not free of any contagious or communicable disease or infection;

(2) If said person exhibits any skin fungus, skin infection, skin inflammation, or skin eruption; provided, however, that a physician duly licensed to practice in the State of Florida may certify that such person may be safely administered leisure spa services;

(3) If said person is not free of communicable diseases or infection or whom the leisure spa technician believes or has reason to believe is not free of communicable diseases or infection.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-58. - License required.

No employee of a leisure spa establishment may perform a leisure spa service upon any person unless he or she is duly permitted and is in good standing and active.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 8, 4-29-99)

Sec. 7-3-59. - Home massage treatment.

Massage may only be administered in a patron's home by a massage technician having a license issued in accordance with Chapter 480, Florida Statutes. Any leisure spa establishment must keep, for at least one (1) year, a record of all patrons receiving leisure spa services in a place other than a licensed leisure spa establishment, a record of the place where these leisure spa services were administered and a record of the leisure spa technician who administered these leisure spa services. No leisure spa technician shall administer any leisure spa services at a location which does not conform to or comply with the standards set forth herein.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-60. - Minors.

(1) No leisure spa establishment license holder shall allow a leisure spa patron under eighteen (18) years of age to enter said establishment nor shall a leisure spa technician perform any services upon

a leisure spa patron under eighteen (18) years of age without the written consent of that leisure spa patron's parents or legal guardian, executed before a notary public of the State of Florida.

(2) Each leisure spa establishment license holder shall keep a register or list of all leisure spa patrons under eighteen (18) years of age and keep, for at least one (1) year following the date of the service, a copy of the written consent as required in subsection (1) of this section.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-61. - Hours of operation.

No leisure spa establishment shall be operated between the hours of 10:00 p.m. and 9:00 a.m. No leisure spa patron shall remain upon the premises of a leisure spa establishment during these hours.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-62. - Inspections.

Inspections by the city shall be from time to time and at least twice each year to inspect each leisure spa establishment in the city for the purposes of determining that the provisions of this chapter are being complied with.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-63. - Specified sexual activities.

It shall be unlawful for any person to perform or engage in specified sexual activities in a leisure spa establishment or on the premises thereof.

(Ord. No. 4-99, § 1, 1-14-99)

Secs. 7-3-64—7-3-70. - Reserved.

ARTICLE V. - REQUIREMENTS FOR ADULT MOTION PICTURE THEATERS

Sec. 7-3-71. - Adult motion picture theaters.

(1) It shall be unlawful for any person, firm, or corporation to operate, own, conduct, carry on, or permit to be operated, owned, conducted or carried on, any adult motion picture theater as defined by this chapter, without compliance with the provisions of this chapter.

(2) In addition to the general requirements contained in article III, an adult motion picture theater shall observe the following special requirements:

(a) Each adult motion picture booth shall be open or have a rectangular shaped entranceway not less than thirty (30) inches wide nor less than six (6) feet high.

(b) Each adult motion picture booth shall have sufficient individual, separated seats, not couches, benches, or the like, to accommodate the person expected to use the booth who may occupy the area. Only one (1) person may occupy an adult motion picture booth at any time.

(c) Each adult motion picture booth or theater shall be designed so that a continuous main aisle runs alongside the seating areas in order that each person seated on the areas shall be visible

from the aisle at all times. Neither adult motion picture theaters or booths shall be locked or secured to prevent entry except during hours in which the establishment is closed to business.

(d) Each adult motion picture theater or booth shall be designed such that all areas where a patron or customer is to be positioned must be visible from a continuous main aisle and must not be obscured, wholly or partially, by any curtain, door, wall, partition or other enclosure.

(e) In addition to the sanitary facilities required by section 7-3-36, there shall be provided within or adjacent to the common corridor, passageway or area in adult motion picture theaters having adult motion picture booths, adequate lavatories equipped with running water, hand-cleaning soap or detergent and sanitary towels or hand-drying devices; common towels are prohibited.

(f) An adult motion picture theater designed to permit viewing by patrons seated in automobiles or other seating provisions shall have the motion picture screen so situated, or the perimeter of the licensed premises so screened or fenced, that the projected film material may not be seen from any public right-of-way, from any property zoned for residential use, any religious institution, any day care center, or any school.

(g) Each adult motion picture theater or booth shall have at the entranceway to the applicable theater or booth a sign which lists the maximum number of persons who may occupy the applicable theater or booth, which number shall not exceed the number of seats within the theater or booth.

(h) Each motion picture booth shall have walls or partitions of solid construction without any holes or openings except for the entranceway as provided in subsection (a) above.

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(Ord. No. 4-99, § 1, 1-14-99) Sec. 7-3-72. - Minors.

No adult motion picture theater, as defined by this chapter, shall allow any person under eighteen (18) years of age to enter said establishment.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-73. - Inspections.

Inspections by the city shall be from time to time and at least twice each year to inspect each adult motion picture theater in the city for the purposes of determining that the provisions of this chapter are being complied with.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-74. - Specified anatomical areas.

It shall be unlawful for any person to display or exhibit less than completely and opaquely covered specified anatomical areas in adult motion picture theaters or on the premises thereof (except in connection with normal restroom activities in restroom facilities).

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-75. - Specified sexual activities.

It shall be unlawful for any person to engage in specified sexual activities in adult motion picture theaters or on the premises thereof.

(Ord. No. 4-99, § 1, 1-14-99)

Secs. 7-3-76—7-3-80. - Reserved.

ARTICLE VI. - REQUIREMENTS FOR ADULT BOOKSTORES

Sec. 7-3-81. - Adult bookstore establishments.

(1) It shall be unlawful for any person, firm or corporation to operate, own, conduct, carry on or permit to be operated, owned, conducted or carried on any adult bookstore as defined by this chapter, without compliance with the provisions of this chapter.

(2) In addition to the general requirements contained in article III, an adult bookstore shall observe the following special requirements:

   (a) All materials, devices and novelties shall be so displayed that they cannot be seen by anyone other than customers who have entered the licensed premises.

   (b) If recordings are offered for sale and customers may listen to them while on the licensed premises and/or if booths or rooms are made available for use by customers who desire to listen to such recordings or read materials available, then each such booth or room shall:

      (i) Have an open entranceway not less than two (2) feet wide and not less than six (6) feet high, not capable of being closed or partially closed by any curtain, door, or other partition which would be capable of wholly or partially obscuring any person situated with the booth;

      (ii) Have, except for the entranceway, walls or partitions, of solid construction without any holes or openings in such walls or partitions;

      (iii) Have sufficient individual, separate seats, not couches, benches, or the like, to accommodate the expected number of persons who will occupy such booth or room at any time;

      (iv) The number of patrons who may occupy the booth or room at one time clearly stated on or near the door to the booth or room, and only that number of persons shall be permitted inside the booth or room at one time;

      (v) The door or doors opening into the booth or room incapable of being locked or otherwise fastened so that it or they will freely open the door from either side:

      (vi) All areas where a patron or customer is to be positioned visible from a continuous main aisle and not obscured by any curtain, door, wall, or other enclosure.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-82. - Minors.

No adult bookstore, as defined, by this chapter, shall allow any person under eighteen (18) years of age to enter said establishment.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-83. - Inspections.

Periodic inspections of at least twice a year shall be made by the city of each adult bookstore in the city for the purposes of determining that the provisions of this chapter are being satisfied.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-84. - Sale of nonadult material in adult bookstores.

(1) Adult bookstores as defined by this chapter, which sell, or offer for sale or rent for any form of consideration nonadult materials in addition to adult materials as defined by this chapter shall observe the following additional requirements:

   (a) Materials which are of a nonadult nature shall be segregated from adult material.

   (b) The adult materials shall be maintained in a separated area from which no patron may review such material from the area utilized for nonadult material.

   (c) No patron shall be required to enter said separated area of adult material in order to review nonadult materials, which are offered for sale or rental.

(2) The adult materials area shall have posted a well lighted sign at the entrance to such area which shall read as follows:

NOTICE

THIS AREA OFFERS MATERIALS HAVING ADULT CONTENT. SUCH MATERIAL IS FOR ADULTS ONLY. IF ADULT MATERIALS WOULD OFFEND YOU, DO NOT ENTER.

Such sign shall be clear and legible and the text thereof shall be set forth in letters of uniform size having a height of not less than one (1) inch nor more than two (2) inches.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 9, 4-29-99)

Sec. 7-3-85. - Providing of additional information.

The owner or operator of any commercial establishment which sells or rents books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other representations or recordings or novelties and devices may be required, if so requested by the city, to provide additional information referable to requirements under this chapter including, but not limited to, inventory listings and sales records for the purposes of determining if said commercial establishment is an adult bookstore. Failure to provide said materials upon written request of the city shall be sufficient cause for the suspension of the commercial establishment's license as required by article II. The owner or operator shall have a thirty (30) day period from the date of the written request within which to provide the requested information. He shall have two (2) additional periods of fifteen (15) days each within which to provide such information upon showing of good cause of his inability to provide it earlier, provided the reason(s) for not providing the requested information is submitted before the expiration of the existing period.

(Ord. No. 4-99, § 1, 1-14-99)

Secs. 7-3-86—7-3-90. - Reserved.

ARTICLE VII. - REQUIREMENTS FOR ADULT DANCING ESTABLISHMENTS

Sec. 7-3-91. - Adult dancing establishments.

In addition to the general requirements for adult entertainment establishments contained herein, an adult dancing establishment shall, regardless of whether it is licensed, observe the following special requirements:

(a) It shall have a stage provided for the display or exposure of any specified anatomical area by an employee or for the performance by any employee wearing any covering, tape, pasties or other device that simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas to a person other than another employee consisting of a permanent platform (or other similar permanent structure) raised a minimum of eighteen (18) inches above the surrounding floor and encompassing an area of at least one hundred (100) square feet; and

(b) It shall provide an area three (3) feet in width running along and/or around the entire edge of the stage within which patrons of the establishment shall not enter while the employee(s) is performing, entertaining, or standing on the stage; and

(c) There shall be no areas for private performances and private performances are prohibited; and

(d) Immediately inside the entrance of any adult dancing establishment there shall be posted a well-lighted sign which shall read as follows:

NOTICE

THIS ESTABLISHMENT OFFERS MATERIAL OR ENTERTAINMENT HAVING ADULT CONTENT. SUCH MATERIALS OR ENTERTAINMENT ARE FOR ADULTS ONLY. IF THIS OR NUDITY WOULD OFFEND YOU, DO NOT ENTER. STRADDLE DANCING IS NOT PERMITTED.

Such sign shall be clear and legible and the text thereof shall be set forth in letters of uniform size having a height of not less than one (1) inch nor more than two (2) inches.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 10, 4-29-99)

Sec. 7-3-92. - Minors.

No adult dancing establishment, as defined, by this chapter, shall allow any person under eighteen (18) years of age to enter said establishment.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-93. - Inspections.

Inspections by the city shall be made from time to time and at least twice each year to inspect each adult dancing establishment in the city to determine compliance with this chapter.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-94. - Specified sexual activities.

It shall be unlawful for any person to perform or engage in specified sexual activities in an adult dancing establishment or on the premises thereof.

(Ord. No. 17-99, § 11, 4-29-99)

Sec. 7-3-95. - Reserved.

ARTICLE VIII. - CRIMINAL PROVISIONS

Sec. 7-3-96. - Acts where alcoholic beverages are present.

(1) It shall be unlawful for any person within an establishment, regardless of whether it is licensed under this chapter, where said person knows or should have known that alcoholic beverages are on the premises, to exhibit or display less than completely and opaquely covered specified anatomical areas, as herein defined.

(2) It shall be unlawful for any person maintaining or operating an establishment, where said person knows or should have known that alcoholic beverages are on the premises, to knowingly, or with reason to know, permit, suffer or allow any person on the premises to exhibit or display less than completely and opaquely covered specified anatomical areas, as defined herein.

(3) Notwithstanding any provisions of this chapter to the contrary, it shall not be unlawful for any person or employee of any establishment to expose less than completely and opaquely covered specified anatomical areas in connection with the use of approved sanitary facilities commonly known as restrooms. However, less than completely and opaquely covered specified anatomical areas shall be exposed or displayed only in restroom facilities in connection with normal restroom functions.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-97. - Prohibited conduct within adult entertainment establishments.

(1) It shall be unlawful for any person to be an owner, operator or manager of an adult entertainment establishment where the person knows or should know:

   (a) That the establishment does not have the appropriate classification of adult entertainment license for the classification of entertainment offered within the establishment;

   (b) That the establishment has a license which is under suspension;

   (c) That the establishment has a license which has been revoked or canceled; or

   (d) That the establishment has a license which is expired.

(2) It shall be unlawful for any person to be an owner, operator or manager of:

   (a) An adult entertainment establishment which does not satisfy the requirements set forth herein.

   (b) An adult entertainment motion picture theater which does not satisfy all the special requirements set forth herein.

   (c) An adult dancing establishment which does not satisfy all of the special requirements set forth herein.

   (d) An adult entertainment bookstore which does not satisfy all the special requirements set forth herein.

   (e) An adult leisure spa establishment which does not satisfy all the special requirements set forth herein.

(3) It shall be unlawful for an owner or operator of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to knowingly, or with reason to know, permit, suffer, or allow an employee:

   (a) To engage in a straddle dance with a person at the establishment;

   (b) To contract or otherwise agree with a person to engage in a straddle dance with a person at the establishment;

   (c) To engage in any specified sexual activity at the establishment;

(d) To, where alcoholic beverages are sold, offered for sale, dispensed, or consumed, display or expose at the establishment less than completely and opaquely covered specified anatomical areas;

(e) To display or expose at the establishment less than completely and opaquely covered specified anatomical areas, unless such employee is continuously away from any person other than another employee, and unless such employee is in an area as described in section 7-3-36(f)(iii);

(f) To display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the establishment, including with another employee;

(g) To engage in a private performance;

(h) To, while engaged in the display or exposure of any specified anatomical area, intentionally touch any person at the adult entertainment establishment, excluding another employee;

(i) To intentionally touch the clothed or unclothed body of any person at the adult entertainment establishment, excluding another employee, at any point below the waist and above the knee of the person, or to intentionally touch the clothed or unclothed breasts of any female person; or

(j) To work, if the employee has not applied for and obtained a temporary or permanent permit under this chapter.

(4) *Advertising prohibited activity.* It shall be unlawful for an owner or operator of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to advertise the presentation of any activity prohibited by any applicable state statute or local ordinance.

(5) *Minors prohibited.* Except as provided in section 7-3-60 above, it shall be unlawful for an owner or operator of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to knowingly, or with reason to know, permit, suffer, or allow:

(a) Admittance to the establishment of a person under eighteen (18) years of age;

(b) A person under eighteen (18) years of age to remain at the establishment;

(c) A person under eighteen (18) years of age to purchase goods or services at the establishment; or

(d) A person to work at the establishment as an employee who is under eighteen (18) years of age.

(6) *Working at establishment which does not have valid adult entertainment license.* It shall be unlawful for any person to work in an adult entertainment establishment that he or she knows or should know is not licensed under this chapter, or which has a license which is under suspension, has been revoked or canceled, or has expired, regardless of whether he has applied for and obtained a temporary or permanent adult entertainment permit under this chapter.

(7) *Working without permit prohibited.*

(a) Subject to the limitations provided for herein, it shall be unlawful for any person to work in an adult entertainment establishment, regardless of whether it is licensed under this chapter, if the person has not applied for and obtained a temporary or permanent adult entertainment permit under this chapter.

(b) Subject to the limitations provided for herein, it shall be unlawful for any person working in an adult entertainment establishment, regardless of whether it is licensed under this chapter, to fail to produce a valid temporary or permanent permit within seventy-two (72) hours upon demand for inspection by any law enforcement officer. For the purposes of this provision, such a temporary or permanent permit is only valid if the person has applied for and obtained such permit prior to the demand.

(8) *Engaging in prohibited activity.* It shall be unlawful for any employee of any adult entertainment establishment, regardless of whether it is licensed under this chapter:

(a) To engage in a straddle dance with a person at the establishment;

(b) To contract or otherwise agree with a person to engage in a straddle dance with a person at the establishment;

(c) To engage in any specified sexual activity at the establishment;

(d) To, where the employee knows or should know that alcoholic beverages are sold, offered for sale, or consumed, display or expose at the establishment less than completely and opaquely covered specified anatomical areas or human male genitals in a discernibly turgid state, even if completely and opaquely covered;

(e) To display or expose at the establishment less than completely and opaquely covered specified anatomical areas, or human male genitals in a discernibly turgid state, even if completely and opaquely covered, unless such employee is continuously positioned away from any person other than another employee, and unless such employee is in an area as described in section 7-3-36(f)(iii);

(f) To engage in the display or exposure of any less than completely and opaquely covered specified anatomical areas while simulating any specified sexual activity with any other person at the establishment, including with another employee;

(g) To engage in a private performance;

(h) To, while engaging in the display or exposure of any specified anatomical area, intentionally touch any person at the adult entertainment establishment, excluding another employee; or

(i) To touch the clothed or unclothed body of any person at the adult entertainment establishment, excluding another employee, at any point below the waist and above the knee of the person; or

(j) To touch the clothed or unclothed breast of any female person.

(9) *Touching of employee by person.*

(a) It shall be unlawful for any person in an adult entertainment establishment, other than another employee, to intentionally touch an employee who is displaying or exposing any specified anatomical area at the adult entertainment establishment.

(b) It shall be unlawful for any person in an adult entertainment establishment, other than another employee, to touch the clothed or unclothed body of any employee at any point below the waist and above the knee of the employee.

(c) It shall be unlawful for any person in an adult entertainment establishment to intentionally touch the clothed or unclothed breast of any employee.

(10) *Exceeding occupancy limit of adult booth.* It shall be unlawful for any person to occupy an adult booth in which booth is already occupied by one person in violation of section 7-3-71 or for a greater number of persons to occupy an adult booth than are allowed in violation of section 7-3-81.

(11) *Use of restroom or dressing rooms.* Notwithstanding any provision indicating to the contrary, it shall not be unlawful for any employee of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to expose any less than completely and opaquely covered specified anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees.

(12) *Hours of operation.*

(a) It shall be unlawful for any operator of an adult entertainment establishment, other than a leisure spa establishment, to allow such establishment to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 3:00 a.m. and 11:00 a.m. of any particular day.

(b) It shall be unlawful for any employee of an adult entertainment establishment, other than a leisure spa establishment, to engage in a performance, solicit a performance, make a sale,

solicit a sale, provide a service, or solicit a service, between the hours of 3:00 a.m. and 11:00 a.m. of any particular day.

(13) *Alteration of license or permit.*

(a) It shall be unlawful for any person to alter or otherwise change the contents of an adult entertainment license without the written permission of the city.

(b) It shall be unlawful for any person to alter or otherwise change the contents of an adult entertainment permit without the written permission of the city.

(14) *Violation subject to criminal prosecution.* Whoever violates any section of article VIII of this chapter may be prosecuted and punished as provided in section 1-1-8 of this Code.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-98. - Presumptions.

The following shall be presumed in actions brought for violations of this chapter:

(1) Any establishment which has received an occupational license to operate commercially is presumed to be an adult entertainment establishment.

(2) Any person who operates or maintains an adult entertainment establishment shall be presumed to be aware of the activities which are conducted in said establishment upon a showing that said person negligently or willfully fails or refuses to monitor conduct at the establishment.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 12, 4-29-99)

Sec. 7-3-99. - Prospective application of certain sections.

Sections 7-3-41; 7-3-91(a) and (b); 7-3-96; 7-3-97(2); 7-3-97(3)(d) and (e); 7-3-97(8)(d) and (e); and 7-3-97(9)(a) and (b) of this chapter shall be applied only prospectively, that is only to establishments that were not in existence or operating, or not engaged in any of the proscribed activities on the date of adoption of this chapter.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 13, 4-29-99)

Sec. 7-3-100. - Nonconforming establishments.

Any adult entertainment establishments existing and operating as of the effective date of this chapter which do not conform to the requirements of the definition of an adult entertainment establishment shall be classified as nonconforming. If any such nonconforming adult entertainment establishment voluntarily ceases to do business for a period of fifteen (15) consecutive days then it shall be deemed abandoned and thereafter shall not reopen except in conformance with these distance and dispersal standards. However, no adult entertainment establishment shall expand the square footage or cubic footage of the establishment beyond its current dimensions. Non conforming establishments are still subject to licensure under this chapter and to conform to all other requirements that are not solely prospective in nature pursuant to section 7-3-99.

(Ord. No. 17-99, § 14, 4-29-99)

Sec. 7-3-101. - Obscenity not permitted.

Nothing in this chapter shall be construed to allow or permit conduct prohibited by Chapter 847, Florida Statutes (Obscenity) and its amendments or successor statutes. These matters are preempted to the state and are subject to state regulation. It is not the intent of the city council to legislate with respect to preempted matters. Nothing in this chapter nor the grant of any license or permit pursuant to the provision of this chapter shall be construed to mean that any operations or activities tolerated by the provisions of this chapter are in conformity with local community standards.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 14, 4-29-99)

Sec. 7-3-102. - Penalties.

(1) The city may bring suit to restrain, enjoin or otherwise prevent the violation of this chapter.

(2) Any violation of any provision of this chapter shall be punishable as provided in section 1-1-8 of this Code. Furthermore, any person who violates any provision of this chapter shall be subject to suspension or revocation of his license or permit as provided in this chapter.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 14, 4-29-99)

Secs. 7-3-103—7-3-110. - Reserved.

ARTICLE IX. - DISTANCE AND LOCATION PROVISIONS

Sec. 7-3-111. - Distance requirements.

Notwithstanding any other provision of this Code, no person shall cause or permit the establishment or operation of any adult entertainment establishment, as herein defined, within:

(a) One thousand (1,000) feet from any other adult entertainment establishment; or

(b) Five hundred (500) feet from any religious institution, school, or day care center; or

(c) Five hundred (500) feet from any parcel of property zoned R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, or PR-1AAA.

(Ord. No. 16-99, § 1, 4-29-99)

Sec. 7-3-112. - Measurement of distance requirements.

The city shall determine said distances by measuring a radius from the property line of the adult entertainment establishment. If any portion of a parcel of property is within said distance, whether or not the property is located within the corporate limits of the city, then the entire parcel shall be deemed to be within said distance.

(Ord. No. 16-99, § 1, 4-29-99)

Sec. 7-3-113. - Nonconforming establishments—Distance requirements.

Any adult entertainment establishments existing and operating as of the effective date of this section, which do not conform to the distance requirements set forth herein, shall be deemed to be nonconforming, and the distance requirements set forth herein shall not apply to those establishments. If any such nonconforming adult entertainment establishment voluntarily ceases to do business for a period of fifteen (15) consecutive days, then it shall be deemed abandoned and thereafter shall not reopen except in conformance with all requirements of the City Code of the City of Pensacola. Further, no such

nonconforming adult entertainment establishment may be extended to occupy any greater area of land or extended to occupy any land outside any buildings on the same parcel.

(Ord. No. 16-99, § 1, 4-29-99)

Sec. 7-3-114. - Location requirements.

An adult entertainment establishment located within the city limits shall be allowed only in the following land use districts or defined areas:

(a) C-3 (Commercial Zoning District)

(b) M-1 (Light Industrial Zoning District)

(c) M-2 (Heavy Industrial Zoning District)

(d) Dense Business Area, but excluding that area bounded on the west by Baylen Street, on the north by Garden Street, on the east by Jefferson Street, and on the south by Pensacola Bay.

(Ord. No. 16-99, § 1, 4-29-99; Ord. No. 3-01, § 1, 1-11-01)

REPEAL SECTION 7-3-115.

CHAPTER 7-4. ALCOHOLIC BEVERAGES[4]

Footnotes:

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Editor's note— Ord. No. 18-86, § 1, enacted June 26, 1986, amended Ch. 7-4 in its entirety to read as herein set forth. Prior to such amendment, Ch. 7-4, §§ 7-4-1—7-4-9, pertained to similar subject matter and was derived from Code 1968, §§ 60-1—60-11, 60-13.

Cross reference— Zoning districts, Ch. 12-2.

State Law reference— State beverage law, F.S. Ch. 561 et seq.

Sec. 7-4-1. - Definitions.

The following terms, when used in this chapter, shall have the meanings ascribed herein unless the context clearly indicates otherwise:

Bottle club shall have the meaning set forth in F.S. § 561.01.

Consideration means:

(1) The payment of, or obligation to pay, any cover charge, entrance fee, dues, or commission for the right or privilege to enter or remain upon the premises; or

(2) The payment, or obligation to pay for ice, nonalcoholic mixes or other nonalcoholic liquids used in connection with alcoholic beverage drinks; or

(3) The payment of or obligation to pay for use of glassware or other containers for the consumption of alcoholic beverage drinks; or

(4) The payment of or obligation to pay for food; or

(5) The payment of or obligation to pay for entertainment of any kind, whether live, recorded, taped, or on film; or

(6) The payment, or obligation to pay, for any combination of the foregoing.

Dense business area means all of that portion of the corporate limits of the city as defined in Chapter 12-14 of this Code.

Private club means any place or establishment licensed or required to be licensed pursuant to F.S. § 565.02(4).

School means an institution primarily for academic instruction, public, parochial or private (whether for-profit or nonprofit) and having a curriculum the same as ordinarily given in a public school, but not including colleges, universities or other institutions of post-secondary education.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 35-86, § 1, 8-28-86; Ord. No. 10-89, § 1, 2-23-89; Ord. No. 56-90, § 1, 11-1-90; Ord. No. 10-95, § 1, 2-23-95; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 6-99, § 1, 1-28-99; Ord. No. 15-99, § 1, 4-15-99; Ord. No. 20-09, § 1, 6-25-09)

Sec. 7-4-2. - Hours of operation.

(a) Alcoholic beverages may be sold only on Monday through Sunday, between the hours of 7:00 a.m. and 3:00 a.m. of the following day.

(b) No saloon, barroom, cocktail lounge, club or other place where alcoholic beverages are ordinarily sold, shall remain open during such prohibited hours of sale; provided, however the provisions of this section shall not be construed as prohibiting grocery stores, restaurants or eating places, which ordinarily sell such beverages, from remaining open during the prohibited hours, so long as such beverages are not sold or permitted to be consumed upon the premises of such places during such hours.

(c) Bottle clubs may be permitted to operate on Monday through Sunday only between the hours of 10:00 p.m. and 3:00 a.m. of the following day. Subsections (a) and (b) of this section shall not be applicable to bottle clubs.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 35-86, § 2, 8-28-86; Ord. No. 39-89, § 1, 8-10-89; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 22-12, § 1, 9-27-12; Ord. No. 11-19, § 1, 5-16-19)

State Law reference— Municipalities may establish hours of sale for alcoholic beverages, F.S. §§ 562.14(1), 562.45(2).

Sec. 7-4-3. - Certificates of compliance.

(a) It shall be unlawful to sell, or offer to keep for sale, alcoholic beverages containing more than one percent of alcohol by weight in any place or establishment, including a private club or bottle club, for which a certificate of compliance with the provisions of this chapter has not been issued. It shall also be unlawful for a bottle club to operate at any location for which a certificate of compliance has not been issued. It shall also be unlawful for a private club to serve or receive or keep for consumption on the premises, whether by members, nonresident guests or other persons, alcoholic beverages containing more than one percent of alcohol by weight at any location for which a certificate of compliance has not been issued. Provided, however, no certificate of compliance shall be required for any place or establishment lawfully operating on June 26, 1986. Any place or establishment lawfully operating on June 26, 1986, which would not be permitted under the terms of this chapter by reason of restrictions stated herein, shall be declared a nonconforming use and may be continued subject to the following provisions:

(1) *Extension of nonconforming use.* No such nonconforming use may be extended to occupy any greater area of land or extended to occupy any land outside any buildings on the same parcel.

(2) *Abandonment of nonconforming use.* If such nonconforming use is abandoned for a period of more than one hundred eighty (180) days, any future use of such land and structure shall be in conformity with the provisions of this title.

(3) *Change in nonconforming use.* There may be a change in tenant, ownership or management of a nonconforming use provided there is no change in the nature or character of such nonconforming use.

Provided further, however, no certificate of compliance shall be required for any place or establishment to sell or offer or keep for sale in sealed containers for consumption off of-the-premises beer, as defined by F.S. § 563.01, or wine, as defined by F.S. § 564.01(1).

(b) Each petition for a certificate of compliance shall be considered by the mayor and, if the mayor finds that the petition is in compliance with the provisions of this chapter, then the mayor shall issue a certificate of compliance with the provisions of this chapter, subject to appeal to the city council.

(c) Notice of each decision of the mayor to grant or deny a certificate of compliance with this chapter shall be filed immediately in the office of the city clerk where it shall be available for public inspection. The city clerk shall send notice of any decision to deny a certificate of compliance to the petitioner, which notice shall inform the petitioner of the right of any person aggrieved by the decision of the mayor to appeal to the city council within ten (10) calendar days after the date of such notice.

(d) Any person aggrieved by a decision of the mayor pursuant to this chapter may appeal to the city council by filing in the office of the city clerk a written notice of appeal within ten (10) calendar days after the date of the mayor's granting of a certificate of compliance or within ten (10) calendar days after the date of the city clerk's notice to the petitioner of the mayor's decision to deny a certificate of compliance. The notice of appeal shall set forth a short and plain statement alleging the reasons why the decision of the mayor was not in compliance with the provisions of this chapter.

(e) The city council shall consider any appeal pursuant to this chapter at a city council meeting within a reasonable time following the date of filing of a notice of appeal. At the meeting, the appellant, the petitioner (if not the appellant) and the mayor may present evidence concerning whether the decision of the mayor was in compliance with the provisions of this chapter. The burden of proof shall be upon the appellant. The city council shall consider the evidence presented concerning the criteria set forth in this chapter and render its decision which shall be final.

(f) The mayor shall issue to the petitioner a certificate of compliance with the provisions of this chapter if an appeal has been timely filed, and the city council has approved the granting of a certificate of compliance.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 35-86, § 3, 8-28-86; Ord. No. 45-87, § 1, 10-22-87; Ord. No. 50-91, §1, 9-26-91; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 16-10, § 72, 9-9-10)

Sec. 7-4-4. - Establishments prohibited in proximity of residential district.

(a) A certificate of compliance shall not be issued for any place or establishment, including a private club or a bottle club, within five hundred (500) feet of any vacant or residentially developed parcel of property zoned R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, or PR-1AAA. This restriction shall not apply in the Historic District, the Waterfront Redevelopment District, the South Palafox Business District or the dense business area.

(b) The city shall determine said distance by measuring a radius from the property line of the place or establishment. If any portion of a parcel of property is within said distance, whether or not the property is located within the corporate limits of the city, then the entire parcel shall be deemed to be within said distance.

(c) The provisions of subsection (a) hereof shall not be applicable to any large multi-use retail store with a floor area of two hundred thousand (200,000) square feet or greater which has obtained a license

pursuant to F.S. 565.02(1)(a), or to any motel, hotel or restaurant which has obtained a special alcoholic beverage license pursuant to F.S. § 561.20(2)(a).

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 35-86, § 4, 8-28-86; Ord. No. 43-86, § 2, 10-23-86; Ord. No. 10-89, § 2, 2-23-89; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 6-99, § 2, 1-28-99; Ord. No. 21-02, § 1, 9-12-02; Ord. No. 12-12, § 1, 5-24-12)

State Law reference— Authority to regulate location of business, F.S. § 562.45(2).

Sec. 7-4-5. - Restriction on distance from schools and churches.

(a) A certificate of compliance shall not be issued for any place or establishment within the city limits, but outside the dense business area, which lies within five hundred (500) feet of any church or school, nor for any place or establishment within the dense business area which lies within three hundred (300) feet of any church or school, unless, in the case of a church, the governing body of such church consents in writing to the issuance of a certificate of compliance.

(b) The city shall determine distances by measuring a radius from the property line of the place or establishment. If any portion of a parcel of land in use as church or school facilities lies within said radius, whether or not the property is located within the corporate limits of the city, then the church or school shall be deemed to be within said distance.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 10-89, § 3, 2-23-89; Ord. No. 26-92, § 1, 8-13-92; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 6-99, § 3, 1-28-99)

Sec. 7-4-6. - Restriction of number of certain alcoholic beverage establishments.

(a) There shall be no more than one place or establishment where beer, as defined by F.S. § 563.01, or wine, as defined by F.S. § 564.01(1), or liquor, as defined by F.S. § 565.01, are sold, offered or kept for sale, or received, kept or brought for consumption on or off the premises, opening or having entrance upon any one side or sidewalk of any block within the city, except as provided in subsection (b) hereof. Provided that, if any such place or establishment occupies a corner location in any particular block of the city, then such place or establishment shall not be considered to be within the provisions of subsection (a) hereof.

(b) The provisions of subsection (a) hereof shall not be applicable to any motel, hotel or restaurant which has obtained a special alcoholic beverage license pursuant to F.S. § 561.20(2)(a).

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 35-86, § 5, 8-28-86; Ord. No. 50-91, § 2, 9-26-91; Ord. No. 15-96, § 1, 3-28-96)

Sec. 7-4-7. - Additional criteria for certificate of compliance.

(a) A certificate of compliance shall not be issued for any place or establishment in any area in which the comprehensive plan or zoning ordinances of the city do not permit the sale of alcoholic beverages or where the place or establishment is not in compliance with the building, plumbing, electrical and gas codes of the city.

(b) Additionally, prior to granting a certificate of compliance, the mayor shall first determine that the place or establishment complies with the other requirements of this chapter and that the granting of a certificate shall not interfere with safe traffic circulation.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 16-10, § 73, 9-9-10)

Sec. 7-4-8. - Conditional certificate of compliance for places or establishments not constructed or completed.

Conditional certificates of compliance may be issued for places or establishments which have not been constructed for which certificates of occupancy have not been issued by the inspection services department of the city. No conditional certificate shall be issued unless the construction plans show that the place or establishment when occupied will be in compliance with the requirements of this chapter. Prior to issuing a certificate of occupancy for a place or establishment for which a conditional certificate has been issued, the mayor shall determine whether the place or establishment complies with the zoning and building codes of the city and whether the main public entrance of the place or establishment has changed from that set forth in the construction plans so as to render the place or establishment in violation of the restrictions set forth in this chapter. If the place or establishment does not comply or if the main public entrance thereto has changed in the manner described above, the conditional permit shall be revoked by the mayor (notice of which shall be furnished to the petitioner) subject to the right of the petitioner to recommence the petition process. If the place or establishment does comply and the main public entrance thereto has not changed in the manner described above, the mayor shall issue a certificate of compliance in accordance with subsection 7-4-3(b), the issuance of which shall be subject to review by the manner prescribed in section 7-4-3.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 16-10, § 74, 9-9-10)

Sec. 7-4-9. - Sunday deliveries.

It shall be unlawful for any wholesaler or distributor of alcoholic beverages to make any deliveries of alcoholic beverages to any retail establishment or other place retailing such beverages, by motor truck or other vehicle before 1:00 p.m. on Sundays, within the corporate limits of the city.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 15-96, § 1, 3-28-96)

Sec. 7-4-10. - Certain exemptions for distributors.

It is the intent of this chapter that the provisions of sections 7-4-4 and 7-4-5 do not apply to distributors of alcoholic beverages, as the same are defined by the Beverage Law of the State of Florida.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 15-96, § 1, 3-28-96)

Sec. 7-4-11. - Additional exemption for certain licensed restaurants.

Notwithstanding any provisions of this chapter to the contrary, a restaurant licensed by the Division of Hotels and Restaurants of the State of Florida Department of Business Regulation may sell beer and wine for consumption on the premises only during the hours of sale permitted by section 7-4-2. Additionally, any restaurant meeting the requirements stated above, and obtaining a license pursuant to F.S. § 561.20(2)(a)4, shall be permitted to sell beer, wine, and liquor for consumption on the premises only during the hours of sale permitted by section 7-4-2.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 6-99, § 4, 1-28-99)

Sec. 7-4-12. - Additional exemption for certain vendors and nonprofit civic organizations.

Vendors licensed pursuant to F.S. § 563.02(1), and nonprofit civic organizations permitted pursuant to F.S. § 561.422, shall be exempt from the provisions of this chapter to the extent required by said law.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 35-86, § 6, 8-28-86; Ord. No. 15-96, § 1, 3-28-96)

Sec. 7-4-13. - Consumption in public places.

(1) Except as provided below, it shall be unlawful for any person to consume, possess, or control any type of alcoholic beverages or any other intoxicating liquors other than a beverage in an unopen container at or upon any park, playground or other recreational facility owned by the city, or in or upon any street right-of-way within the city, including, but not limited to, sidewalks, alleyways, and paved or unpaved portions of the right-of-way.

(2) This prohibition shall not apply to those activities, either public or private, for which prior approval by the mayor has been granted or obtained pursuant to the provisions of the special events permitting, §§ 11-4-171 through 11-4-180 of the City Code.

(3) Public or private activities where alcoholic beverages or other intoxicating liquors may be consumed will be allowed under a special event permit in the following parks and recreational facilities:

   (a) Bayview Park (excluding Bayview Resource Center) and Bayview Senior Citizens Center.

   (b) Plaza de Luna.

   (c) Seville Square.

   (d) William Bartram Memorial Park.

   (e) East Pensacola Heights Clubhouse.

   (f) Sanders Beach Corinne Jones Resource Center (limited to the inside and the veranda).

Sale of alcoholic beverages by any activity sponsor, vendor, or other person at such a public or private activity shall be prohibited except for those events specifically permitting such sales under the activity's special event permit.

(4) Alcoholic beverages sales and consumption will be allowed on the Osceola Municipal Golf Course, in the Saenger Theatre, on the premises of the Roger Scott Tennis Center exclusive of the parking lot area outside of the perimeter fencing, and the Bayview Senior Citizens Center (limited to the inside and outdoor patio areas on the south side of the building), all subject to the terms and conditions of their respective vendor management agreements and city ordinance.

(5) At the time of application for a special event permit, the applicant as provided in section 11-4-177 shall furnish to the mayor for the activity a copy of its proof of liquor liability insurance and other required insurance coverages naming the city as an additional insured to protect the city from any potential liabilities or losses related to the proposed activity.

(6) The applicant also shall arrange with the city to provide security services for the activity at the time of application for a special event permit. The cost of such security services shall be paid for by the applicant. The city shall detail the number of officers as deemed appropriate to maintain public safety at the function but in no case less than the following for any proposed activity:

   (a) Outdoor events of one hundred fifty (150) people or less shall require a minimum of one (1) police officer. Outdoor events of more than one hundred fifty (150) people shall require a minimum of two (2) officers.

   (b) Indoor events of any size shall require a minimum of two (2) officers with one (1) stationed inside the facility and one (1) in the parking lot.

(7) This prohibition against open containers shall not apply to events taking place within the Specialty Center District as defined in section 11-4-171 where the event organizer has obtained a special events permit that invokes the Specialty Center District.

(Ord. No. 35-86, § 7, 8-28-86; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 22-97, § 1, 6-26-97; Ord. No. 17-07, § 1, 4-26-07; Ord. No. 16-10, § 75, 9-9-10; Ord. No. 19-10, §§ 1, 2, 9-9-10; Ord. No. 04-13, § 1, 2-14-13)

Sec. 7-4-14. - Enforcement.

(1) In addition to the penalties for violations of this Code provided for in section 1-1-8 of this Code, this chapter also may be enforced by the city in an action to enjoin any violation of this chapter or to close any place or establishment where such violation occurs.

(2) For violations of section 7-4-13, in lieu of making an arrest or issuing a notice to appear pursuant to section 1-1-8, a law enforcement officer may issue a civil citation as described below:

(a) A law enforcement officer may issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a violation of section 7-4-13.

(b) A citation issued by a law enforcement officer shall be in a form prescribed by the mayor and shall contain:

(1) The date and time of issuance.

(2) The name and address of the person to whom the citation is issued.

(3) The date and time the violation of section 7-4-13 was committed.

(4) The facts constituting reasonable cause.

(5) The name of the law enforcement officer.

(6) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.

(7) The applicable civil penalty if the person elects to contest the citation.

(8) The applicable civil penalty if the person elects not to contest the citation.

(9) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, such person shall be deemed to have waived the right to contest the citation and that, in such case, judgment may be entered for an amount up to the maximum civil penalty.

(c) For violations of section 7-4-13, the following civil penalty citation schedules will apply if the person cited elects not to contest a citation and the civil penalties which will apply if such person elects to contest a citation:

(1) For those persons not contesting a citation:

a. First citation, fifty dollars ($50.00).

b. Second citation, one hundred dollars ($100.00).

c. Third citation, two hundred dollars ($200.00).

d. Fourth and all additional citations, $400.00.

(2) For those persons contesting a citation, the county court may impose a fine within the court's discretion up to a maximum of five hundred dollars ($500.00).

(d) After issuing a citation to an alleged violator, a law enforcement officer shall deposit the original citation and one copy of the citation with the county court.

(Ord. No. 35-86, § 8, 8-28-86; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 04-12, § 1, 3-8-12)

Sec. 7-4-15. - Sales and consumption restricted to licensed buildings.

(1) It shall be unlawful for any owner of a licensed establishment, or for any agent, servant or employee of any such owner to permit the consumption of any alcoholic beverages in or upon any parking or other area outside of the building or room mentioned in his license certificate as the address thereof, when any part of such parking or other area is adjacent to the building or premises in which the building licensed under such section is operated, and when such parking or other area is owned, rented, leased, regulated, controlled or provided, directly or indirectly, by such owner or by any agent, servant or employee of such owner.

(2) It shall be unlawful for any person to consume any alcoholic beverage in or upon any parking or other area outside of and adjacent to licensed premises when such parking or other area is owned, rented, leased, regulated, controlled or provided, directly or indirectly, by such establishment.

(3) If any licensed owner mentioned herein be a corporation, then the officers of such corporation shall be regarded as the owners thereof, for the purposes of enforcement of this section.

(4) Any person violating any of the provisions of this section shall, upon conviction, be punished as provided in section 1-1-8 of the Code of the City of Pensacola, Florida.

(5) The mayor is hereby authorized to grant exemptions from the operation of this section. Any person seeking an exemption from the operation of this section must make a request in writing to the mayor's office, and this application must describe in detail the reasons and circumstances pertaining to the intended consumption of alcoholic beverages in an outside area. Exemptions may be granted by the mayor only in situations where it would appear that the exemption, if granted, would not create a public nuisance or a public disturbance. In determining whether to grant a requested exemption, the mayor shall take into account the following factors:

   (a) The degree to which the consumption of alcoholic beverages in an outside area would be exposed to public view.

   (b) The level of noise likely to be created by the granting of an exemption.

   (c) The extent to which litter control is exercised by the person or entity providing for the availability of alcoholic beverages.

   (d) The degree to which law enforcement services have been or may be required to be provided by the City of Pensacola.

No exemption granted by the mayor shall be effective for a period of more than one (1) year from the date of issue. Such exemption may be renewed by the mayor on an annual basis upon written request, and the mayor may grant annual renewal by application of the four (4) factors set forth above.

(6) Any person aggrieved by the denial of an exemption by the mayor shall have a right to appeal the mayor's decision to the city council. Such an appeal must be filed in writing in the office of the city clerk within ten (10) calendar days after the date of the mayor's decision to deny an exemption. The notice of appeal shall set forth a short and plain statement of the reasons why the decision of the mayor was not in compliance with the provisions of this section.

(7) The city council shall consider any appeal pursuant to this section within a reasonable time following the date of filing of a notice of appeal. At the meeting, the appellant and the mayor may present evidence concerning whether the decision of the mayor was in compliance with the provisions of this section. The burden of proof shall be upon the appellant. The city council shall consider the evidence presented concerning the criteria set forth in this section and render its decision which shall be final.

(8) The mayor is authorized to revoke any exemption which may have been granted pursuant to this section in the event that it is determined by the mayor that the conduct of patrons of a licensed establishment which has been granted an exemption constitutes a public nuisance or a public disturbance. In determining whether a public nuisance or disturbance exists, the mayor may consider and investigate the level of noise created by outdoor consumption of alcoholic beverages, the degree of litter produced, and the degree to which law enforcement services have been

necessitated. In the event that the mayor determines that an exemption previously granted should be revoked, the mayor shall provide written notice to the owner of the licensed establishment no less than five (5) days in advance of the effective date of the revocation, informing the owner of the licensed establishment of the intention to revoke the exemption and the reasons therefor.

(9) Any person aggrieved by the revocation of an exemption by the mayor shall have a right to appeal the mayor's decision to the city council. Such an appeal must be filed in writing in the office of the city clerk within ten (10) calendar days after the date of the mayor's decision to deny an exemption. The notice of appeal shall set forth a short and plain statement of the reasons why the decision of the mayor was not in compliance with the provisions of this section, or why the exemption should not be revoked.

(10) The city council shall consider any appeal of a revocation of exemption pursuant to this section within a reasonable time following the date of filing of a notice of appeal. At the meeting, the appellant and the mayor may present evidence concerning whether the decision of the mayor was in compliance with the provisions of this section. The burden of proof shall be upon the appellant. The city council shall consider the evidence presented concerning the criteria set forth in this section and render its decision which shall be final.

(Ord. No. 43-86, § 1, 10-23-86; Ord. No. 19-93, § 1, 6-24-93; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 16-10, § 76, 9-9-10)

REPEAL SECTION 7-5-1

REPEAL SECTION 7-6.

REPEAL ARTICLE I.

REPEAL SECTION 7-6-1.

REPEAL SECTION 7-6-2.

REPEAL SECTION 7-6-3.

REPEAL SECTION 7-6-4.

REPEAL SECTION 7-6-5.

REPEAL SECTION 7-6-6.

REPEAL SECTION 7-6-7.

REPEAL SECTION 7-6-8.

Secs. 7-6-1—7-6-26. - Reserved.

REPEAL ARTICLE II.

REPEAL SECTION 7-6-21.

REPEAL SECTION 7-6-22.

REPEAL SECTION 7-6-23.

REPEAL SECTION 7-6-24.

REPEAL SECTION 7-6-25.

REPEAL SECTION 7-6-26.

CHAPTER 7-7. GARAGE AND OTHER SALES[7]

Footnotes:

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Cross reference— Administration, Title II; occupational licenses, Ch. 7-2; traffic and vehicles, Title XI; signs, Ch. 12-4; streets, sidewalks and other public places, Ch. 11-4.

ARTICLE I. - IN GENERAL

Secs. 7-7-1—7-7-15. - Reserved.

ARTICLE II. - RESERVED[8]

Footnotes:

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Editor's note— Ord. No. 8-87, § 1, passed Feb. 26, 1987, repealed Art. II, §§ 7-7-16—7-7-22. Prior to repeal, Art. II pertained to fire sales, going-out-of-business sales and liquidation sales, and was derived from Code 1968, §§ 108-22, 108-23(A)—(G) and 108-24. Art. II has been reserved by the editors for future use.

Secs. 7-7-16—7-7-35. - Reserved.

ARTICLE III. - GARAGE SALES

Sec. 7-7-36. - Intent and purpose.

The city council finds and declares that:

(1) The intrusion of nonregulated garage sales is causing annoyance to citizens in residential areas of the city and congestion of the streets in the city.

(2) The provisions contained in this article are intended to prohibit the intrusion of certain businesses in any established residential areas by regulating the term and frequency of garage sales, so as not to disturb or disrupt the residential environment of the area.

(3) The provisions of this article do not seek to control sales by individuals selling a few of their household or personal items.

(4) The provisions and prohibitions hereinafter contained are enacted not to prevent but to regulate garage sales for the safety and welfare of the citizens of the city.

(Ord. No. 104-83, § 1, 9-8-83)

Sec. 7-7-37. - Definitions.

For the purposes of this article, the following terms, phrase, words and their derivations shall have the following meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number the plural number. The word "shall" is always mandatory and not merely directory.

Garage sale. All general sales, open to the public, conducted from or on a residential premises in any residential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including but not limited to, all sales entitled "garage," "carport," "lawn," "yard," "attic," "porch," "room," "back yard," "patio," "flea market" or "rummage" sale. This definition shall not include a situation where no more than five (5) specific items are held out for sale and all advertisement of such sale specifically names those items to be sold.

Personal property. Property which is owned, utilized, and maintained by an individual or member of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

(Ord. No. 104-83, § 2, 9-8-83)

Cross reference— Definitions and rules of construction generally, Ch. 1-2.

Sec. 7-7-38. - Property permitted to be sold.

It shall be unlawful for any individual to sell or offer for sale, under authority granted by this article, property, other than personal property of the individual, which was either acquired or consigned for the purpose of resale.

(Ord. No. 104-83, § 3, 9-8-83)

Secs. 7-7-39—7-7-43. - Reserved.

Editor's note— Section 1 of Ord. No. 6-90, adopted Jan. 4, 1990, repealed §§ 7-7-39—7-7-43, which sections set forth garage sale permit requirements and which were derived from Ord. No. 104-83, §§ 4, 5, 8, 10, 14, adopted Sept. 8, 1983. Sections 7-7-39—7-7-43 have been reserved for future use by the editor.

Sec. 7-7-44. - Number of sales.

No more than three (3) garage sales may be held by any residence and/or family household during any calendar year.

(Ord. No. 104-83, § 6, 9-8-83)

Sec. 7-7-45. - Hours of operation.

Garage sales shall commence no earlier than 8:00 a.m. on the day of the sale and may continue only during daylight hours. Garage sales shall be limited in time to no more than three (3) consecutive days which period of time shall include setup and takedown of items included in the sale.

(Ord. No. 104-83, § 7, 9-8-83)

REPEAL SECTION 7-7-46.

Sec. 7-7-47. - Conduct of individuals; maintenance of order on premises; traffic control.

The owner or tenant of the premises on which the sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of the sale or activity. No such individual shall permit any loud or boisterous conduct on the premises nor permit vehicles to impede the passage of traffic on any roads or streets in the area of the premises. All such individuals shall obey the reasonable orders of the city in order to maintain the public health, safety and welfare.

(Ord. No. 104-83, § 11, 9-8-83)

Sec. 7-7-48. - Parking.

All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the mayor may enforce temporary controls to alleviate any special hazards and/or congestion created by any garage sale.

(Ord. No. 104-83, § 13, 9-8-83)

Sec. 7-7-49. - Inspection; enforcement; citations; arrests.

A police officer or city inspector shall have the right of entry onto any premises actually conducting a garage sale for the purpose of enforcement or inspection. This shall not include the right to enter a structure not open to the general public. If the provisions of this article are being violated, the premises may be closed to further sale. A city inspector may issue a citation only, and a police official may issue a citation or arrest the violator.

(Ord. No. 104-83, § 12, 9-8-83)

Sec. 7-7-50. - Public parks; rights-of-way.

No garage sale whatsoever shall be conducted in a public park or on a public right-of-way of the city.

(Ord. No. 104-83, § 17, 9-8-83; Ord. No. 6-90, § 2, 1-4-90)

Sec. 7-7-51. - Exemptions.

The provisions of this article shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction;

(2) Persons acting in accordance with their powers and duties as public officials;

(3) Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein the sale would be permitted by the zoning regulations of the city or under the protection of the nonconforming use section thereof or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited in other ordinances;

(4) Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution or organization's charitable purposes and the goods or articles are not sold on a consignment basis.

(Ord. No. 104-83, § 15, 9-8-83)

Sec. 7-7-52. - Violation; penalty.

(a) Every article sold and every day a sale is conducted in violation of this article shall constitute a separate offense.

(b) Any person who shall violate any of the terms and regulations of this article, shall, upon conviction, be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00).

(Ord. No. 104-83, §§ 16, 18, 9-8-83)

REPEAL CHAPTER 7-8.

REPEAL SECTION 7-8-1.

REPEAL SECTION 7-8-2.

REPEAL SECTION 7-8-3.

REPEAL SECTION 7-8-4.

REPEAL SECTION 7-8-5.

REPEAL SECTION 7-8-6.

CHAPTER 7-9. PEDDLERS AND SOLICITORS[10]

Footnotes:

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Cross reference— Administration, Title II; occupational licenses, Ch. 7-2; traffic and vehicles, Title XI; zoning, Ch. 12-2; streets, sidewalks and other public places, Ch. 11-4.

State Law reference— Solicitations of funds, F.S. Ch. 496; peddlers at camp meetings, F.S. § 871.03.

ARTICLE I. - IN GENERAL

Secs. 7-9-1—7-9-15. - Reserved.

ARTICLE II. - HOUSE-TO-HOUSE SOLICITING AND CANVASSING[11]

Footnotes:

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Editor's note— Section 2 of Ord. No. 14-90, adopted Feb. 22, 1990, repealed §§ 7-9-16—7-9-22 of Art. II, and §§ 3—10 added §§ 7-9-16—7-9-23 in lieu thereof, as herein set forth. Said repealed sections pertained to similar subject matter and were derived from Code 1968, §§ 142-1—142-7.

Sec. 7-9-16. - Definitions.

(a) *Solicitor* shall mean any person, including an employee or agent of another, traveling either by foot, automobile, truck, or some other type of conveyance, who engages in the practice of going door-to-door, house-to-house, along any streets within the City of Pensacola, Florida:

(1) Selling or taking orders for or offering to sell or take orders for goods, merchandise, wares, or other items of value for future delivery, or services to be performed in the future, for commercial purposes; or

(2) Requesting contribution of funds, property, or anything of value, or the pledge of any type of future donation or selling or offering for sale any type of property, including, but not limited to, goods, tickets, books, and pamphlets for commercial purposes.

(b) *Solicitation* shall mean the practices of solicitors as listed in (a)(1) and (2) of this section.

(c) *Canvassing* shall mean the activity of any person including an employee or agent of another, traveling either by foot, automobile, truck, or some other type of conveyance, who engages in the practice of going door-to-door, house-to-house, along any streets within the City of Pensacola, Florida, for the purpose of distributing handbills, leaflets, or fliers, directly to the occupants of such house or dwelling.

(d) *Residential area* shall mean any area within the City of Pensacola, Florida, which has been zoned R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, HR-1, HR-2, PR-1AAA, or PR-2.

(e) *Commercial purposes* shall mean the exchange of currency in the amount of one dollar, U.S. Currency, or more, or the exchange of anything having a value of one dollar, U.S. Currency, or more.

(Ord. No. 14-90, § 3, 2-22-90; Ord. No. 14-03, § 1, 7-17-03)

Sec. 7-9-17. - Restricted hours.

Soliciting and canvassing in residential areas in the City of Pensacola, Florida, between the hours of 5:30 p.m. CST and 8:00 a.m. CST of the following morning are hereby prohibited. When daylight savings time is in effect, the prohibition against soliciting and canvassing in residential areas shall be between the hours of 7:00 p.m. CDT and 8:00 a.m. CDT. This prohibition shall be enforced in accordance with the provisions of section 1-1-8 of the Code of the City of Pensacola, Florida.

(Ord. No. 14-90, § 4, 2-22-90; Ord. No. 08-19, § 1, 4-25-19)

Sec. 7-9-18. - License.

It shall be unlawful for any solicitor to engage in solicitation activities in the City of Pensacola, Florida, without first obtaining a license from the city.

(Ord. No. 14-90, § 5, 2-22-90; Ord. No. 14-03, § 2, 7-17-03)

Sec. 7-9-19. - Application for license.

The application for a solicitor's license shall be in a form prescribed by the mayor and shall contain the following information:

(1) Proof of the identity and residential and business address of the applicant;

(2) A brief description of the nature, character, and quality of the goods or merchandise to be sold;

(3) If the solicitor is employed by another, the name and business address of such person, firm, association, organization, company, or corporation;

(4) A statement regarding whether the applicant has been convicted or pled nolo contendere to any crime within three (3) years preceding the date of application, specifying the crime for which the applicant has been convicted or has pled nolo contendere.

(Ord. No. 14-90, § 6, 2-22-90; Ord. No. 14-03, § 3, 7-17-03; Ord. No. 16-10, § 77, 9-9-10)

Sec. 7-9-20. - Issuance of license and duration.

All applicants seeking a license to engage in soliciting in the City of Pensacola shall make application to the mayor, providing all information required. The mayor may issue such license, provided that all information sought has been furnished, and that the licensee has not engaged in any immoral, disorderly or other unlawful act or conduct affecting their fitness to engage in the business and providing further that the applicant has not been convicted of a crime or pled nolo contendere to a crime within three (3) years preceding the date of application. The mayor shall provide a document identifying the applicant and the fact that a license has been obtained. The license shall have a duration of no more than thirty (30) days from the date of issuance, and all persons engaged in soliciting shall carry with them the license which has been obtained while engaged in such activity. Any license issued under this section may be revoked by the mayor if the applicant who has obtained the license is found to have engaged in any immoral, disorderly, or other unlawful act or conduct affecting his fitness to engage in the business.

(Ord. No. 14-90, § 7, 2-22-90; Ord. No. 14-03, § 4, 7-17-03; Ord. No. 16-10, § 78, 9-9-10; Ord. No. 16-11, § 1, 7-21-11)

Sec. 7-9-21. - License renewal.

Licenses may be renewed, provided an application for renewal is received by the mayor no later than the expiration date of the current license. Applications received after that date shall be processed as new applications. The mayorshall review each application for renewal to determine that the applicant is in full compliance with the provisions of the Code of the City of Pensacola, Florida. If the mayor that the application meets such requirements, he shall issue a new license.

(Ord. No. 14-90, § 8, 2-22-90; Ord. No. 16-10, § 79, 9-9-10)

Sec. 7-9-22. - Unwanted solicitation and canvassing.

(a) Persons engaged in the activity of soliciting or canvassing are prohibited from entering upon the dwelling or disturbing the occupants of any residence in a residential area whenever a "No Peddlers," "No Soliciting," or "No Canvassing" sign has been posted by the occupant on or adjacent to the entrance to the dwelling or in prominent view of the entrance to the dwelling, regardless of the time of day, when such notice has been posted. Such signage shall conform to the provisions of section 12-4-5 of the Code of the City of Pensacola, Florida. Violation of this section shall constitute a public nuisance and shall be enforced according to the provisions of sections 8-1-3, 8-1-4, and 1-1-8 of the Code of the City of Pensacola, Florida.

(b) Persons engaged in the activity of soliciting or canvassing are prohibited from entering upon the dwelling or disturbing the occupants of any residence in a residential area where the residents have erected "No Peddlers," "No Soliciting," or "No Canvassing" signage conforming to section 12-4-5 of the Code of the City of Pensacola, Florida herein adjacent to each entrance to the residential area and (1) the residential area is a subdivision containing privately owned streets and/or sidewalks not maintained by the City of Pensacola, or (2) the residential area is located in a subdivision with three

(3) or fewer entrances marked by signage identifying the subdivision and the property owners have consented to the posting of such signage through an incorporated homeowners' association and such consent has been communicated to the mayor. The posting of such signage at each entrance shall be prima facie evidence of compliance with this subsection. This subsection applies regardless of the time of day, and violation of this section shall constitute a public nuisance and shall be enforced according to the provisions of sections 8-1-3, 8-1-4, and 1-1-8 of the Code of the City of Pensacola, Florida.

(Ord. No. 14-90, § 9, 2-22-90; Ord. No. 25-11, § 1, 9-22-11)

Sec. 7-9-23. - Exemptions.

Persons who are either running for elected public office or are supporting the campaigns of others who are running for elected public office shall be exempt from the provisions of section 7-9-16 through section 7-9-22 of the Code of the City of Pensacola, Florida.

(Ord. No. 14-90, § 10, 2-22-90)

Secs. 7-9-24—7-9-35. - Reserved.

REPEAL ARTICLE III. (Reserved.)

[12]

REPEAL SECTION 7-9-36.

REPEAL SECTION 7-9-37.

REPEAL SECTION 7-9-38.

REPEAL SECTION 7-9-39.

Secs. 7-9-40—7-9-50. - Reserved.

ARTICLE IV. - ITINERANT VENDORS

Sec. 7-9-51. - Definitions.

For the purposes of this article, the following terms, phrases and words and their derivations shall have the meanings given herein:

Itinerant vendor. All persons, firms and corporations, as well as their agents and employees, who engage in the temporary or transient business in this city, of selling, or offering for sale, any goods, or merchandise including photographs and portraits, or exhibiting the same for sale or exhibiting the same for the purpose of taking orders for the sale thereof; and who, for the purpose of carrying on the business or conducting the exhibits thereof, either hire, rent, lease or occupy any room or space in any building, structure or other enclosure in the city in, through, or from which any goods, or merchandise, may be sold, offered for sale, exhibited for sale or exhibited for the purpose of taking orders for the sale thereof.

Temporary. Any business transacted, as described in the definition of "itinerant vendor," or conducted in the city for which definite arrangements have not been made for the hire, rental or lease of premises for at least one month in or upon which the business is to be operated or conducted.

Transient. Any business, as described in the definition of "itinerant vendor," of any itinerant vendor as may be operated or conducted by persons, firms or corporations or by their agents or employees who reside away from the city or who have fixed places of business in places other than the city or who have their headquarters in places other than the city or who move stocks of goods or merchandise or samples thereof into the city with the purpose of intention of removing them or the unsold portion thereof away from the city before the expiration of one month.

(Code 1968, § 142-22)

Cross reference— Definitions and rules of construction generally, Ch. 1-2.

Sec. 7-9-52. - License permit—Required; fee; application requirements, bond.

It shall hereafter be unlawful for any itinerant vendor to sell, offer for sale, exhibit for sale or exhibit for the purpose of taking orders for the sale of any goods or merchandise including photographs and portraits in the city without first obtaining a license permit as herein provided. The city shall issue to any itinerant vendor a license permit authorizing such itinerant vendor to sell, exhibit for sale, offer for sale or exhibit for the purpose of taking orders for the sale thereof, in the city his goods or merchandise only after the itinerant vendor shall have fully complied with all provisions of this article and made payment of the sum of fifty-two dollars and fifty cents ($52.50) for the permit license, and which sum shall be compensation to the city for the services herein required of it and to enable the city to partially defray the expenses of the enforcing of the provisions of this article; provided:

(1) The itinerant vendor shall make application to the city at least ten (10) days prior to the date of his contemplated sale or exhibit to be held in the city which application shall be in the form of an affidavit stating the full name and address of the itinerant vendor, the location of his or its principal office and place of business, the name and addresses of its officers if it be a corporation, and the partnership name and the names and addresses of all partners if the itinerant vendor is a firm.

(2) Before the license permit shall be issued the application therefor must be accompanied by:

   a. A statement showing the kind and character of the goods or merchandise to be sold, offered for sale, or exhibited;

   b. A certified copy of the charter if the itinerant vendor is a corporation incorporated under the laws of the state;

   c. A certified copy of its permit to do business in Florida if the itinerant vendor is a corporation incorporated under the laws of some state other than Florida;

   d. A bond in the sum of not less than two thousand dollars ($2,000.00), which shall be executed by the itinerant vendor as principal with two (2) or more good and sufficient sureties, which bond shall be payable to the mayor of the city and his successors in office for the use and benefit of any person or persons entitled thereto and conditioned that the principal and surety will pay all damages to person or persons caused by or arising from or growing out of, the wrongful, fraudulent, or illegal conduct of the itinerant vendor while conducting the sale or exhibit in the city. The bond shall remain in full force and effect for the entire duration of the license permit as provided herein and two (2) years thereafter.

(Code 1968, § 142-23; Ord. No. 55-98, § 1, 11-12-98; Ord. No. 16-10, § 83, 9-9-10)

Sec. 7-9-53. - Same—Transferability.

The license permit provided for herein shall not be transferable nor give authority to more than one person to sell or exhibit goods or merchandise as an itinerant vendor either by agent or clerk or in any way other than his own proper person, but any person having obtained a license permit may have the

assistance of one or more persons in conducting the sale or exhibit who shall have authority to aid that principal, but not to act for or without him.

(Code 1968, § 142-24)

Sec. 7-9-54. - Same—Term; display.

(a) The license permit as provided for in this article shall continue so long as the sale or exhibit is continuously held in the city but in no event shall it continue for more than forty (40) days from the date of its issuance.

(b) The license permit shall be prominently displayed in a conspicuous place on the premises where the sale or exhibit is being conducted and shall remain so displayed so long as any goods or merchandise are being so sold or exhibited.

(Code 1968, § 142-25)

Sec. 7-9-55. - Exemption.

This article is not, and shall not be held to be applicable to the:

(1) Ordinary commercial traveler who sells or exhibits for sale goods or merchandise to parties engaged in the business of buying and selling and dealing in the goods or merchandise;

(2) Sales of goods or merchandise donated by the owners thereof, the proceeds whereof to be applied to any charitable or philanthropic purpose.

(Code 1968, § 142-26)

CHAPTER 7-10. VEHICLES FOR RENT TO THE PUBLIC[13]

Footnotes:

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Editor's note— Ord. No. 44-87, §§ 1, 2, enacted Oct. 22, 1987, repealed Ch. 7-10 in its entirety and added a new Ch. 7-10 to read as herein set forth. Prior to repeal, Ch. 7-10, Arts. I, II and III, §§ 7-10-1—7-10-167, pertained to vehicles for hire in general, taxicabs, and sight-seeing buses and was derived from Code 1968, §§ 155-110, 157-1—157-3(A)—(C), 157-4, 157-5, 157-10, 157-13—157-20(A), (B), 157-21, 157-22(A), (B), 157-23—157-25(A), (B), 157-26—157-31(A), (B), 157-32—157-40(A)—(J), 157-40.1, 157-41—157-44(A)—(C), 157-45—157-51, 157-56—157-59, 157-61, 157-63—157-68, 157-70; Ord. No. 13-81, § 1, enacted March 16, 1981; and Ord. No. 91-83, § 1, enacted July 14, 1983.

Subsequently, Ord. No. 16-03, § 1, adopted Aug. 21, 2003, repealed and replaced ch. 7-10 in its entirety to read as herein set out. Formerly, said chapter pertained to similar subject matter as enacted by Ord. No. 44-87, § 2, adopted Oct. 22, 1987, as amended. See the Code Comparative Table for a detailed analysis of inclusion.

Cross reference— Administration, Title II; occupational licenses, Ch. 7-2; wreckers and wrecker companies, Ch. 7-11; traffic and vehicles, Title XI; airports and aircraft, Ch. 10-2; signs, Ch. 12-4; streets, sidewalks and other public places, Ch. 11-4; franchise required for certain transit services, § 7-1-1.

ARTICLE I. - IN GENERAL

Sec. 7-10-1. - Findings and purpose.

(a) *Findings:*

(1) In 1983, the City of Pensacola deregulated entrance into the taxicab industry in an attempt to permit open competition to dictate and improve service levels.

(2) Since that time, the City of Pensacola has encountered increased regulatory problems and unsatisfactory service levels involving the taxicab industry, the limousine industry, and "courtesy cars" serving various hotels, motels, and resorts. These problems have generated increased demands for law enforcement intervention both at the airport and at other locations in the city.

(3) The City of Pensacola has received complaints from taxicab patrons, within the city and at Pensacola International Airport, concerning substandard vehicles, unkempt drivers, and disruptive activities between taxicabs and limousines.

(4) The City of Pensacola has received complaints from taxicab and limousine operators concerning the disruptive manner in which business is conducted.

(5) The City of Pensacola has received complaints from taxicab operators concerning an inability to capture a large enough share of the available market to maintain equipment, insurance, and satisfactory service levels.

(6) The City of Pensacola requires a viable city wide taxicab and limousine industry because of the lack of availability of other modes of public transportation at all times and locations and because of the existence of tourism and the military as major factors in the local economy.

(b) *Purpose:* In response to the foregoing, the city council directed that the regulations governing taxicabs, limousines and "courtesy cars" be reviewed and more stringent regulations adopted in order to provide clean, safe, affordable and responsive service to all segments of the public. City management has received input from the public, other jurisdictions, and industry representatives associated with small (single vehicle) and large (in excess of ten (10) vehicles) taxicab companies, limousine companies, and businesses operating "courtesy cars." An ordinance has resulted which regulates market entry, fares, equipment condition, insurance, driver suitability, and service availability in an effort to assure that each of the various modes of transportation can find a place in the city's public transportation network; that they provide the public with safe, clean, and affordable transportation; that operators of each type of transportation earn enough to permit them to meet operational and regulatory requirements; and that each of the various modes will be able to attract a suitable market share to maintain economic viability.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-2. - Renting vehicles with drivers—Insurance required.

Every person engaging in or carrying on in the city the business of renting or hiring to the general public automobiles or other motor vehicles with drivers shall file in the office of the mayor an insurance certificate with some casualty insurance company authorized to do business in the state, and conditioned to indemnify passengers and the public for damages or injuries to persons or property or for the death of any person resulting from or caused by the carelessness, negligence or default of the owner or driver of the motor vehicle described in the insurance policy, their servants, agents or employees, in connection with the ownership, maintenance or use thereof, or resulting from the defective construction or equipment of the vehicle, which policy of insurance shall be in amounts as are required by Florida Statutes.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 01-04, § 1, 1-22-04; Ord. No. 16-10, § 84, 9-9-10)

Sec. 7-10-3. - Same—Numbers and identification marks required on vehicles.

(a) The mayor of the city shall issue to every person engaged in or carrying on in the city the business of renting or hiring to the general public automobiles or motor vehicles with drivers, a number and identification mark, identifying the particular vehicle covered by the policy of insurance as set out in

section 7-10-1, which number and identifying mark shall not be transferable to any other vehicle, whether owned by the same operator or not, and which number and identification mark shall remain on the vehicle for the period covered by the insurance.

(b) It shall be unlawful for any person to engage in or carry on in the city the business of renting or hiring to the general public automobiles or other motor vehicles with drivers until the number and identification mark shall first be obtained from the mayor, and no vehicle shall be used by any person in a business until the number and identification mark required of him shall be plainly and legibly placed on the particular vehicle covered by the policy of insurance as set forth in section 7-10-1.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 85, 9-9-10)

Sec. 7-10-4. - Same—Renter required to have a valid drivers license.

(a) No person shall rent a motor vehicle to any other person unless the latter person is duly licensed or, if a nonresident, is licensed under the laws of the state or county of his residence.

(b) No person shall rent a motor vehicle to another until he has inspected the driver's license of the person to whom the vehicle is to be rented, and compared and verified the signature thereon with the signature of the person written in his presence.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-5. - Same—Required records.

Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented and the name and address of the person to whom the vehicle is rented, the number of the license of the latter person, and the date and place when and where the license was issued. The record shall be open to inspection by any police officer or other authorized official of the city, and the record shall be maintained for a period of five (5) years from the date of rental.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-6. - Stopping or parking of buses and taxicabs.

The driver of a bus or taxicab shall not park upon any street in any business district at any place other than at a bus stop or taxicab stand, respectively, except that this provision shall not prevent the driver of the vehicle from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-7. - Restricted use of bus and taxicab stands.

No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand, when the stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in the expeditious loading and unloading of passengers when the stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-8. - Nonconforming activity prohibited; company permit required; penalty.

(a) No vehicle which has been rented, leased or otherwise made available for hire shall be operated in the city unless all applicable regulations set forth in this chapter of the Code of the City of Pensacola, Florida, have been complied with. Violation of this chapter shall be a misdemeanor subjecting the person operating such vehicle and the person or persons renting, leasing or otherwise making the vehicle available for hire to the penalties set forth in section 1-1-8 of the Code of the City of Pensacola, Florida.

(b) No vehicle which has been rented or otherwise made available for hire with a driver shall be operated in the city unless a vehicle permit has been granted for such vehicle by the city.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-9. - Renting vehicles without drivers.

(a) Every person engaging in or carrying on in the city the business of renting or hiring to the general public automobiles or other motor vehicles without drivers shall file in the office of the mayor an insurance certificate with some casualty or insurance company authorized to do business in the state, and conditioned to indemnify passengers and the public for damages or injuries to persons or property or for the death of any person resulting from or caused by the carelessness, negligence or default of the owner or driver of the motor vehicle described in the insurance policy, their servants, agents or employees, in connection with the ownership, maintenance or use thereof, or resulting from the defective construction or equipment of the vehicle, which policy of insurance shall be in such amounts as required by Florida law.

(b) If any policy of insurance shall expire, the person shall secure other policies of a like amount and provisions and file the same with the city.

(c) Ten (10) days' advance written notice of any change in or cancellation of this policy shall be sent to the mayor of the city.

(d) The mayor of the city shall issue to every person engaged in or carrying on in the city the business of renting or hiring to the general public automobiles or motor vehicles without drivers, a number and identification mark, identifying the particular vehicle covered by the policy of insurance as set out in subsection (a), above, which number and identifying mark shall not be transferable to any other vehicle, whether owned by the same operator or not, and which number and identification mark shall remain on the vehicle for the period covered by the insurance.

(e) It shall be unlawful for any person to engage in or carry on in the city the business of renting or hiring to the general public automobiles or other motor vehicles without drivers until the number and identification mark shall first be obtained from the mayor, and no vehicle shall be used by any person in a business until the number and identification mark required of him shall be plainly and legibly placed on the particular vehicle covered by the policy of insurance as set forth in subsection (a), above.

(f) No person shall rent a motor vehicle to any other person unless the latter person is duly licensed or, if a nonresident, is licensed under the laws of the state or county of his residence.

(g) No person shall rent a motor vehicle to another until he has inspected the driver's license of the person to whom the vehicle is to be rented, and compared and verified the signature thereon with the signature of the person written in his presence.

(h) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented and the name and address of the person to whom the vehicle is rented, the number of the license of the latter person, and the date and place when and where the license was issued. The record shall be open to inspection by any police officer or other authorized official of the city, and the record shall be maintained for a period of five (5) years from the date of rental.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 01-04, § 1, 1-22-04; Ord. No. 16-10, § 86, 9-9-10)

Secs. 7-10-10—7-10-20. - Reserved.

ARTICLE II. - TAXICABS

DIVISION 1. - GENERALLY

Sec. 7-10-21. - Definitions.

The following words and phrases when used in this article have the meaning as set out herein:

Company permit. A certificate of public convenience and necessity issued by the mayor authorizing the holder thereof to conduct taxicab services in the City of Pensacola.

Chief of police. The chief of the police department of the city or any of his or her designated agents.

Cruising. The driving of a taxicab or limousine on the streets, alleys, public places of the city or airport in search of or soliciting prospective passengers for hire.

Demand-responsive transportation service. Transportation service initiated by the rider or someone else for the rider involving transportation over a public way but not on a fixed route. Service operated on a basic fixed route but with deviations for individual pickup requests shall be considered not on a fixed route. Demand-responsive shall include immediate demand and delayed demand (subscription) service.

Holder. A person to whom a company permit has been issued.

Manifest. A daily record prepared by a taxicab driver of all trips made by the driver showing the time and the place of origin, the destination, the number of passengers, and the amount of fare of each trip.

Rate card. A card issued by the city for display in each taxicab which contains the rates of fare then in force and average fares to and from various locations within the Pensacola area.

Revocation. The discontinuance of a driver's or firm's privilege to operate within the City of Pensacola with reinstatement of operating privileges to be permitted after one (1) year's time upon written approval of the mayor.

Subscription service. Transportation requested by a passenger or passengers at a future specific time and place. The reservation will be agreed to by passengers and company in advance and will become a part of company records.

Suspension. The temporary discontinuance of up to thirty (30) days of a driver's or firm's privilege to operate means of public convenience within the City of Pensacola.

Taxi driver's license. The permission granted by the city to a person to drive a taxicab upon the streets of the city.

Taxicab vehicle permit. A permit issued for each taxicab operated under said permit.

Taxicab. A public passenger vehicle equipped with a taximeter operated under company permit and taxicab vehicle permit required by this article, which carries passengers for hire only at lawful rates of fare recorded and indicated on a taximeter, or rates of fare otherwise authorized by this article or rule.

Taximeter. A mechanical or electrical device which records and indicates a charge of fare calculated according to distance traveled, waiting time, traffic delay, initial charge, number of passengers, and other charges authorized by this article or by rule, or by combination of any of the foregoing, and which records other data.

Terminal. The fixed base of operations of the owner of the taxicab business.

Waiting time. The time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion due to any cause other than the request, act or fault of a passenger or passengers.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 87, 9-9-10; Ord. No. 27-10, § 1, 11-18-10)

Sec. 7-10-22. - Company permit; determination of need.

No taxicab vehicle permit shall be granted until the person applying for such permit has secured from the mayor that the public convenience and necessity warrants the operation of the additional taxicab or taxicabs for which taxicab vehicle permit is sought. In determining such public convenience and necessity, the mayor shall consider the number of taxicabs then operating in the city, and whether the needs of the public require additional taxicab service, the financial responsibility of the applicant, the number of taxicabs for which permits are sought, the traffic conditions of the city, and the demand for additional taxicab service. The cost for the initial permit and renewal shall be fifty dollars ($50.00) annually, expiring on September 30. The vehicles must be currently operable, permitted, and inspected as required by this chapter.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 88, 9-9-10; Ord. No. 27-10, §§ 2, 29, 11-18-10)

Sec. 7-10-23. - Application for company permit.

An application for a permit shall be filed for mayor review at the appropriately designated office upon forms provided by the City of Pensacola, and said application shall be verified under oath and shall furnish the following information:

(1) The name and address of the applicant:

(2) A current financial statement of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to said judgments;

(3) The experience of the applicant in the transportation of passengers;

(4) Any facts which the applicant believes tend to indicate that public convenience and necessity warrant the granting of a company permit;

(5) The number of vehicles to be operated or controlled by the applicant pursuant to permit and the location of proposed terminals;

(6) Proof of proper amount of insurance coverage;

(7) Such further information as the mayor of the City of Pensacola may require.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 89, 9-9-10)

Sec. 7-10-24. - Issuance of company permit.

Upon the filing of an application, if the mayor finds that further taxicab service in the City of Pensacola is warranted by the public convenience and necessity, and that the applicant is able to perform such public transportation, and to conform to the provisions of the City Code, then the mayor shall issue a company permit stating the name and address of the applicant and the date of issuance; otherwise, the application shall be denied.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 90, 9-9-10)

Sec. 7-10-25. - Appeal from denial of company permit.

In the event that the mayor denies the issuance of a company permit pursuant to his authority in section 7-10-24 of the Code of the City of Pensacola, Florida, the applicant shall have the right to appeal the mayor's decision to the city council. In order to take such an appeal, the applicant must notify the city

clerk in writing of his desire to appeal the mayor's decision within ten (10) days from the date of the mayor's decision. The appeal shall be scheduled promptly for hearing at the next regularly scheduled city council meeting provided that such meeting does not occur less than four (4) working days prior to the request for appeal, in which case the appeal shall be considered at the next occurring council meeting.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 91, 9-9-10; Ord. 27-10, §§ 3, 29, 11-18-10)

Sec. 7-10-26. - Transfer of company permit.

No company permit may be sold, assigned, mortgaged, or otherwise transferred without the written consent of the mayor, and in determining whether to grant its consent, the mayor shall consider the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the eligibility of the applicant, and the anticipated effect of increased service on existing traffic conditions.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 92, 9-9-10; Ord. 27-10, §§ 4, 29, 11-18-10)

Sec. 7-10-27. - Suspension and revocation of company permits.

A company permit issued under the provisions of this article may be revoked or suspended by the mayorif the holder thereof has:

(1) Violated any of the provisions or requirements of this article;

(2) Discontinued operations for more than ten (10) days; or

(3) Violated any law or regulation reflecting unfavorably on the fitness of the holder to provide transportation to the public.

Any revocation or suspension of a company permit also revokes or suspends all taxicab driver permits and taxicab permits operating under the company permit.

Any person aggrieved by any ruling or decision of the mayor may appeal the decision by notifying the city clerk in writing of his/her desire to appeal the mayor's decision within ten (10) days from the date of the decision of suspension or revocation. The appeal shall be scheduled promptly for hearing at the next regularly scheduled city council meeting provided that such meeting does not occur less than four (4) working days prior to the request for appeal, in which case the appeal shall be considered at the next occurring council meeting. The decision of the city council thereon shall be final.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 93, 9-9-10; Ord. 27-10, §§ 5, 29, 11-18-10)

Sec. 7-10-28. - Persons presently permitted and engaged in taxicab business.

Persons duly permitted and operating taxicabs on the effective date of this chapter shall not be required to be equipped with an operable two-way radio or other communications equipment as specified under section 7-10-142, and shall not be required to maintain an office as required under section 7-10-137 (so long as his company permit remains active and is not revoked). These exemptions shall remain valid and be transferable so long as the company permit remains active or is not revoked.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 6, 11-18-10)

Sec. 7-10-29. - Vehicles—Initial inspection; fee.

Prior to the use and operation of any vehicle under the provisions of this article, said vehicle shall be thoroughly examined and inspected by the mayor and found to comply with such reasonable rules and

regulations as may be prescribed by the mayor. These rules and regulations shall be promulgated to provide safe, convenient, attractive transportation and shall specify such safety equipment and regulatory devices as the mayor shall deem necessary therefore. The fee for inspection shall be ten dollars ($10.00).

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 94, 9-9-10)

Sec. 7-10-30. - Same—Issuance of taxicab vehicle permit.

When the mayor finds that a vehicle has met the established standards, the city shall issue a permit to that effect, which shall also state the authorized seating capacity of said vehicle.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 95, 9-9-10; Ord. 27-10, §§ 7, 29, 11-18-10)

Sec. 7-10-31. - Same—Periodic inspections; fee for reinspection.

(a) All vehicles shall be annually inspected for proper markings, display of information, and the following characteristics in accordance with standards which shall be available for inspection at the designated department:

    (1) *Exterior:* Headlights, taillights, brake lights, signal lights, license plate lights, windshield wipers, horn, window raisers, doors and door locks, trunk latch, hood latch, and interior door handles, exhaust system, no loud twin pipes, hubcaps, bumpers, fenders, body and tires shall be inspected to ascertain that each is functioning safely and properly. Each taxicab shall be maintained in a clean condition. There shall be no tears or rust holes in the vehicle body and no loose pieces such as fenders, bumpers or trim hanging from the vehicle body. There shall be no unrepaired body damage or any body condition which would create a safety problem or interfere with the operation of the vehicle. All taxicabs must install a light underneath their vehicle that emits a red glow should the taxi driver require police assistance.

    (2) *Interior:* The rearview mirror, steering wheel, foot brakes, parking brakes, air conditioning and heating systems shall be inspected to ascertain that each is functioning safely and properly. The upholstery, floor mats or carpet, seats, seat belts, door panels and trunk compartment shall be inspected to determine whether they are clean, free of excessive wear, and that the trunk has sufficient space for passenger luggage. A rate card approved by the city shall be visible from the front and back seat of the vehicle. All taxi cabs shall have an operable taximeter.

(b) The permit holder of the taxicab failing to meet the above inspection requirements within thirty (30) days' notice by the city will subject his permit to revocation. Fee for reinspection of vehicle failing any periodic inspection shall be twenty dollars ($20.00).

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 8, 11-18-10)

Sec. 7-10-32. - Same—Must be kept clean and sanitary.

Every vehicle operating under this article shall be kept in a clean and sanitary condition according to rules and regulations promulgated by the mayor.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 96, 9-9-10)

Sec. 7-10-33. - Name of holder and rates.

Each taxicab shall bear on both sides of each vehicle, in printed letters not less than three (3) inches nor more than five (5) inches in height, the name of the holder as well as the drop fee, meter rate, and mileage rate, in printed letters not less than two (2) inches nor more than four (4) inches in height. All of

the items mentioned in this section must be non-removable or permanently affixed to the vehicle. No taxicab company names may appear on any window of the vehicle.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 9, 11-18-10)

Sec. 7-10-34. - Manifests.

(a) Every taxicab driver shall maintain a daily manifest upon which are recorded all trips made each day, showing time and place of origin and destination of each trip and amount of fare; and all completed manifests shall be returned to the holder by the driver at the conclusion of his tour of duty. The forms for each manifest shall be furnished to the driver by the owner and shall be of a character approved by the mayor.

(b) Every company permit holder shall retain and preserve all drivers' manifests in a safe place for at least the calendar year next preceding the current calendar year; and the manifests shall be available to the mayor, chief of police, or his or her designated representatives.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 97, 9-9-10)

Sec. 7-10-35. - Records to be kept; reports to be filed with the mayor.

(a) Every company permit holder shall keep accurate records of receipts from operations, operating and other expenses, capital expenditures and such other operating information as may be required by the mayor. Every holder shall maintain the records containing such information and other data required by this article at a place readily accessible for examination by the mayor.

(b) If any adjustments are contemplated concerning the rates, fares, and fees provided for in this article, then, in order to accomplish said adjustments, the information required in subsection (a) hereof for the three (3) prior years of operation shall be made available to the mayor. Other pertinent operating information shall be made available to the mayor in order to review at reasonable intervals the adequacy and necessity of service as well as other reasonable and proper purposes consistent with the public health, safety, convenience and general welfare.

(c) It shall be mandatory for all company permit holders to file with the mayor copies of all contracts, agreements, arrangements, memoranda or other writings relating to the furnishing of taxicab service to any hotel, theater, hall, public resort, railway station or other place of public gathering, whether such arrangement is made with the taxi company or any corporation, firm or association with which the taxi company may be interested or connected. Failure to file the copies within ten (10) calendar days from the making thereof shall be sufficient cause for the revocation of a permit of any offending taxi company permit holder or the cancellation of the company permit.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 98, 9-9-10)

Editor's note— Ord. No. 16-10, § 98, adopted Sept. 9, 2010, changed the title of § 7-10-35 from "records to be kept; reports to be filed with the city manager" to "records to be kept; reports to be filed with the mayor." See also the Code Comparative Table.

Sec. 7-10-36. - Use of loading zones.

Permitted taxicabs may park in loading zones for periods up to ten (10) minutes for package deliveries. Taxicabs so parked shall display a sign at least three (3) by twelve (12) inches, noting the words "package deliveries," during the delivery.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-37. - Operators and drivers to report suspicious things to police department.

Every person holding a company permit, taxi vehicle permit, or taxicab driver's license shall report promptly to the police department either in person or through a dispatcher any suspicious person, thing or act whom or which he may observe, regardless of whether or not the person, thing or act was observed inside or outside of any taxicab which the operator or driver was operating or driving.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-38. - Refusal by passenger to pay fare.

Any passenger refusing to pay the legal rate charged by any owner or operator of a taxicab permitted by the city under this article shall be liable for penalties as stated in section 1-1-8.

(Ord. No. 16-03, § 1, 8-21-03)

Secs. 7-10-39—7-10-45. - Reserved.

Editor's note— Ord. No. 16-10, § 99, adopted Sept. 9, 2010, repealed § 7-10-39, which pertained to "Review of article(s) addressing public conveyance." See also the Code Comparative Table. Subsequently, Ord. 27-10, § 10, adopted Nov. 18, 2010, repealed § 7-10-39.

DIVISION 2. - TAXICAB VEHICLE PERMIT

Sec. 7-10-46. - Required.

(a) No person shall engage in the business of operating a taxicab upon the streets of the city without having first obtained a taxicab vehicle permit for each of the taxicabs to be operated under a company permit.

(b) A taxicab having no city permit may bring passengers into the city, but may not pick up any passenger or accept any business within the city for any destination within the city, or any destination outside the corporate limits of the city.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 11, 11-18-10)

Sec. 7-10-47. - Qualifications of applicant.

No taxicab vehicle permit shall be issued at any time to any person who:

(a) Has not attained the age of twenty-one (21) years;

(b) is not a person of good moral character; or

(c) Has been convicted of:

(1) Was convicted of or released from incarceration for a class three felony in the United States within the preceding three (3) years;

(2) A class two felony, a class one felony, a capital felony, or a life felony;

(3) More than one (1) driving under the influence charge; or

(4) A sex crime or listed on a sexual offender or sexual predator registry.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 12, 11-18-10)

Sec. 7-10-48. - Application.

(a) *Contents, information required.* Application for a taxicab vehicle permit under this division shall be made under oath and in writing, to the city clerk, upon blanks to be provided by him, and shall, if the applicant is an individual, state the applicant's full name, whether married or single, age and residence; and horsepower, make, ownership, engine number, and license number of the automobile proposed to be used in the business and its seating capacity.

(b) *Endorsement by chief of police.* The mayor may request the chief of police to require such additional information as the mayor deems necessary, and shall make such inquiry as he deems necessary in regard to the applicant, and within a reasonable length of time shall endorse thereon his approval or rejection. If the application is rejected, he shall note there on his reason therefor.

(c) *Rejection, reapplication.* If the mayor rejects an application for a taxicab vehicle permit, the applicant may reapply in writing to the mayor for reconsideration.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 100, 9-9-10; Ord. 27-10, § 13, 29, 11-18-10)

Sec. 7-10-49. - Liability insurance required.

(a) No taxicab vehicle permit shall be granted or continued in operation unless there is in full force and effect a liability insurance certificate issued by an insurance company authorized to do business in the State of Florida for each vehicle authorized in the minimum amount required by Florida law. Such insurance coverage shall be filed with the mayor.

(b) A company permit holder, including any taxi firm, partnership, association or corporation may be self-insured in accordance with the Florida Statutes provided that the coverage on each vehicle is equal to or greater than the minimum liability requirements specified by the City of Pensacola.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 01-04, § 1, 1-22-04; Ord. No. 16-10, § 101, 9-9-10; Ord. 27-10, §§ 14, 29, 11-18-10)

Sec. 7-10-50. - Fees; expiration.

No taxicab vehicle permit shall be issued or continued in operation unless the permit holder thereof has paid an annual renewal fee of fifty dollars ($50.00) for the right to engage in the taxicab business and fifteen dollars ($15.00) for a taxicab vehicle permit each year for each vehicle. The permit shall expire annually on September 30 and the permit fee required by this section shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicle or vehicles under his operation and control.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-51. - Revocation.

(a) *Grounds.* The mayor or his or her appointed representative may, for incompetence or the violation of any of the provisions of the laws of the United States, the state, this Code or of any ordinance of the city, or for any immoral or lewd conduct or unlawful activity on the part of the company permit holder, or the licensed driver of any taxicab, or for any other cause which he shall deem sufficient, recommend the revocation of any permit for the operation of any taxicab and cause the permit to be surrendered to the mayor.

(b) *Refusal to surrender badge or plates.* Any person who, after written notice by the mayor that the permit has been revoked, refuses to surrender the same shall be deemed to have been guilty of a violation of the provisions hereof.

(c) *Appeal.* Any person aggrieved by any ruling or decision of the mayor may appeal by petition to the city council, within ten (10) days from the date of revocation; and the decision of the city council thereon shall be final.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 102, 9-9-10)

Sec. 7-10-52. - Transferability; fee.

(a) Any taxicab vehicle permit holder, upon the approval of the mayor, may transfer the ownership of his taxicab or taxicabs to another company permit holder. Upon the furnishing of evidence that a permitted taxicab is no longer to be used as such, the mayor may authorize the transfer of the license for use on another taxicab. Upon the death of any person owning a vehicle permitted by this article, the mayor may, upon receipt of satisfactory evidence of the death and at the request of the deceased's personal representative, authorize the transfer of the taxicab vehicle permit to the person in whose name title of such taxicab shall be vested by reason of the death. In no event, however, shall any transfer be made as hereinbefore contemplated unless and until the transfer in all respects complies with the terms and provisions of this division.

(b) For every transfer of taxicab vehicle permit, the city shall collect from the applicant a fee of five dollars ($5.00) for each taxicab.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 103, 9-9-10)

Secs. 7-10-53—7-10-65. - Reserved.

Editor's note— Ord. No. 27-10, § 15, adopted Nov. 18, 2010, repealed § 7-10-54, which pertained to "substitution of vehicles." Code Comparative Table.

DIVISION 3. - TAXICAB DRIVER'S LICENSE

Sec. 7-10-66. - Required.

(a) No person shall operate a taxicab for hire upon the streets of the city, and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab permitted by the city shall be so driven at any time for hire unless the driver of the taxicab shall have first obtained and shall have then in force a taxicab driver's license issued under the provisions of this division.

(b) No owner-licensee shall permit any employee to operate a public taxicab within the city without first obtaining a license as a taxicab driver from the mayor.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 105, 9-9-10)

Sec. 7-10-67. - Qualifications of applicant.

(a) Each applicant for a taxicab driver's license must:

(1) Be of the age of twenty-one (21) years of age;

(2) Be able to read and write in the English language.

(b) No taxicab driver's license shall be issued to any person who has been convicted of:

(1) A Florida class three felony in the United States within the preceding three (3) years or released from incarceration for a class three felony in the United States within the preceding three (3) years;

(2) A class two felony, a class one felony, a capital felony, or a life felony;

(3) More than one (1) driving under the influence charge; or

(4) A sex crime or listed on a sexual offender or sexual predator registry;

(5) A misdemeanor three (3) times within a period of three (3) years previous to the date of application;

Nor shall a license be issued to any person who is not a person of good moral character.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 16, 11-18-10)

Sec. 7-10-68. - Application.

(a) *Filing.* An application for a taxicab driver's license shall be filed with the mayor on forms provided by the city and the application shall be verified under oath.

(b) *Fee.* An initial filing fee of ten dollars ($10.00) must accompany the application.

(c) *Information required.* Each applicant for a driver's license must fill out, upon a blank form to be provided by the city, a statement giving his or her full name, residence, place of residence for five (5) years previous to moving to his or her present address, age, height, color of eyes and hair, place of birth, length of time he has resided in the city, whether citizen of the United States, place of previous employment, whether married or single, whether he has ever been convicted of a felony or misdemeanor, whether he has ever previously been licensed as a driver or chauffeur, and if so, when and where, and whether his or her license has ever been revoked and for what cause. Such statement shall be signed and sworn to by the applicant and filed with the city as a permanent record.

(d) *Investigation.* The investigation of all applications for licenses under the provisions of this division shall be conducted by the city.

(e) *False information.* Any applicant who gives false information pertaining to the applicant's police records shall be deemed to have committed the crime of perjury and complaint may be made in the manner provided for punishment of such cases.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 106, 9-9-10; Ord. 27-10, § 17, 11-18-10)

Sec. 7-10-69. - Photograph and fingerprints required.

When an applicant for a taxicab driver's license applies at the city, his or her fingerprints and photograph will be taken.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-70. - Examination; class "E" motor vehicle permit required.

Before any application for a taxicab driver's license is finally passed upon by the city, the applicant may be required to pass a satisfactory examination as to his or her knowledge of the city and will need to show that he has a current class "E" permit issued by the state.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-71. - Application forwarded to mayor.

When the city's investigation is completed, the application for a taxicab driver's license shall be forwarded to the mayor for consideration, accompanied by copies of the traffic and police records, for approval.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 107, 9-9-10)

Editor's note— Ord. No. 16-10, § 107, adopted Aug. 9, 2010, changed the title of § 7-10-71 from "application forwarded to city manager" to "application forwarded to mayor." See also the Code Comparative Table.

Sec. 7-10-72. - Consideration of application by mayor.

The mayor, upon consideration of the application for a taxicab driver's license and the reports and certificate required to be attached thereto, shall approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the mayor to offer evidence why his or her application should be reconsidered.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 108, 9-9-10)

Editor's note— Ord. No. 16-10, § 108, adopted Aug. 9, 2010, changed the title of § 7-10-72 from "consideration of application by city manager" to "consideration of application by mayor." See also the Code Comparative Table.

Sec. 7-10-73. - Preparation.

The annual taxicab driver's license will be prepared upon verification of the application. The license will bear the applicant's photograph, name, address, physical description, age, Florida license number, and signature. The license will be laminated to prevent tampering and provided with a hanging clip.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-74. - Issuance of taxicab driver's license or a temporary license; fee.

(a) Upon fulfillment of the foregoing requirements and approval of the application for a taxicab driver's license, the mayor shall issue the taxicab driver's license to the applicant.

(b) The mayor shall issue taxicab drivers' licenses, provided the application for a taxicab driver's license is approved. The mayor shall be authorized to disapprove the application for a taxicab driver's license for the same reasons as set forth in section 7-10-51; provided, however, a temporary license may be issued pending such investigation for a term of not to exceed twenty (20) days.

(c) The mayor may issue a taxicab driver's license upon the applicant's conforming to the foregoing requirements and paying to the city the sum of six dollars ($6.00).

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 109, 9-9-10)

Sec. 7-10-75. - Expiration; relicensing.

(a) All taxicab drivers' licenses shall expire on the thirtieth day of September of each year, unless sooner revoked or terminated as herein provided.

(b) If the applicant for a taxicab driver's license has been previously licensed, he shall be relicensed if he meets the requirements set forth in this division.

(c) The mayor shall renew each taxicab driver's license upon application for renewal and upon payment of a fee of six dollars ($6.00) unless the license for the preceding year has been revoked as provided for in section 7-10-78.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 110, 9-9-10)

Sec. 7-10-76. - Display of license, license number, photograph.

Every licensed driver shall have his or her taxicab driver's license conspicuously displayed so that it may be easily seen both day and night by occupants of the taxicab.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-77. - Defacing, removing, etc., license or book.

Any taxicab driver licensee who defaces, removes or obliterates any official entry made upon his or her license or book shall, in addition to any other punishment imposed by this division, have his or her license revoked at the discretion of the mayor.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 111, 9-9-10)

Sec. 7-10-78. - Suspension and revocation.

The mayor is hereby given the authority to suspend any taxicab driver's license issued under this division for a driver's failing or refusing to comply with the provisions of this article, such suspension to last for a period of not more than thirty (30) days. The mayor is also given authority to revoke any taxicab driver's license for failure to comply with the provisions of this article. However, a license may not be revoked unless the driver has received reasonable notice and has had an opportunity to present evidence in his or her behalf.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 112, 9-9-10)

Sec. 7-10-79. - Authority of mayor to establish additional rules and regulations.

The mayor is hereby authorized and empowered to establish additional rules and regulations governing the issuance of taxicab driver's licenses, not inconsistent herewith as may be necessary and reasonable. The rules and regulations so established shall become effective on approval by the mayor, copies of which shall be placed on file with the city clerk.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 113, 9-9-10)

Editor's note— Ord. No. 16-10, § 113, adopted Sept. 9, 2010, changed the title of § 7-10-79 from "authority of city manager to establish additional rules and regulations" to "authority of mayor to establish additional rules and regulations." See also the Code Comparative Table.

Secs. 7-10-80—7-10-90. - Reserved.

DIVISION 4. - TAXICAB DRIVERS

Sec. 7-10-91. - Compliance with city, state, federal law required.

Every driver licensed under this article shall comply with all city, state, and federal laws. Failure to do so will justify the mayor's suspending or revoking a license.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 114, 9-9-10)

Sec. 7-10-92. - Conduct generally.

It shall be the duty of every person driving or operating a taxicab to be courteous; to refrain from swearing, loud talking or boisterous conduct; to drive his or her motor vehicle carefully and in full compliance with all traffic laws and ordinances and regulations or orders of the city; to promptly answer all court notices, traffic violation notices; and to deal honestly with the public.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-93. - Solicitation—Generally.

(a) No taxicab shall stand in any metered area in any public street or place other than upon the stand assigned to it, in accordance with this article. Each taxicab, after discharging its passengers, shall return to its designated stand; provided, the taxicab may take on any passengers while returning, as aforesaid. No driver of the taxicab shall seek employment by repeatedly and persistently driving his taxicab back and forth in a short space or by otherwise interfering with the proper and orderly access to or egress from any theater, hall, hotel, public resort or railway station or other place of public gathering, or in any other manner obstructing or impeding traffic; but any taxicab may solicit employment by cruising through any public street or place without stops other than those due to obstruction of traffic, and at such speed as not to interfere with or impede traffic, and may pass and repass before any theater, hall, hotel or public place; but he shall not turn and repass until he shall have gone a distance of two (2) blocks beyond such place.

(b) No driver shall solicit passengers for a taxicab except when standing immediately adjacent to the curb side thereof. The driver of any taxicab shall remain in the driver's compartment or immediately adjacent to this vehicle at all times when the vehicle is upon the public street; except that, when necessary, a driver may be absent from his or her taxicab for not more than ten (10) consecutive minutes; and provided further, that nothing herein contained shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of such vehicle.

(c) No driver shall solicit patronage in a loud or annoying tone of voice or by sign, or in any manner annoy any person or obstruct the movement of any persons, or follow any person for the purpose of soliciting patronage.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 18, 11-18-10)

Sec. 7-10-94. - Same—Other common carrier passengers.

No driver, owner or operator shall solicit passengers at the terminal of any common carrier, nor at any intermediate points along any established route of any other common carrier.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 19, 11-18-10)

Sec. 7-10-95. - Same—Cruising.

No driver shall cruise in search of passengers except in such areas and at such time as shall be designated by the mayor. The areas and times shall only be designated when the mayor finds that taxicab cruising would not congest traffic or be dangerous to pedestrians and other vehicles.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 115, 9-9-10; Ord. 27-10, § 20, 11-18-10)

Sec. 7-10-96. - Same—Hotels; houses of ill repute; selling intoxicating liquors.

It shall be a violation of this article for any driver of a taxicab to solicit business for any hotel, or to attempt to divert patronage from one hotel to another. Neither shall the driver engage in selling intoxicating liquors or solicit business for any house of ill repute or use his vehicle for any purpose other than the transporting of passengers.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-97. - Receipt and discharge of passengers.

Drivers of taxicabs shall not receive or discharge passengers in the roadway, but shall pull up to the right-hand sidewalk as nearly as possible or; in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers, except upon one-way streets, where passengers may be discharged at either the right or left-hand sidewalk, or side of the roadway in the absence of a sidewalk.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-98. - Passengers to be seated before vehicle moves.

It shall be unlawful for the driver of any taxicab to put the vehicle in motion until all passengers are inside the vehicle and seated.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-99. - Additional passengers.

No taxicab driver shall permit any other person to occupy or ride in the taxicab unless the person or persons first employing the taxicab shall consent to the acceptance of additional passenger or passengers. No charge shall be made for an additional passenger other than the extra passenger charge. Once the original destination for the first passenger is reached, then the first fare must end and a new fare begins if the additional passenger is going on to a different destination. The additional passenger is responsible for the new fare for the ride past the original destination.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 21, 11-18-10)

Sec. 7-10-100. - Restriction on number of passengers.

No taxicab driver shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of his or her taxicab, as stated in the license for said vehicle issued by the city.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 22, 11-18-10)

Sec. 7-10-101. - Refusal to carry orderly passengers prohibited.

No taxicab driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this article to do so.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-102. - Search of taxicab after each use; disposition of property found.

(a) Every driver of a taxicab, immediately after their termination of hiring or employment, must carefully search the taxicab for any property lost or left therein; and any such property, unless sooner claimed or delivered to the owners, must be taken to the police station and deposited with the officer in charge within twenty-four (24) hours after the finding thereof, with brief particulars to enable the police department to identify the owner of the property.

(b) The provisions of this section shall not apply to taxicab businesses which have a regularly established lost-and-found department, in which case the property must be kept subject to the call of the owner for at least thirty (30) days, at the end of which time it shall be disposed of in accordance with law.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-103. - Appearance and attire.

When on duty, licensed taxicab drivers shall maintain a clean, neat, well-groomed appearance. Drivers shall not wear T-shirts, tank tops, sandals, or beach shoes (flip-flops). Shorts are permitted providing those shorts are at least mid-thigh in length with a finished hem. Cut-offs are not permitted. Name tags shall be worn at all times.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-104. - Knowledge of proper operation.

Drivers operating cabs in the city must be thoroughly knowledgeable of the proper operation of taxi meters.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 23, 11-18-10)

Sec. 7-10-105. - Adequate change.

Drivers operating taxicabs must maintain adequate change for fares. Failure to maintain adequate change will result in the fare being lowered to the amount for which the driver has adequate change.

(Ord. No. 27-10, § 24, 11-18-10)

Secs. 7-10-106—7-10-115. - Reserved.

DIVISION 5. - TAXICAB STANDS

Sec. 7-10-116. - Reserved

Sec. 7-10-117. - Open stands.

(a) *Establishment.* The mayor is hereby authorized and empowered to establish open stands in places upon the streets of the city. The mayor shall not create an open stand without taking into consideration the need for the stands by the companies and the convenience of the general public. The mayor shall prescribe the number of cabs that shall occupy the open stands, and a metal sign shall be attached to a post or stanchion at each stand stating the number of taxicabs permitted. The mayor shall not create an open stand in front of any place of business where the abutting property owners object to the same or where the stand would tend to create a traffic hazard.

(b) *Use.* Open stands shall be used by the different drivers on a first-come, first-served basis. The driver shall pull onto the open stand from the rear and shall advance forward as the cabs ahead pull off. Drivers shall stay within five (5) feet of their cars, and they shall not solicit passengers or engage in loud or boisterous talk while at an open stand. Nothing in this section shall be construed as preventing a passenger from boarding the cab of his or her choice that is parked at open stands.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 116, 9-9-10)

Sec. 7-10-118. - Other vehicles prohibited from using open stands.

Private or other vehicles for hire shall not at any time occupy the space upon the streets that has been established as either open stands or callbox stands.

(Ord. No. 16-03, § 1, 8-21-03)

Secs. 7-10-119—7-10-130. - Reserved.

DIVISION 6. - TAXIMETERS, RATES, SERVICE

Sec. 7-10-131. - Taximeters—Required.

All taxicabs operated under the authority of this article shall be equipped with taximeters fastened to the vehicle, placed in front of the passengers, visible to them at all times, day and night.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-132. - Same—Specifications.

(a) The face of the taximeter required by section 7-10-131 shall be illuminated.

(b) The taximeter shall be operated mechanically by a mechanism of standard design and construction, driven either from the transmission or from one of the front wheels by a flexible and permanently attached driving mechanism.

(c) The taximeter shall be sealed at all points. Connections which, if manipulated, would affect its correct reading and recording shall be sealed.

(d) Each taximeter shall have thereon a device to denote when the vehicle is employed and when it is not employed, and it shall be the duty of the driver activate the device.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-133. - Same—Inspections.

The taximeters shall be subject to inspection from time to time by the mayor. The mayor is hereby authorized, either on complaint of any person or without such complaint, to inspect any meter and, upon

discovery of any inaccuracy therein, to notify the person operating said taxicab to cease operation. Thereupon, the taxicab shall be kept off the roadways until the taximeter is repaired and in the required working condition.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 117, 9-9-10)

Sec. 7-10-134. - Rates—Generally.

No owner or operator of a taxicab shall charge a greater or lesser sum for the use of a taxicab than in accordance with the following rates:

(1) *Mileage rates.* Two dollars ($2.00) for the first one-ninth (1/9) mile or fraction thereof; twenty-five cents ($0.25) for each additional one-ninth mile or fraction thereof; charge for additional passengers over the age of thirteen (13) years, fifty cents ($0.50) each;

(2) *Waiting time.* Eighteen dollars ($18.00) per hour;

(3) *Airport trips—Minimum fare.* Pickups from the airport, eleven dollars ($11.00) minimum per trip (limited to taxicab companies with valid permits to serve the airport). Fares over eleven dollars ($11.00) shall be calculated based upon the meter rate commencing at the airport pickup point.

(4) *Airport trips—Airport pickup fee.* Pickups from the airport, two dollars and fifty-cents ($2.50) fee.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 01-04, § 1, 1-22-04; Ord. No. 20-07, § 1, 5-10-07; Ord. 27-10, § 25, 11-18-10; Ord. No. 30-17, § 1, 11-9-17)

Sec. 7-10-135. - Same—Flat and minimum rates.

No flat rates may be charged for any taxicab ride that starts in the jurisdictional limits of the city except for charter hires as described in section 7-10-139.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 26, 11-18-10)

Sec. 7-10-136. - Waiting time defined.

(a) Waiting time shall include the time during which the taxicab is not in action beginning with its arrival at the place to which it has been called, or the time consumed while standing at the direction of the passenger; but no charge shall be made for the first five (5) minutes of waiting after arrival or for the time lost by inefficiency of the taxicab or driver or consumed by premature arrival in response to a call. All rates are to be based upon the most direct practical routes.

(b) Waiting time shall be utilized in conjunction with mileage rates while the taxicab is in motion so that the taximeter will indicate the total cost of the trip as a combination of either time or mileage, whichever is greater. All rates are to be based upon the most direct personal route.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-137. - Service generally.

All persons engaged in the taxicab business in the city operating under the provisions of this article shall render an overall service to the public desiring to use taxicabs. Each taxicab must be currently operating, permitted, inspected, and insured as required by this chapter. It is also required that a company permit holder maintain an office in the Pensacola area where required records are kept. The office is to be staffed by company agents or employees between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Sufficient employees or answering devices to receive and dispatch calls must be

maintained at all times. They shall answer all calls received by them for services as soon as they can do so, and if the services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason therefor. Any taxicab permit holder who shall refuse to accept a call anywhere in the city at any time when the permit holder has available cabs, or who shall fail or refuse to give overall service, shall be deemed a violator of this article and the company permit or taxicab permit granted shall be revoked at the discretion of the mayor.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 118, 9-9-10)

Sec. 7-10-138. - Parties.

(a) No driver of a taxicab shall carry any other person than the passenger first employing the taxicab without the consent of the passenger, and in no event shall a driver pick up or carry any other passenger en route after a trip has started except that, where the passenger first engaging the taxicab is a party or member of a party together, other members of the party may be picked up at different locations en route on direction of the member or members of the party first engaging the cab.

(b) When a party of passengers engages a taxicab, the members of the party shall be entitled to be carried to the same destination for the meter rate above provided, including extra passenger fare where applicable. When a member or members of a party are being dropped off, but other members of the party are continuing to a different destination, then the fare shall be settled when the first member(s) is dropped off and the meter shall be reengaged for the next portion of the trip.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 27, 11-18-10)

Sec. 7-10-139. - Charters; personal uses.

Notwithstanding any other provision of this division, the taximeter need not be in operation whenever a taxicab is being driven for the personal use of the taxicab owner and/or operator thereof, for the transportation of passengers for hire under the terms of a written agreement fixing a flat rate for a period of at least twenty (20) days. Signs indicating use of the taxicab for those purposes shall be affixed to the front window of the right side of the taxicab. Each sign shall be at least three (3) inches wide and twelve (12) inches long, with the same words and lettering at least two (2) inches high on each side of the signs. Signs used to indicate personal use of the taxicab by the taxicab owner and/or operator shall contain the words "Not in Service." Signs indicating transportation of passengers for hire pursuant to contractual agreements, as stated above, shall contain the word "Charter." At all other times the taxicab is carrying passengers for hire, the taximeter shall be in operation. Taxicabs may carry parcels or packages and perform other courier services and make charges agreed upon by persons requesting service and the taxicab company.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-140. - Other forms of demand-responsive service.

A taxicab may be operated in another form of demand-responsive service as may be prescribed from time to time by this chapter.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-141. - Limousines for hire.

Limousines for hire, as defined in section 7-10-175 herein, operating anywhere within the corporate limits of the City of Pensacola shall be required to comply with the following provisions of the Code of the City of Pensacola, Florida:

(1) Insurance requirements-specified in subsections 7-10-2(a) through (c).

(2) Record keeping requirements of section 7-10-5.

(3) Restricted use requirements of section 7-10-7.

(4) Nonconforming activity regulations of section 7-10-8.

(5) Certificate of public convenience and necessity with fee as required for taxicabs by sections 7-10-22 through 7-10-27.

(6) Vehicle inspection requirements of sections 7-10-29 through 7-10-32.

(7) Subsection 7-10-34(b).

(8) Section 7-10-37.

(9) Section 7-10-38.

(10) Sections 7-10-46 through 7-10-52, in the same manner as those provisions are applicable to taxicabs.

(11) Sections 7-10-66 through 7-10-75 and sections 7-10-77 through 7-10-79, in the same manner as those provisions are applicable to taxicabs.

(12) Sections 7-10-91, 7-10-92, and 7-10-99, in the same manner as those provisions are applicable to taxicabs.

(13) Limousines shall not engage in cruising, as defined in section 7-10-175, anywhere in the corporate limits.

(14) Limousines or their operators shall not solicit customers as fares except by prior arrangement or contract.

(15) Limousines shall not charge less than fifty dollars ($50.00) per hour or any fraction thereof.

(16) At no time may a vehicle licensed as a taxicab be licensed as a limousine.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 28, 11-18-10)

Sec. 7-10-142. - Radio equipment.

(a) All taxicabs covered by this chapter shall be equipped with an operable two-way radio and other communication equipment allowing the taxicab to receive calls from and to transmit calls to a permanent located dispatch. Such radio shall be in operation during the business hours of the holder.

(b) No company permit holder, taxicab permit holder, or driver operating under this article shall use or operate installed scanners or other portable radio devices to monitor communications of frequencies other than that assigned to the holder.

(Ord. No. 16-03, § 1, 8-21-03)

Secs. 7-10-143—7-10-155. - Reserved.

ARTICLE III. - RESERVED

Secs. 7-10-156—7-10-173. - Reserved.

ARTICLE IV. - AIRPORT SURFACE TRANSPORTATION

DIVISION 1. - GENERALLY

Sec. 7-10-174. - Generally.

All vehicles for hire soliciting or desiring to pick up persons, baggage, packages, or any item or object in general shall be required to comply with this article, shall have valid airport permits, and shall observe all rules and regulations of the City of Pensacola and the Pensacola International Airport with the exception that air cargo transportation vehicles shall not be required to comply with this article. Provided further, vehicles hired by an airline tenant for the purpose of providing ground transportation for its passengers or employees without charge to such passengers or employees, or for baggage, shall be exempt from the provisions of this article, except that such vehicles, the drivers thereof, and the certificate holders therefor shall not be exempt from the applicable provisions of this article pertaining to airport permits and the requirements for obtaining and maintaining such permits.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-175. - Definitions.

The following words and phrases when used in this article have the meaning as set out herein:

Airport. All land encompassed by the Pensacola International Airport, including, but not limited to, streets, parking areas, and approaches.

Airport permit. A permit issued by the airport director authorizing vehicles to conduct business on the airport.

Automatic vehicle identification (AVI) tag. A pre-programmed device issued by the mayor to detect, identify, control, monitor and track authorized vehicles for hire that are picking up or soliciting or desiring to pick up persons, baggage, packages, or any item or object under an airport permit.

Conducting business. The picking up or soliciting or desiring to pick up persons, baggage, packages, or any item or object under an airport permit.

Courtesy vehicle. A vehicle which carries persons between the airport and off-airport businesses, such as valet parking lots, hotels, motels, rental car companies and attractions, for which carriage the passenger pays no direct charge.

Cruising. The driving of a taxicab at the airport in search of or soliciting prospective passengers for hire.

Queuing area. An area designated by the mayor for taxicab to remain on the airport. Taxicabs will proceed to the passenger loading zone when alerted by signal in the queuing area.

Limousine. A chauffeur-driven vehicle for hire that is not configured with a taximeter which charges unmetered rates predetermined on a contractual basis, franchised by the city as a limousine, and carrying passengers by prearrangement or contract.

Operator. The owner or other person, firm or corporation operating or controlling the operations of one or more vehicles or any person who has rented such vehicle for the purpose of operation by his or her own agents.

Passenger loading zones. A clearly marked area designated by the airport director in close proximity to the entrance of the airport terminal. There will be one area designated for the exclusive use of taxicabs so as to accommodate a minimum of four (4) taxicabs for passenger loading. In addition, there will be clearly marked and separate passenger loading zones in close proximity to the entrance to the airport terminal for an appropriate number of limousines. There will be a clearly marked passenger loading zone within reasonable walking distance from the entrance of the airport

terminal for courtesy vehicles. These areas are under the direct control of the "traffic officer." In regulating such zones, the airport director shall have all authority conferred by section 10-2-4 of the Pensacola Code.

Revocation. The discontinuance of a driver's or firm's privilege to operate at the airport, with reinstatement of operating privileges to be permitted after one year's time upon written approval of the airport director.

Traffic officers. Employees or licensees of the airport who are obligated to assure the orderly, smooth, and nonpreferential loading and departure of authorized taxicabs from their designated passenger loading zone.

Suspension. The temporary discontinuance of up to thirty (30) days of a driver's or firm's privilege to operate at the airport.

Taxicab. A public passenger vehicle equipped with a taximeter operated under certificate and license required by this article, which carries passengers for hire only at lawful rates of fare recorded and indicated on a taximeter, or rates of fare otherwise authorized by this article or rule.

Shuttle vehicle. A vehicle for hire that is not configured with a taximeter which charges a posted flat rate from the airport to certain specified destinations.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 30-17, § 2, 11-9-17)

DIVISION 2. - TAXICABS

Sec. 7-10-176. - General.

All taxicabs operating at the airport shall comply with all applicable laws, codes or regulations.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-177. - Permits and fees.

(1) *Permits and AVI tags.* No operator shall conduct activities permitted under this article without having first obtained (1) an airport transportation permit with an accompanying decal and (2) an AVI tag issued by the airport director , pursuant to this chapter.

(2) *Display.* Decals and AVI tags shall be permanently affixed to the lower right-hand corner of the front windshield and shall be clearly visible at all times.

(3) *Airport permit fees.* An airport transportation permit fee in the amount of forty dollars ($40.00) shall be paid for a taxicab to conduct activities permitted under this article. Said airport transportation permit fee shall be due annually and payable in advance.

(4) *Pickup fee.* Each taxicab shall be charged an airport pickup fee in the amount of two dollars and fifty cents ($2.50) per pickup at the airport. Said airport pickup fee shall be remitted to the city on a monthly basis.

(5) *Duplicates.* Duplicate decals or AVI tags may be obtained upon submission of a statement setting forth the circumstances of the loss or damage to the decal or AVI tag and payment of the required duplicate fees in an amount of five dollars ($5.00) for decals and fifteen dollars ($15.00) for AVI tags.

(6) *Application form.* Each operator desiring to obtain a new airport transportation permit or renew an existing permit shall submit a completed airport transportation permit application to the airport director. Applicants for an airport transportation permit must possess a current and valid taxi license.

(7) *Transfer of permits and AVI tags.* An airport transportation permit and AVI tag may be transferred to another vehicle upon compliance with section 7-10-31, section 7-10-48, and payment of twenty-five dollars ($25.00) transfer fee to the airport director.

(8) *Annual renewal.* Airport transportation permits must be renewed annually. Renewal applications shall be submitted to the airport director at least ten (10) working days prior to expiration of the current permit along with payment of required fees. A late fee in the amount of twenty dollars ($20.00) shall be charged for applications submitted after the required deadline.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 30-17, § 3, 11-9-17)

Sec. 7-10-178. - Taxicab inspection at airport.

The airport director or his or her representative, any police officer, or airport operations officer may inspect a taxicab at any time while it is on the airport. Any taxicab found in violation of section 7-10-31 while at the airport shall be required to immediately leave the airport until the noted defects are corrected. All violations for FSS are subject to the uniform state traffic code.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-179. - Operational procedures.

(a) Passenger pickup will be on a first-come, first-out basis, from the terminal regardless of the fact that a specific taxicab has been called.

(b) All taxicabs with valid airport permits wishing to pick up passengers at the terminal must enter the taxicab queuing area. No taxicabs may pick up passengers without first entering the queuing area.

(c) A maximum of four (4) taxicabs at any one time will be allowed in the taxicab passenger loading zone. The airport director may, by rule, change the location of the passenger loading zone and the number of taxicabs allowed to occupy the passenger loading zone. Notification by telephone to the company dispatching office, verbal communication to a taxicab driver who is operating a taxicab controlled by the operator or written notification by mail will constitute adequate notification of a rule change in this section. Copies of such rule changes shall be available in the airport director's office during normal business hours. Notification shall be given by the airport director or an authorized representative who in turn must notify the mayor in writing of such rule changes within forty-eight (48) hours.

(d) All passenger pickups at the terminal shall be made at the taxicab passenger loading zone. It is a violation of this section to pick up or solicit passengers at any location upon airport property except as authorized by this section.

(e) Taxicabs shall not refuse a passenger fare while waiting at the passenger loading zone. Taxicabs refusing a fare shall immediately leave the passenger loading zone without picking up any other fare and either leave the airport or move to the rear of the queuing area.

(f) Taxicabs shall be required to accept a fare that desires to have the taxicab bill placed on a charge basis and the operator shall advertise acceptance of credit cards.

(g) Reserved.

(h) Reserved.

(i) The first-in-line taxicab may refuse to carry baggage, packages, or other items requested by airport tenants. Nothing in this section shall authorize a taxicab to refuse service to any fare paying passenger.

(j) The driver of any taxicab shall remain within the vehicle or immediately adjacent to the vehicle at all times while on airport property; except that, when necessary for use of restroom facilities, a driver

may be absent from his or her taxicab for not more than ten (10) consecutive minutes in the taxi queuing area. Taxicab drivers are prohibited from loitering or standing inside the airport terminal while their taxicab is in the queuing area or at the passenger loading zone except as allowed in this section.

(k) Taxicab drivers shall not handle passenger baggage except to load passenger baggage into the vehicle from curbside when requested by the passenger or unload the baggage to curbside when requested by the passenger.

(l) Taxicab vehicles shall not be repaired or have mechanical or auto body work performed on them while at the airport; except, when necessary to conduct emergency repairs for the purpose of removing a malfunctioning vehicle to a place where normal repairs may be accomplished.

(m) Arriving taxicabs which are bringing passengers to the airport may proceed directly to the terminal passenger drop-off zones for discharge only but must remain clear of the designated taxicab passenger loading zone.

(n) Arriving taxicabs that deliver passengers to the airport and are requested by the passenger to wait so the passenger can continue to his or her final destination in the same taxicab are not required to enter the queuing area, provided the taximeter continues to run and the passenger is charged for waiting time. Taxicabs waiting for passengers to continue on their original journey may not pick up passengers and may leave the airport only with their original passenger. Taxicabs that deliver passengers as allowed by this section and turn the taximeter off while at the airport shall not be permitted to wait for the passenger and shall be required to enter the rear of the queuing area.

(o) The traffic officer is responsible for maintaining orderly operations as specified above. Violations of these operational procedures will be subject to permanent suspension or revocation as determined by the airport director.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 119, 9-9-10; Ord No. 02-19 §(f), 2-28-19)

DIVISION 3. - COURTESY VEHICLES

Sec. 7-10-180. - Permits.

(a) *General.* Operation of any courtesy vehicle shall be allowed only by a valid airport permit which includes in part a color-coded decal as required by this article. Holders of such permits shall observe all rules and regulations of this article in addition to those established by other provisions of the Code of the City of Pensacola, Florida.

(b) *Permit fee.* An annual fee of two hundred forty dollars ($240.00) is hereby established for each courtesy vehicle for the privilege of conducting business at the airport. Fees shall be paid in advance by the operator of each courtesy vehicle doing business under its authority. A temporary airport permit is available for a maximum thirty-day period. The fee for such permit will be forty dollars ($40.00) per thirty-day period or any fraction thereof. All other requirements necessary for the issuance of the annual airport permit must be met, including minimum insurance coverage, before a temporary permit will be issued.

(c) *Issuance.* Upon full payment of licenses, permit fees, and successful completion of the vehicle safety inspection, a courtesy vehicle airport permit decal shall be issued for each vehicle listed on the application form. No permit shall be issued without the operator having valid courtesy vehicle licenses as may be required by the City of Pensacola.

(d) *Display.* Permit decals shall be permanently fixed to the lower right-hand corner of the front windshield and shall be clearly visible at all times. Permits shall be issued by the airport director and shall expire September 30 of each year. Only those vehicles displaying valid permit decals will be authorized to pick up passengers at the airport. No permit or license shall be required to enter the airport and discharge passengers.

(e) *Lost or damaged permit.* In case of loss of a permit or damage beyond recognition, a duplicate permit may be obtained after payment of five dollars ($5.00) by the operator and after submission of a statement setting forth the circumstances of the loss or damage of the permit.

(f) *Transfer of permits.* Permits may be transferred to another vehicle upon proper completion of the application form, successful completion of the safety inspection and a transfer fee of twenty-five dollars ($25.00).

(g) *Permit renewal.* Application forms for yearly renewal of courtesy vehicle airport permits must be submitted to the airport director at least ten (10) working days prior to expiration of the current permit. Renewal applications received after this time shall be charged a late fee of twenty dollars ($20.00).

(h) *Application form.* Each operator desiring to obtain a new airport permit or renew an existing permit shall obtain an airport permit application form and return the completed form to the airport director. Each vehicle for which a permit is requested must have all current licenses and insurance as may be required by the City of Pensacola before the airport application form will be processed. Full payment of the required airport permit fee must accompany the application form.

(i) *Courtesy vehicle inspection.* All courtesy vehicles will be inspected in accordance with the criteria found at section 7-10-31.

(j) *Violations.* The airport director or his or her representative, police officer, or airport operations officer may inspect a courtesy vehicle at any time while it is on the airport. A vehicle found to be in violation of section 7-10-31 will be required to immediately leave the airport until the noted deficiencies are corrected.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-181. - Operational procedures.

(a) *Receipt and discharge of passengers.* Courtesy vehicles may enter upon the airport only to discharge or to pick up passengers who theretofore have in advance requested service and whose names have been entered in the courtesy vehicle driver's log; except that persons who desire lodging at the courtesy vehicle operator's place of business or seek transportation to a rental car company by the rental company courtesy vehicle may request service by such vehicle while at the airport. All passengers loading and unloading into courtesy vehicles must do so in the specified area designated for that purpose. Nothing in this section shall allow courtesy vehicles to engage or pick up passengers and deliver them to any place other than the business location for which the vehicle permit was issued.

(b) *Driver's log book.* A log book shall be kept in each vehicle showing the name of each passenger to be picked up at the airport and the scheduled arrival time of such passenger's arriving flight. Upon request of the airport director or authorized representative, any police officer, or airport operations officer, the driver of a courtesy vehicle shall offer for inspection said log book.

(c) *Departure.* Courtesy vehicle may remain on the airport only so long as necessary to discharge or pick up passengers who have previously made a specific reservation for such vehicle service prior to the vehicle entering onto the airport or as allowed in other parts of this division. Vehicles shall depart from the airport immediately upon loading their scheduled passengers.

(d) *Loading zone.* Courtesy vehicles shall load and unload passengers and baggage only at areas designated by the airport director or authorized representative.

(e) *Soliciting.*

(1) Drivers and/or representatives of courtesy vehicles shall be prohibited from solicitation of business or passengers in any manner whatsoever upon the airport. The operations of such vehicles, drivers, or representatives shall be specifically limited to the pickup and delivery of passengers as allowed by this division.

(2) Paging or announcements of the availability of courtesy vehicle service on the airport public address system is prohibited, except as authorized by the airport director. Silent paging is available by passenger name only when the vehicle is being attended.

(3) Drivers and/or representatives of courtesy vehicles shall remain with the vehicle or stand immediately adjacent to it. Such persons may assist the passengers with their baggage if requested by the passenger. Drivers shall not stand or loiter inside the airport terminal while on duty.

(f) *Cruising.* Courtesy vehicles shall not cruise at the airport and shall not park or stand on airport property except as authorized by this article.

(g) *Identifying designs.* Each courtesy vehicle shall have permanently displayed on each side the company name, in printed letters not less than six (6) inches in height, and in addition may bear the company logo or other identifying designs or markings.

(Ord. No. 16-03, § 1, 8-21-03)

Secs. 7-10-182—7-10-194. - Reserved.

DIVISION 4. - LIMOUSINES

Sec. 7-10-195. - Generally.

No person shall engage in operating a limousine upon the airport except as provided by this division and shall observe all other rules, regulations, and codes as may be required by the City of Pensacola. Permits issued under this division shall not be deemed to represent a contract with the airport or City of Pensacola.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-196. - Regulation of limousines at airport.

The following regulations are hereby adopted as being applicable to limousines and the operation of limousines:

(1) *General.* Operation of any limousine shall be allowed only by a valid airport permit which includes a color-coded decal as required by this article. Holders of such permits shall observe all rules and regulations of this article in addition to those established by other provisions of the Code of the City of Pensacola, Florida.

(2) *Permit fee.* An annual fee of two hundred forty dollars ($240.00) is hereby established for each limousine for the privilege of conducting business at the airport. Fees shall be paid in advance by the operator of each limousine doing business under its authority. A temporary airport permit is available for a maximum thirty-day (30) period. The fee for such permit will be forty dollars ($40.00) per thirty-day (30) period or any fraction thereof. All other requirements necessary for the issuance of the annual airport permit must be met, including minimum insurance coverage, before a temporary permit will be issued.

(3) *Issuance.* Upon full payment of licenses, permit fees, and successful completion of the vehicle safety inspection, a limousine airport permit decal shall be issued for each vehicle listed on the application form. No permit shall be issued without the operator having valid limousine licenses as may be required by the City of Pensacola.

(4) *Display.* Permit decals shall be permanently affixed to the lower right-hand corner of the front windshield and shall be clearly visible at all times. Permits shall be issued by the airport director and shall expire September 30 of each year. Only those vehicles displaying valid permit decals

will be authorized to pick up passengers at the airport. No permit or license shall be required to enter the airport and discharge passengers.

(5) *Lost or damaged permit.* In case of loss of a permit or damage beyond recognition, a duplicate permit may be obtained after payment of five dollars ($5.00) by the operator and after submission of a statement setting forth the circumstances of the loss or damage of the permit.

(6) *Transfer of permits.* Permits may be transferred to another vehicle upon proper completion of the application form, successful completion of the safety inspection and a transfer fee of twenty-five dollars ($25.00).

(7) *Permit renewal.* Application forms for yearly renewal of limousine vehicle airport permits must be submitted to the airport director at least ten (10) working days prior to expiration of the current permit. Renewal applications received after this time shall be charged a late fee of twenty dollars ($20.00).

(8) *Application form.* Each operator desiring to obtain a new airport permit or renew an existing permit shall obtain an airport permit application form and return the completed form to the airport director. Each vehicle for which a permit is requested must have all current licenses and insurance as may be required by the City of Pensacola before the airport application form will be processed. Full payment of the required airport permit fee must accompany the application form.

(9) *Inspections.* The airport director or his or her representative, police officer, or airport operations officer may inspect a limousine at any time while it is on the airport. A vehicle found to be in violation of section 7-10-31 will be required to immediately leave the airport until the noted deficiencies are corrected.

(10) *Driver's log book.* A log book shall be kept in each vehicle showing the name of each passenger to be picked up at the airport and the scheduled arrival time of such passengers arriving flight. Upon request of the airport director or authorized representative, any police officer, or airport operations officer, the driver of a limousine shall offer for inspection said log book.

(11) *Departure.* Limousines may remain on the airport only so long as necessary to discharge or pick up passengers who have previously made a specific reservation for such vehicle service prior to the vehicle entering onto the airport or as allowed in other parts of this division. Vehicles shall depart from the airport immediately upon loading their scheduled passengers.

(12) *Loading zone.* Limousines shall load and unload passengers and baggage only at areas designated by the airport director or authorized representative.

(13) *Soliciting.*

a. Drivers and/or representatives of limousines shall be prohibited from solicitation of business or passengers in any manner whatsoever upon the airport. The operations of such vehicles, drivers, or representatives shall be specifically limited to the pickup and delivery of passengers as allowed by this division.

b. Paging or announcements of the availability of limousine service on the airport public address system is prohibited except as authorized by the airport director. Silent paging is available by passenger name only when the vehicle is being attended.

c. Drivers and/or representatives of limousines shall remain with the vehicle or stand immediately adjacent to it. Such persons may assist the passengers with their baggage if requested by the passenger. When necessary for use of restroom facilities, a driver may be absent from his or her vehicle for not more than ten (10) consecutive minutes. Drivers shall not stand or loiter inside the airport terminal while on duty.

(14) *Cruising.* Limousines shall not cruise at the airport and shall not park or stand on airport property except as authorized by this article.

(Ord. No. 16-03, § 1, 8-21-03)

Secs. 7-10-197—7-10-209. - Reserved.

DIVISION 5. - SUSPENSION AND REVOCATION

Sec. 7-10-210. - Generally.

(a) *Conduct.* Drivers shall be governed by all rules, regulations, ordinances, and laws in effect at the airport and as provided for in the Code of the City of Pensacola, Florida. Drivers shall be clean and neatly dressed at all times while operating a vehicle at the airport.

(b) *Suspension.*

(1) Upon establishment of facts indicating an owner's, operator's or driver's failure to comply with the provisions of this article while at the airport, an airport safety officer or Pensacola police officer is authorized to order the person's departure from the airport, issue a citation to such person, or arrest such person for violation of the Code of the City of Pensacola, Florida. A detailed report shall be submitted to the airport director setting forth the circumstances of the ordered departure, citation or arrest.

(2) The airport director and airport operations officer are hereby given authority to suspend any vehicle airport permit issued under this article for violation of the Code of the City of Pensacola, Florida, such suspension to last for a period of not more than thirty (30) days; provided, however, that the airport director or operations officer provide the permit holder with a written statement of the reason for suspension and a reasonable opportunity to respond prior to the effective date of the suspension.

(c) *Revocation.* The airport director is given authority to recommend revocation to the mayor of any airport permit for failure to comply with the provisions of the Code of the City of Pensacola, Florida. However, a permit may not be revoked unless the operator has received reasonable notice and has an opportunity to present evidence in his or her behalf to the mayor prior to revocation. Any aggrieved permit holder may appeal the mayor's decision to the Pensacola city council.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 120, 9-9-10)

Sec. 7-10-211. - Authority of airport director to establish additional rules and regulations.

The airport director is hereby authorized to establish additional rules and regulations governing the operational procedure of vehicles conducting business at the airport, not inconsistent herewith as may be necessary and reasonable. The rules and regulations so established shall become effective on approval by the mayor, copies of which shall be placed on file with the airport director.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 121, 9-9-10)

CHAPTER 7-11. WRECKERS AND WRECKER COMPANIES[14]

Footnotes:

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Cross reference— Administration, Title II; occupational licenses, Ch. 7-2; vehicles for rent to the public, Ch. 7-10; traffic and vehicles, Title XI; signs, Ch. 12-4; streets, sidewalks and other public places, Ch. 11-4; following wreckers and emergency vehicles prohibited, § 11-2-7; franchise required for certain transient services and utilities, § 7-1-1.

Sec. 7-11-1. - Definitions.

The following definitions shall apply in the interpretation and the enforcement of this chapter:

Bridge. That portion of the Pensacola Bay Bridge extending between Pensacola and Gulf Breeze, Florida, coming under the jurisdiction of the Pensacola Police Department.

Fire extinguisher. A portable fire-extinguishing unit as defined by National Board of Fire Underwriters. A minimum five (5) pound dry chemical extinguisher with Underwriters' Laboratory approval in a quick-release carrier and displaying an inspection tag or sticker which shows approval within the last twelve (12) months.

Inspection permit. A permit issued once a wrecker has met all requirements as established in this code and has passed inspection to be permanently attached to the wrecker vehicle.

Motor vehicle. Every "vehicle" which is self-propelled.

Owner. Any person who holds the legal title of a motor vehicle or who has the legal right of possession thereof.

Street. Any street, alley, public place, square or highway within the corporate limits of the city.

Vehicle. Every device in or by which any person or property is or may be transported or drawn upon a public highway, except devices moved only by human power or used exclusively upon stationary rails or tracks, and shall include trailers and semitrailers.

Wrecker. Any motor vehicle used for the purpose of towing or removing disabled or wrecked vehicles or used for the purpose of towing or removing vehicles from public or private property without the consent of the owner or other legally authorized person in control of the vehicle.

Wrecker business. The business of towing or removing disabled or wrecked vehicles on the public streets, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade or purchase such disabled or wrecked vehicles, and including the business of towing or removing vehicles from public or private property without the consent of the owner or other legally authorized person in control of the vehicle.

Wrecker company. Any person engaged in the wrecker business.

Wrecker rotation list. The rotation list of companies, prepared and used as provided in section 7-11-7 of this chapter.

Wrecker selection list. The list for selection of wrecker companies, prepared and used as provided in section 7-11-4 of this chapter.

(Code 1968, § 162-1; Ord. No. 30-93, § 1, 12-16-93; Ord. No. 11-01, § 1, 3-8-01)

Sec. 7-11-2. - Application, licenses and permits required, issuance, fees.

(a) Every wrecker company desiring to engage in the wrecker business in the city shall make application in writing, on a form provided for that purpose, to the mayor for a license and for a vehicle permit for each wrecker proposed to be operated. The application shall contain the complete business name, address, telephone number, the wrecker number and type of wrecker equipment to be operated, the owner of the company concerned, and a statement that the applicant does or does not desire to appear on the wrecker rotation list. Every application, when filed, shall be sworn to by the applicant and accompanied by such license taxes and fees as established by city ordinance. These monies shall not be returned to the applicant.

(b) No person shall operate a wrecker on the public streets of the city unless a vehicle permit for each wrecker to be used has been issued.

(c) No person shall operate a wrecker on the public streets of the city unless an inspection permit for the wrecker has been issued for the vehicle. Each inspection permit for a wrecker vehicle shall show that such wrecker has been inspected and approved under by the city, and shall be affixed securely to the inside of the window of the approved wrecker vehicle.

(d) No occupational license, vehicle permit, or inspection permit is transferable, and every license and permit shall expire at 12:00 midnight on the thirtieth day of September of the fiscal year in which issued.

(e) Each vehicle inspection shall require a fee to be paid for each vehicle inspected and this fee shall not be returned to the applicant.

(Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-3. - Wrecker classification, equipment and insurance required.

(a) No license authorizing the operation of a wrecker business and no permit authorizing the operation of a wrecker on the streets of the city shall be issued unless every wrecker proposed to be used by the applicant complies with the following provisions and requirements. Wreckers are to be classified as either general duty wreckers or heavy duty wreckers for city code qualification, as specified:

(1) General duty wreckers:

a. Has a minimum manufacturer capacity of ten thousand (10,000) pounds gross vehicle weight;

b. Has a commercially manufactured minimum crane and winch capacity of not less than eight thousand (8,000) pounds;

c. Has a commercially manufactured power winch pulling capacity of not less than eight thousand (8,000) pounds;

d. Must be equipped with a cradle tow plate, tow sling and bar with safety chains, and/or wheel lifts;

e. If double winch constructed, both winches must be able to operate both jointly and independently;

f. If equipped with a hydraulic boom, it must elevate and extend;

g. A roll-back wrecker will qualify as long as it meets the minimum requirements of having a minimum ten thousand (10,000) pound gross vehicle weight with a sixteen-foot bed, dual wheels, and one winch with an eight thousand (8,000) pound pulling capacity, and meets all other equipment requirements;

h. Must be equipped with a brake lock system.

(2) Heavy-duty wrecker:

a. Has a minimum manufacturer capacity of not less than thirty thousand (30,000) pounds gross vehicle weight;

b. Shall be equipped with a commercially manufactured power crane and winch having a manufacturers' rating of at least fifty thousand (50,000) pounds;

c. Must be equipped with airbrakes;

d. Must have dual rear wheels;

e. Must be equipped with cable capable of withstanding the required pulling capacity.

(b) Equipment required that each wrecker must have to tow on the public streets of the city, and to be on the city maintained rotation and/or selection lists:

(1) Each vehicle must be properly equipped with clearance lights, marker lights, and an amber colored emergency light, rotor beam or strobe type, mounted in such a manner that it can be seen in all directions;

(2) Wreckers shall be kept in reasonably good appearance and shall be equipped with all fenders, doors, bumpers, and hood;

(3) One heavy duty push broom;

(4) One shovel;

(5) One axe;

(6) One crowbar or prybar;

(7) One minimum five (5) pound dry chemical fire-extinguisher or equivalent displaying a current inspection tag or sticker, performed within the last twelve (12) months;

(8) Dollies (General duty wreckers-excluding roll-backs);

(9) One set of jumper cables;

(10) One set of red triangles and signal flares;

(11) Safety chains;

(12) One four-way lug wrench; and,

(13) One pair of bolt cutters.

(c) *Liability insurance required:* Each applicant shall procure and keep in full force and effect a policy or policies of garage liability and property damage insurance issued by a casualty insurance company authorized to do business in the state, and in the standard form approved by the board of insurance commissioners and the coverage provision insuring the public from any loss or damage that may arise to any person or property by reason of the operation of a wrecker of the company including "on hook" coverage for motor vehicles while being towed or transported by the wrecker company, and providing that the amount of recovery on each wrecker shall be in the limits of not less than the following sums:

(1) For damages arising out of bodily injury to or death of one person in any one accident, one hundred thousand dollars ($100,000.00);

(2) For damages arising out of bodily injury to or death of two (2) or more persons in any one accident, three hundred thousand dollars ($300,000.00);

(3) For injury to or destruction of property in any one accident, fifty thousand dollars ($50,000.00).

The city shall be added as an additional insured to the policy or policies when the wrecker company is on any of the police department's wrecker and rotation lists.

(Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-4. - Wrecker selection list.

(a) Police communications shall maintain a wrecker selection list. This list will include, in alphabetical or numerical order, all companies that do not own their own wrecker but may require the services of a wrecker, whether to tow their company owned vehicle or any privately owned vehicle, if designated to do so by the vehicle owner, if wrecked or disabled on the public streets of the city. The selection wrecker service shall meet all minimum requirements as specified in section 7-11-3. The authorization to be a selection wrecker for any company must be submitted to the police department in writing.

(Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-5. - Wrecker rotation lists.

(a) If the owner of a vehicle involved in an accident or collision is physically unable to designate the wrecker company desired or refuses to designate one, the investigating officer shall communicate that fact immediately to police department headquarters. The police department shall keep separate master wrecker rotation lists for general use, bridge rotation, and heavy-duty rotation. The wrecker rotation lists will be in numerical inspection order and will include all wrecker companies which:

(1) Have been issued a vehicle permit and inspection permit;

(2) Have applied to be on such lists;

(3) Maintain twenty-four (24) hour wrecker service with wreckers;

(4) Must meet all special and minimum requirements as herein established.

(b) General wrecker rotation list requirements: All minimum requirements for the general-duty wreckers and equipment will apply.

(c) Heavy-duty wrecker rotation list requirements: Wreckers qualified, as defined in section 7-11-3(a)(2) to tow heavy-duty trucks and vehicles, and equipment requirements will apply.

(d) Bridge rotation list requirements: Due to unusual circumstances arising from Pensacola Bay Bridge traffic and restraints, wrecker companies desiring to be on the bridge rotation list must be able to conform to the special requirements as follows:

(1) Maintain a response time to all calls within fifteen (15) minutes from the location of the wrecker business to the Pensacola Bay Bridge on a twenty-four (24) hour basis. Response time will be measured from the time the wrecker company receives the call from police communications until the wrecker arrives on the scene.

(2) Maintain a place of business, as defined in section 7-11-12, within five (5) miles of the Pensacola Bay Bridge.

(3) Comply with all other provisions of this chapter and as stated for the general rotation list.

(e) On receiving the first communication, the dispatcher receiving the communication at police headquarters shall call the first wrecker company on the list to tow the disabled vehicle and remove the same from the public streets of the city. If a wrecker belonging to the wrecker company receiving the communication fails to arrive at the scene of the accident within thirty (30) minutes for general wrecker rotation and heavy-duty or fifteen (15) minutes for a bridge rotation call, the investigating officer shall notify police headquarters. The first wrecker called shall be canceled and the next wrecker on the rotation list called. The wrecker whose call was canceled shall be placed in the last position on the rotation list. In each succeeding communication of the inability or refusal of the owner to designate a wrecker, the next company on the list shall be called, and proper notation of each call shall be made on the individual master wrecker card.

(f) When responding to a rotation call, each business shall charge as a wrecker towing fee an amount that is fair and reasonable, but in no instance to exceed eighty-five dollars ($85.00) for towing disabled vehicles on the streets of the city, when the vehicle requires only the normal wrecker services. In addition, companies required to store vehicles at their facilities shall charge as a storage fee an amount that is fair and reasonable, but in no instance to exceed ten dollars ($10.00) per day. Failure to comply will cause the wrecker business to be removed from the master wrecker rotation lists kept at police headquarters.

(g) Requests for voluntary removal from any of the wrecker rotation lists require a written statement to be submitted to the police department before removal from any of the lists.

(Ord. No. 30-93, § 1, 12-16-93; Ord. No. 43-96, § 1, 9-12-96; Ord. No. 36-97, § 1, 10-23-97; Ord. No. 11-01, § 2, 3-8-01)

Sec. 7-11-6. - Bills; billing procedure.

Each wrecker company licensed to operate within the city shall have prepared billheads with the name and address of the wrecker company printed thereon. The operator of a wrecker, before removing a disabled vehicle, shall prepare a bill on the billhead form showing total amount charged for towing service, in triplicate, a copy of which shall be given to the owner of the disabled vehicle or his or her authorized representative, one copy attached to the law enforcement report and the original retained by the owner of the wrecker.

(Code 1968, § 162-15; Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-7. - Recommendation of wrecker service by police prohibited.

The City shall not recommend to any person the name of any particular person engaged in the wrecker service or repair business, nor shall it influence or attempt to influence in any manner the decision of any person in choosing or selecting a wrecker or repair service. Provided, any police officer, in the exercise of his or her discretion as a police officer, may direct that any vehicle, whether towed by a wrecker selected by the owner of the vehicle or from the wrecker rotation list, shall be taken by the driver of the wrecker towing the vehicle directly to the police headquarters and there held by the city for any lawful purpose.

(Code 1968, § 162-10; Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-8. - Solicitation at scene of wreck or disablement prohibited; prima facie evidence.

No person shall solicit in any manner, directly or indirectly, on the streets of the city, the business of towing any vehicle which is wrecked or disabled on a public street, regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading or purchasing the vehicle. Proof of the presence of any person engaged in the wrecker business or the presence of any wrecker or motor vehicle owned or operated by any person engaged in the wrecker business, either as owner, operator, employee or agent, on any public street in the city, at or near the scene or site of a wreck, accident or collision within one hour after the happening of a wreck, accident or collision, shall be prima facie evidence of solicitation in violation of this section.

(Code 1968, § 162-13; Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-9. - Wrecker attending accident prohibited unless summoned by police; exception.

No person shall drive a wrecker to or near the scene or site of an accident or collision on the streets of the city unless the person has been called to the scene by the police department of the city; provided, when it is necessary to prevent death or bodily injury to any person involved in an accident or collision, the prohibition of this section shall be inapplicable.

(Code 1968, § 162-6; Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-10. - Intercepting or divulging certain radio messages prohibited.

No person shall intercept any message emanating through the police radios communications system or shall divulge or publish the existence, contents, substance, purpose, effect or meaning of the

intercepted communication; and no person, not being entitled thereto, shall receive or assist in receiving any such message and use the same, or any information therein contained, for his own benefit or for the benefit of another person.

(Code 1968, § 162-14; Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-11. - Wreckers not emergency vehicles.

It is hereby declared and determined that wrecker vehicles are not emergency vehicles, and such wreckers shall comply strictly with all ordinances relating to motor vehicles.

(Code 1968, § 162-11; Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-12. - General information, required.

(a) The wrecker business may not assign, transfer, pledge, surrender, or otherwise encumber or dispose of his or her approval under these rules or his or her place on the rotation lists.

(b) To ensure uniformity in qualifying for a position on any of the wrecker rotation lists, each wrecker business must comply with the following requirements for their place of business, for each position on rotation:

(1) The business must have a sign that identifies it to the public as a wrecker establishment;

(2) The place of business must maintain its own office space;

(3) The office must have personnel on duty at the office location, from at least 9:00 a.m. to 5:00 p.m., Monday through Friday, to answer calls from the police department and to serve the public;

(4) Must maintain its own telephone to answer calls;

(5) Must maintain at least one tow truck at that place of business;

(6) Must have the tow truck lettered as specified:

a. The wrecker vehicles must have the complete business name, address, and telephone number professionally lettered in contrasting colors on each side of the vehicle;

b. The business name shall be in letters at least three (3) inches high;

c. The business address and telephone number shall be at least three (3) inches high;

d. Lettering must be permanently affixed to the vehicle. Magnetic or removable signs do not meet code requirements;

e. The individual wrecker number shall be affixed on both sides of the cab in numbers at least three (3) inches high and of contrasting color.

(c) Wrecker vehicle operators are required to have a valid commercial driver's license in their possession at all times while operating the wrecker as required by Section 322.03, Florida State Statutes.

(Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-13. - Grounds for denial, removal or suspension from rotation lists.

(a) The following are grounds for denial, removal or suspension of a wrecker company from any of the rotation lists:

(1) Failure to comply with any of the provisions of this code or to pass an annual inspection;

(2) Chasing or running wrecks without proper call from the police department;

(3) Soliciting at the scene of an accident by the wrecker operator, his or her driver or agent;

(4) Failure to answer a call three (3) times within a three (3) month period or failure to respond in the requested time while in service;

(5) Refusal to answer a call without a valid reason;

(6) Inability of an operator or his or her driver to properly operate the tow truck in the removal of disabled vehicles or to remove a vehicle without causing additional damage;

(7) Failure to comply with the rate requirements as established by city code;

(8) Pulling a wrecked or damaged vehicle without it having been investigated or cleared by a proper law enforcement agency.

(b) Administrative procedures for removal or suspension from the rotation lists shall be established by the chief of police.

(Ord. No. 30-93, § 1, 12-16-93) Sec. 7-11-14. - Reserved.

Editor's note— Ord. No. 25-09, § 1, adopted July 9, 2009, repealed § 7-11-14, which pertained to the removal of vehicles from private property without owner consent from Ord. No. 11-01, § 3, adopted March 8, 2001.

Sec. 7-12-1. - Establishment of dockless shared micromobility device pilot program.

The purpose of this chapter is to establish, permit and regulate a dockless shared micromobility device pilot program in the City of Pensacola. The provisions of this chapter shall apply to the dockless shared micromobility device pilot program and dockless shared micromobility devices. For the purpose of this chapter, the applicant, managing agent or vendor, and owner shall be jointly and severally liable for complying with the provisions of this chapter, the operating agreement and permit.

(Ord. No. 17-19, § 1, 9-12-19)

Sec. 7-12-2. - Definitions.

For purposes of this chapter, the following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section. The definitions in F.S. Ch. 316 apply to this chapter and are hereby incorporated by reference.

Dockless shared micromobility device (micromobility device) means a micromobility device made available for shared use or rent to individuals on a short-term basis for a price or fee.

Dockless shared micromobility device system means a system generally, in which dockless shared micromobility devices are made available for shared use or rent to individuals on a short-term basis for a price or fee.

Geofencing means the use of GPS or RFID technology to create a virtual geographic boundary, enabling software to trigger a response when a mobile device enters or leaves a particular area.

Micromobility device shall have the meaning ascribed to it in F.S. § 316.003, as amended. Micromobility device(s) are further defined as a vehicle that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three (3) wheels and which is not capable of propelling the vehicle at a speed greater than twenty (20) miles per hour on level ground.

Motorized scooter means any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three (3) wheels, and which is not capable of propelling the vehicle at a speed greater than twenty (20) miles per hour on level ground.

Pedestrian means people utilizing sidewalks, sidewalk area or rights-of-way on foot and shall include people using wheelchairs or other ADA-compliant devices.

Rebalancing means the process by which shared micromobility devices, or other devices, are redistributed to ensure their availability throughout a service area and to prevent excessive buildup of micromobility devices or other similar devices.

Relocate or *relocating* or *removal* means the process by which the city moves the micromobility device and either secures it at a designated location or places it at a proper distribution point.

Rights-of-way means land in which the city owns the fee or has an easement devoted to or required for use as a transportation facility and may lawfully grant access pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface of such rights-of-way.

Service area means the geographical area within the city where the vendor is authorized to offer shared micromobility device service for its users/customers as defined by the pilot program operating agreement and permit.

Sidewalk means that portion of a street between the curb line, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians.

Sidewalk area(s) includes trail in the area of a sidewalk, as well as the sidewalk and may be a median strip or a strip of vegetation, grass or bushes or trees or street furniture or a combination of these between the curb line of the roadway and the adjacent property.

User means a person who uses a digital network in order to obtain a micromobility device from a vendor.

Vendor means any entity that owns, operates, redistributes, or rebalances micromobility devices, and deploys a shared micromobility device system within the city.

(Ord. No. 17-19, § 2, 9-12-19)

Sec. 7-12-3. - Pilot program for shared micromobility devices on public rights-of- way; establishment; criteria.

(a) The city hereby establishes a twelve-month shared micromobility device pilot program for the operation of shared micromobility devices on sidewalks and sidewalk areas within the city limits.

(b) It is anticipated the pilot program will commence on January 1, 2020, or on such other date as directed by the city council ("commencement date"), and will terminate twelve (12) months after the commencement date.

(c) Shared micromobility devices shall not be operated in the city unless a vendor has entered into a fully executed operating license agreement and permit ("pilot program operating agreement and permit") with the city. The mayor is authorized to develop, and execute, the pilot program operating agreement and permit and any other documents related to the pilot program.

(d) If two (2) or more shared micromobility devices from a vendor, without a valid pilot program operating agreement and permit with the city, are found at a particular location within the city, it will be presumed that they have been deployed by that vendor, and it will be presumed the vendor is in violation of this chapter and the shared micromobility devices are subject to impoundment.

(e) A vendor shall apply to participate in the pilot program. The mayor shall select up to two (2) vendors to participate in the pilot program, unless otherwise directed by the city council.

(f) No more than a total of five hundred (500) micromobility devices, distributed equally among the vendors selected to participate in the pilot program, or as directed by the mayor, will be permitted to operate within the city during the pilot program. Micromobility devices that are impounded or removed by the city shall count towards the maximum permitted micromobility devices authorized within the city.

(g) Once selected as a pilot program participant, a vendor shall submit a one-time, non-refundable permit fee of five hundred dollars ($500.00), prior to entering into the pilot program operating agreement and permit, which shall be used to assist with offsetting costs to the city related to administration and enforcement of this chapter and the pilot program.

(h) In addition to the non-refundable permit fee set forth herein, prior to entering into the pilot program operating agreement and permit, a vendor shall remit to the city a one-time, non-refundable fee in the amount of one hundred dollars ($100.00) per device deployed by the vendor.

(i) Prior to entering into a pilot program operating agreement and permit, a vendor shall, at its own expense, obtain and file with the city a performance bond in the amount of no less than ten thousand dollars ($10,000.00). The performance bond shall serve to guarantee proper performance under the requirements of this chapter and the pilot program operating agreement and permit; restore damage to the city's rights-of-way; and secure and enable city to recover all costs or fines permitted under this chapter if the vendor fails to comply with such costs or fines. The performance bond must name the city as obligee and be conditioned upon the full and faithful compliance by the vendor with all requirements, duties and obligations imposed by this chapter and the pilot program operating agreement and permit. The performance bond shall be in a form acceptable to the city and must be issued by a surety having an A.M. Best A-VII rating or better and duly authorized to do business in the State of Florida. The city's right to recover under the performance bond shall be in addition to all other rights of the city, whether reserved in this chapter, or authorized by other law, and no action, proceeding or exercise of a right with respect to the performance bond will affect or preclude any other right the city may have. Any proceeds recovered under the performance bond may be used to reimburse the city for such additional expenses as may be incurred by the city as a result of the failure of the vendor to comply with the responsibilities imposed by this chapter, including, but not limited to, attorney's fees and costs of any action or proceeding and the cost to relocate any micromobility device and any unpaid violation fines.

(j) The pilot program operating agreement and permit will be effective for a twelve-month period and will automatically expire at the end of the twelve-month period, unless extended, or otherwise modified, by the city council. Upon expiration of the pilot program, vendors shall immediately cease operations and, within two (2) business days of the expiration of the pilot program, vendors shall remove all micromobility devices from the city, unless otherwise directed by the mayor. Failure to remove all micromobility devices within the two (2) business day timeframe, may result in the impoundment of the micromobility devices and the vendor will have to pay applicable fees to recover the micromobility devices from impound in accordance with this chapter.

(k) In the event the pilot program is extended, or otherwise modified by the city council, the pilot program operating agreement and permit may be extended consistent with such direction.

(l) Upon expiration of the pilot program, micromobility devices shall not be permitted to operate within the city until and unless the city council adopts an ordinance authorizing the same.

(Ord. No. 17-19, § 3, 9-12-19)

Sec. 7-12-4. - Operation of a dockless shared micromobility device system—Vendors' responsibilities and obligations; micromobility device specifications.

(a) The vendor of a shared micromobility device system is responsible for maintenance of each shared micromobility device.

(b) The micromobility device shall be restricted to a maximum speed of fifteen (15) miles per hour within the city.

(c) Each micromobility device shall prominently display the vendor's company name and contact information, which may be satisfied by printing the company's uniform resource locator (URL) or providing a code to download the company's mobile application.

(d) Vendors must comply with all applicable local, state and federal regulations and laws.

(e) Vendors must provide to the city an emergency preparedness plan that details where the micromobility devices will be located and the amount of time it will take to secure all micromobility devices once a tropical storm or hurricane warning has been issued by the National Weather Service. The vendor must promptly secure, all micromobility devices within twelve (12) hours of an active tropical storm warning or hurricane warning issued by the National Weather Service. Following the tropical storm or hurricane, the city will notify the vendor when, and where, it is safe to redistribute the micromobility devices within the city.

(f) Micromobility devices that are inoperable/damaged, improperly parked, blocking ADA accessibility or do not comply with this chapter must be removed by the vendor within one (1) hour upon receipt of a complaint. An inoperable or damaged micromobility device is one that has non-functioning features or is missing components. A micromobility device that is not removed within this timeframe is subject to impoundment and any applicable impoundment fees, code enforcement fines, or penalties.

(g) Vendors shall provide the city with data as required in the pilot program operating agreement and permit.

(h) Vendors must provide details on how users can utilize the micromobility device without a smartphone.

(i) Vendors must rebalance the micromobility devices daily based on the use within each service area as defined by the pilot program operating agreement and permit to prevent excessive buildup of units in certain locations.

(j) The vendor's mobile application and website must inform users of how to safely and legally ride a micromobility device.

(k) The vendor's mobile application must clearly direct users to customer support mechanisms, including but not limited to phone numbers or websites. The vendor must provide a staffed, toll-free customer service line which must provide support twenty-four (24) hours per day, three hundred sixty-five (365) days per year.

(l) The vendor must provide a direct customer service or operations staff contact to city department staff.

(m) All micromobility devices shall comply with the lighting standards set forth in F.S. § 316.2065(7), as may be amended or revised, which requires a reflective front white light visible from a distance of at least five hundred (500) feet and a reflective rear red light visible from a distance of at least six hundred (600) feet.

(n) All micromobility devices shall be equipped with GPS, cell phone or a comparable technology for the purpose of tracking.

(o) All micromobility devices must include a kickstand capable of keeping the unit upright when not in use.

(p) The only signage allowed on a micromobility device is to identify the vendor. Third-party advertising is not allowed on any micromobility device.

(q) The mayor, at his or her discretion, may create geofenced areas where the micromobility devices shall not be utilized or parked. The vendor must have the technology available to operate these requirements upon request.

(r) The mayor, at his or her discretion, may create designated parking zones (i.e., bike corrals) in certain areas where the micromobility devices shall be parked.

(Ord. No. 17-19, § 4, 9-12-19)

Sec. 7-12-5. - Operation and parking of a micromobility device.

(a) The riding and operating of micromobility devices and motorized scooters is permissible upon all sidewalks, sidewalk areas and other areas a bicycle may legally travel, located within city limits, except those areas listed below:

(1) Micromobility devices and motorized scooters are prohibited from operating or parking at all times on streets, sidewalks, bike paths or sidewalk street areas on Palafox Street between Wright and Pine Streets;

(2) Micro micromobility devices and motorized scooters are prohibited from operating at all times on sidewalks along DeVilliers Street between Gregory and Jackson Streets;

(3) Veterans Memorial Park as designated by signage;

(4) Where prohibited by official posting; or

(5) As designated in the pilot program operating agreement and permit.

(b) A user of a micromobility device and motorized scooter has all the rights and duties applicable to the rider of a bicycle under F.S. § 316.2065, except the duties imposed by F.S. §§ 316.2065(2), (3)(b) and (3)(c), which by their nature do not apply to micromobility devices and motorized scooters.

(c) Micromobility devices and motorized scooters shall be restricted to a maximum speed of fifteen (15) miles per hour.

(d) A user operating a micromobility device and motorized scooter upon and along a sidewalk, sidewalk area, or across a roadway upon and along a crosswalk, has all the rights and duties applicable to a bicyclist under the same circumstances and shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(e) A user operating a micromobility device and motorized scooter must comply with all applicable local, state and federal laws.

(f) Use of public sidewalks for parking micromobility devices and motorized scooters:

(1) Adversely affect the streets or sidewalks.

(2) Inhibit pedestrian movement.

(3) Inhibit the ingress and egress of vehicles parked on- or off-street.

(4) Create conditions which are a threat to public safety and security.

(5) Prevent a minimum four-foot pedestrian clear path.

(6) Impede access to existing docking stations, if applicable.

(7) Impede loading zones, handicap accessible parking zone or other facilities specifically designated for handicap accessibility, on-street parking spots, curb ramps, business or residential entryways, driveways, travel lanes, bicycle lanes or be within fifteen (15) feet of a fire hydrant.

(8) Violate Americans with Disabilities Act (ADA) accessibility requirements.

(Ord. No. 17-19, § 5, 9-12-19)

Sec. 7-12-6. - Impoundment; removal or relocating by the city.

(a) Any shared micromobility device that is inoperable/damaged, improperly parked, blocking ADA accessibility, does not comply with this chapter or are left unattended on public property, including sidewalks, sidewalk areas, rights-of-way and parks, may be impounded, removed, or relocated by the city. A shared rental micromobility device is not considered unattended if it is secured in a designated parking area, rack (if applicable), parked correctly or in another location or device intended for the purpose of securing such device.

(b) Any micromobility device that is displayed, offered, made available for rent in the city by a vendor without a valid pilot program operating agreement and permit with the city is subject to impoundment or removal by the city and will be subject to applicable impoundment fees or removal fines as specified in this chapter.

(c) The city may, but is not obligated to, remove or relocate a micromobility device that is in violation of this chapter. A vendor shall pay a seventy-five dollars ($75.00) fee per device that is removed or relocated by the city.

(d) Impoundment shall occur in accordance with F.S. § 713.78. The vendor shall be solely responsible for all expenses, towing fees and costs required by the towing company to retrieve any impounded

micromobility device(s). The vendor of a micromobility device impounded under this chapter will be subject to all liens and terms described under F.S. § 713.78, in addition to payment of all applicable penalties, costs, fines or fees that are due in accordance with this chapter and applicable local, state and federal law.

(Ord. No. 17-19, § 6, 9-12-19)

Sec. 7-12-7. - Operation of a shared micromobility device program—Enforcement, fees, fines and penalties.

(a) The city reserves the right to revoke any pilot program operating agreement and permit, if there is a violation of this chapter, the pilot program operating agreement and permit, public health, safety or general welfare, or for other good and sufficient cause as determined by the city in its sole discretion.

(b) Violations of sections 7-12-1 through 7-12-9 shall be enforced as non-criminal violations of city ordinances.

(c) Violations of operating a shared micromobility device system without a valid fully executed pilot program operating agreement and permit, shall be fined two hundred fifty dollars ($250.00) per day for an initial offense, and five hundred dollars ($500.00) per day for any repeat offenses within thirty (30) days of the last offense by the same vendor. Each day of non-compliance shall be a separate offense.

(d) Violations of this chapter or of the pilot program operating agreement and permit shall be fined at one hundred dollars ($100.00) per device per day for an initial offense, and two hundred dollars ($200.00) per device per day for any repeat offenses within thirty (30) days of the last same offense by the same vendor. Each day of non-compliance shall be a separate offense.

(e) The following fees, costs and fines shall apply to vendors:

(i)	Pilot program permit fee	$500.00 - non-refundable
(ii)	Performance bond	$10,000.00 minimum
(iii)	One time per unit fee	$100.00 per unit - non-refundable
(iv)	Removal or relocation by the city	$75.00 per device the city fee
(v)	Operating without a valid operating agreement and permit fine	$250.00 per day; $500.00 per day for second offense
(vi)	Permit violation fine	$100.00 per device per day; $200.00 per device per day for second offense

(f) At the discretion of the mayor, a vendor is subject to a fleet size reduction or total pilot program operating agreement and permit revocation should the following occur:

(1) If the violations of the regulations set forth in this chapter are not addressed in a timely manner; or

(2) Fifteen (15) unaddressed violations of the regulations set forth by this chapter within a thirty-day period; or

(3) Submission of inaccurate or fraudulent data.

(g) In the event of fines being assessed as specified herein or a pilot program operating agreement and permit revocation, the mayor shall provide written notice of the fines or revocation via certified mail or other method specified upon in the operating user agreement, informing the vendor of the violation fines or revocation.

(Ord. No. 17-19, § 7, 9-12-19; Res. No. 2019-58, § 1, 10-10-19)

Sec. 7-12-8. - Appeal rights.

(a) Vendors who have been subject to the imposition of violation fines pursuant to section 13-2-2 or a pilot program operating agreement and permit revocation may appeal the imposition of violation fines or the revocation. Should a vendor seek an appeal from the imposition of violation fines or the pilot program operating agreement and permit revocation, the vendor shall furnish notice of such request for appeal to the city code enforcement authority no later than ten (10) business days from the date of receipt of the certified letter informing the vendor of the imposition of violation fines or revocation of the pilot program operating agreement and permit.

(b) Upon receipt of a notice of appeal, a hearing shall be scheduled and conducted by the special magistrate in accordance with the authority and hearing procedures set forth in the section 13-1-6. The hearing shall be conducted at the next regular meeting date of the code enforcement authority or other meeting date of the code enforcement authority as agreed between the city and the vendor.

(c) Findings of fact shall be based upon a preponderance of the evidence and shall be based exclusively on the evidence of record and on matters officially recognized.

(d) The special magistrate shall render a final order within thirty (30) calendar days after the hearing concludes, unless the parties waive the time requirement. The final order shall contain written findings of fact, conclusions of law, and a recommendation to approve, approve with conditions or deny the decision subject to appeal. A copy of the final order shall be provided to the parties by certified mail or, upon mutual agreement of the parties, by electronic communication.

(e) A vendor may challenge the final order by a certiorari appeal filed in accordance with Florida law with the circuit court no later than thirty (30) days following rendition of the final decision or in any court having jurisdiction.

(Ord. No. 17-19, § 8, 9-12-19)

Sec. 7-12-9. - Indemnification and insurance.

(a) As a condition of the pilot program operating agreement and permit, the vendor agrees to indemnify, hold harmless and defend the city, its representatives, employees, and elected and appointed officials, from and against all ADA accessibility and any and all liability, claims, damages, suits, losses, and expenses of any kind, including reasonable attorney's fees and costs for appeal, associated with or arising out of, or from the pilot program operating agreement and permit, the use of right-of-way or city-owned property for pilot program operations or arising from any negligent act, omission or error of the vendor, owner or, managing agent, its agents or employees or from failure of the vendor, its agents or employees, to comply with each and every requirement of this chapter, the pilot program operating agreement and permit or with any other federal, state, or local traffic law or any combination of same.

(b) Prior to commencing operation in the pilot program, the vendor shall provide and maintain such liability insurance, property damage insurance and other specified coverages in amounts and types

as determined by the city and contained in the pilot program operating agreement and permit, necessary to protect the city its representatives, employees, and elected and appointed officials, from all claims and damage to property or bodily injury, including death, which may arise from any aspect of the pilot program or its operation.

(c) A vendor shall include language in their user agreement that requires, to the fullest extent permitted by law, the user to fully release, indemnify and hold harmless the city.

(d) In addition to the requirements set forth herein, the vendor shall provide any additional insurance coverages in the specified amounts and comply with any revised indemnification provision specified in the pilot program operating agreement and permit.

(e) The vendor shall provide proof of all required insurance prior to receiving a fully executed pilot program operating agreement and permit.

(Ord. No. 17-19, § 9, 9-12-19)

CHAPTER 7-14. FEES[17]

Footnotes:

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Editor's note— The provisions of inadvertently repealed Ch. 12-7 were reenacted by § 4 or Ord. No. 27-92, adopted Aug. 13, 1992, and redesignated at the direction of the city as Ch. 7-14.

Ord. No. 27-85, §§ 1—3, adopted Sept. 26. 1985, amended §§ 7-14-2—7-14-5 of Ch. 7-14, and set out additional provisions which the editors have designated §§ 7-14-6—7-14-9 herein. Ord. No. 20-86, § 1, adopted July 10, 1986 also amended and restated the above-described sections.

Subsequently, Ord. No. 35-07, § 1, adopted July 12, 2007, provided for the amendment of Ch. 7-14 to read as herein set out. See the Code Comparative Table for a detailed analysis of inclusion.

Cross reference— Administration, Title II; occupational licenses, Ch. 7-2; buildings an building regulations, Ch. 7-13; zoning districts, Ch. 12-2; signs, Ch. 12-4; subdivisions, Ch. 12-8; airport zoning, Ch. 12-11; administration and enforcement, Ch. 12-12; boards and commissions, Ch. 12-13; buildings, construction and fire codes, Title XIV.

Sec. 7-14-1. - Planning and zoning fees.

The following fees to be charged by the city for development plan review, amendments, vacations of streets and alleys, subdivision plats, and division of land requiring a boundary survey shall be collected by the city as hereinafter set forth, and said fees shall be paid before the beginning of any administrative process required for said activities.

(a) *Planning and development services plan review fees:* The applicant for development plan review for the following activities shall at the time of application pay the following fees:

Table 7-14.1

	Fee	Review Board Rehearing/Rescheduling Fee	City Council Rehearing/Rescheduling Fee

Boundary Survey for Two Lot Division	750.00	NA	NA
Preliminary Subdivision Plat	1000.00	250.00	250.00
Final Subdivision Plat plus 25.00 per lot	1,500.00	250.00	250.00
Minor Subdivision (4 lots or less combined preliminary/final plat)	2,000.00	250.00	250.00
ROW Vacation	2,000.00	250.00	500.00
License to Use ROW	500.00 (minor) 1,000.00 (major)	100.00	100.00
License to Use ROW for Sandwich Board Sign	100.00	NA	NA
Rezoning Without Comprehensive Plan FLUM Amendment	2,500.00	250.00	750.00
Rezoning with Small Scale Development (less than 10 acres) Comprehensive Plan FLUM Amendment	3,500.00	250.00	750.00
Rezoning with Comprehensive Plan FLUM Amendment for Development other than Small Scale	3,500.00	250.00	1,000.00
Conditional Use	2,000.00	100.00	250.00
Site Development Plan "A" - Preliminary Development Plan	1,500.00	100.00	250.00
Site Development Plan "A" - Final Development Plan	1,500.00	250.00	250.00

Site Development Plan "A" - Combined Preliminary/Preliminary Development Plan	2,000.00	250.00	250.00
Site Development Plan "B" - Preliminary Development Plan	1,500.00	250.00	250.00
Site Development Plan "B" - Final Development Plan	1,500.00	250.00	250.00
Site Development Plan "B" - Combined Preliminary/Final Development Plan	2,000.00	250.00	250.00
Site Development Plan "C" Non-Residential Parking in a Res. Zone	1,500.00	250.00	NA
Adjacent Voluntary Annexation	0.00	NA	0.00
Appeal of Planning Board Decision To City Council (Site Plan "C" only)	250.00	NA	250.00
Home Occupation Permit	50.00	NA	NA
Zoning Letter	25.00	NA	NA
Variance	500.00	250.00	NA
Front yard averaging	150.00	NA	NA
Appeal of any order, requirement, decision, or determination made by administrative official	500.00	250.00	NA
Zoning Board of Adjustment Interpretation for Historic and North Hill Preservation Districts (for uses not expressly permitted)	300.00	300.00	NA
Historic Preservation District Staff	0.00	NA	NA

Abbreviated Review			
Historic Preservation District Residential Site Plan-Homestead	50.00	25.00	NA
Historic Preservation District Non-Homestead or Commercial Site Plan	250.00	125.00	NA
Historic Preservation District Variance	500.00	250.00	NA
Appeal of Architectural Review Board Decision to City Council	500.00	NA	250.00
Historic Preservation District Architectural Review Board Abbreviated Review	25.00	NA	NA
Gateway Redevelopment District Residential Site Plan Review	50.00	25.00	NA
Gateway Redevelopment District Commercial Site Plan Review	250.00	125.00	NA
Gateway Redevelopment District Abbreviated Review	25.00	0.00	NA
Appeal of Gateway Redevelopment District Decision to City Council	500.00	NA	250.00
Alcoholic Beverage License Certificate of Compliance	250.00	NA	NA
Appeal of Alcoholic Beverage License Certificate of Compliance to City Council	250.00	NA	250.00
Alcoholic Beverage License Extension of Premises	25.00	NA	NA

Adult Entertainment Establishment License	400.00	NA	NA

Notes:

Site Plan "A"

- Special Planned Developments
- Major revisions to SSD's
- Exceptions to the four thousand (4,000) sq. ft. maximum area for a commercial use in an R-NC district

Site Plan "B"

- Conservation district (CO)
- Airport district—All private, nonaviation related development in the ARZ zone and all developments except single-family in an approved subdivision in the ATZ-1 and AZT-2 zones
- Waterfront Redevelopment district (WRD)
- South Palafox Business district (SPBD)
- Interstate Corridor district (IC)
- Multi family developments over thirty-five (35) feet in height within the R-2A district;
- Buildings over forty-five (45) feet in height in the R-2, R-NC and C-1 districts.

Site Plan "C"

- Non-residential parking in a residential zone

(b) Any fee paid in order to appeal from an allegedly erroneous decision by the city shall be refunded to the applicant in the event that the appropriate board determines that the applicant has prevailed in the appeal.

(c) When a boundary survey, preliminary plat, final plat, combined preliminary/final plat or any site development plan is denied because it does not comply with subdivision or development requirements a plan re-submittal fee of one-half (½) the initial fee shall be paid.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 24-09, § 1, 7-9-09; Ord. No. 26-11, § 1, 9-22-11)

Sec. 7-14-2. - Permit fees.

The following permit fees to be charged by the city for buildings, signs, manufactured buildings, mobile homes, swimming pools, television and radio antennas, roofing, moving or demolition of buildings or structures, electrical, plumbing, gas, mechanical, fire suppression and alarm system installations, penalties for starting work without a permit, and field inspection for business license certificate of occupancy shall be collected by the inspection services department for all work done within the city, as outlined below, and said fees shall be paid before the beginning of any construction or alteration as hereinafter set forth:

The applicant for any permit shall pay an administrative application fee of forty dollars ($40.00) in addition to the building, electrical, gas, mechanical, fire protection/prevention, and plumbing permit fees specified below. Fences, tents, temporary signs and banners shall be exempt from this fee.

(a) *Building permit fees:*

(1) The applicant for a permit for any new building or structure, for any additions to an existing building or structure or portion thereof, shall, at the time of having made application and issuance of the permit, pay for each and every building or structure fifteen cents ($0.15) per square foot based on the square footage of gross floor area of such work. Minimum permit fees will also be based upon the number of required inspections times the minimum inspection fee of fifty dollars ($50.00) when the square footage is such that the square footage cost will not cover the cost of inspections.

(2) For remodeling, repairs or modifications of existing buildings or structures for which a gross floor area cannot be measured and for which a specific fee is not indicated, the fee shall be at the rate of seven dollars fifty cents ($7.50) per one thousand dollars ($1,000.00) of the estimated total cost of labor and materials for the work for which the permit is requested, i.e., excluding only subcontractor work that will be permitted separately.

(3) Antennas, dish and tower, roof and ground installations:

a. Residential, including amateur "ham" units $50.00

b. Commercial: Fee to be calculated in accordance with subsection 7-14-2(a)(2).

(4) Window and door installation:

Fee to be calculated in accordance with subsection 7-14-2(a)(2).

(5) Demolition of buildings or structures 100.00

Plus one dollar ($1.00) for each one hundred (100) square feet of total gross floor space, or portion thereof, over five thousand (5,000) square feet.

(6) Fences and tents 35.00

(7) Manufactured buildings and mobile homes:

a. For plan review, foundation rough-in and final inspection, per unit 140.00

b. Each additional inspection 50.00

(8) Moving of buildings or structures:

a. From one (1) location to another within the city limits: Two hundred dollars ($200.00) plus twenty dollars ($20.00) for each mile within the city in excess of five (5) miles.

b. From outside the city limits to a location inside the city: Two hundred fifty dollars ($250.00) plus twenty-five dollars ($25.00) for each mile within the city in excess of five (5) miles.

c. For moving a building or structure through the city or from the city: Two hundred dollars ($200.00) plus twenty dollars ($20.00) for each mile within the city in excess of five (5) miles.

(9) Siding or residing structures including pre-inspection 100.00

Structural, electrical, mechanical and plumbing work required in conjunction with siding installation shall be permitted and fees charged in accordance with appropriate subsections of this chapter.

(10) Roofing, re-roofing:

a. Residential $100.00

Plus fifty ($50.00) for each additional; inspection in excess of two (2) inspections.

b. Commercial $140.00

Plus fifty ($50.00) for each additional; inspection in excess of two (2) inspections.

(11) Signs (including plan review):

a. Accessory $100.00

b. Non-accessory—Billboard-type signs, including pre-inspection $210.00

c. Temporary—Portable signs and banners $35.00

(12) Swimming pools/spas:

a. Residential $150.00

b. Commercial $300.00

Plus fifty ($50.00) for each inspection in excess of three (3).

(13) Minimum permit fee 35.00

(14) Penalty fee for work which commences prior to securing the appropriate permit or permits computed in accordance with section 7-14-6.

(b) *Electrical permit fees:*

(1) Temporary or construction pole service $50.00

(2) Minimum fee, per inspection unless noted otherwise $50.00

(3) Electrical service: (residential and commercial, including signs, generators, and service changes:

0—100 amperes $90.00

101—200 amperes $95.00

201—400 amperes $125.00

401—600 amperes $175.00

601—800 amperes $275.00

801—1,000 amperes $375.00

1,001—1,200 amperes $475.00

1,201—1,600 amperes $675.00

1,601—2,000 amperes $875.00

2,001—2,400 amperes $1,075.00

Over 2,401 amperes $1,275.00

Plus fifty cents ($0.50) per ampere over two thousand four hundred one (2,401)

(4) For sub-meters derived from main service, per meter $50.00

(5) For swimming pools, spas and hot tubs $100.00

(6) Commercial computer and communications systems including fire/security alarm systems ("system" defined as detection devices connected to a control panel), including alterations:

a. Base fee (includes two (2) inspections) $100.00

b. Each additional inspection $50.00

(7) Residential fire and security systems $50.00

(8) Penalty fee for work which commences prior to securing the appropriate permit or permits computed in accordance with section 7-14-6.

(c) *Gas installation permit fees:* The following fees shall be charged for both natural and liquid petroleum gas installations:

(1) Permit fee based upon number of inspections, per inspection $50.00

(2) Penalty fee for work which commences prior to securing the appropriate permit or permits computed in accordance with section 7-14-6.

(d) *Mechanical permit fees:*

(1) For heating, ventilation, air conditioning, and refrigeration systems: Fifty dollars ($50.00) per inspection plus three dollars ($3.00) for each ton or fraction thereof in excess of fifteen (15) tons.

(2) All other mechanical work, including, but not limited to, installation, replacement or alteration of duct work, hydraulic lifts, pumps, air compressors, refrigeration equipment, high-pressure washers, medical gas systems, extractors, boilers, incinerators etc., for each inspection $50.00

(3) Penalty fee for work which commences prior to securing the appropriate permit or permits computed in accordance with section 7-14-6.

(e) *Fire protection/prevention permit fees:*

(1) Fire sprinkler systems (includes plan review):

a. Residential (one- or two-family dwelling $170.00

b. Commercial; small, six (6) heads or less $170.00

Large $500.00

(2) Fire suppression systems (includes plan review):

a. Small, single hazard area $35.00

b. Large $210.00

(3) Fire alarm systems (includes plan review):

a. New installation, one (1) pull $35.00

b. New installation, multi-pull $85.00

c. Fire alarm inspection; small, six (6) or fewer initiating devices $90.00

d. Fire alarm inspection; large $250.00

(4) Installation of pollutant/hazardous material storage tanks:

a. Aboveground $250.00

b. Underground $250.00

(5) Removal of pollutant/hazardous material storage tank $100.00

(6) Penalty fee for work which commences prior to securing the appropriate permit or permits computed in accordance with section 7-14-6.

(f) *Plumbing permit fees:*

(1) Base fee (includes final, inspection) $50.00

Plus:

a. Additional fee for each outlet, fixture, floor drain or trap in excess of ten (10) $2.00

b. Each additional inspection $50.00

c. Sewer connection, in conjunction with new single-family dwelling $50.00

All others $50.00

(2) Plumbing permit fees for manufactured buildings/factory-built housing:

a. Base fee (including final inspection) $50.00

b. Sewer connection (each) $50.00

c. Rough-in for joining together of all components, including stack-out, for each inspection required $50.00

(3) Lawn sprinkler system installation fees:

a. Installation of valves, vacuum breakers and/or back-flow preventers and sprinkler heads to a maximum of fifty (50) $50.00

b. For each head in excess of fifty (50) add $2.00

c. Each additional inspection $50.00

(4) Solar heating system $50.00

(5) Penalty fee for work which commences prior to securing the appropriate permit or permits computed in accordance with section 7-14-6.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 24-09, § 2, 7-9-09; Ord. No. 26-11, § 1, 9-22-11; Ord. No. 26-19, § 1, 10-24-19)

Sec. 7-14-3. - Renewal of expired permits.

A permit once issued, expires if work is not commenced within one hundred eighty (180) days of issuance or if construction or work is suspended or abandoned for a period of one hundred eighty (180) days at any time after work is commenced. To avoid permit expiration, a progress report (showing progress toward the permit) needs to be submitted in writing or an extension request needs to be submitted in writing showing justifiable cause to extend the permit prior to one hundred eighty (180) days of inactivity, otherwise the permit will expire. Extensions may be granted for one hundred eighty (180) days. The fee for renewal of expired permits shall be seventy-five (75) percent of the original fee paid if the fee is paid within thirty (30) days of the expiration date. After thirty (30) days, the full original fee is due. Beginning with the second permit renewal and subsequent renewals a five hundred dollar ($500.00) penalty will be assessed in addition to permit fees due for renewal.

(Ord. No. 26-11, § 1, 9-22-11; Ord. No. 26-19, § 2, 10-24-19)

Sec. 7-14-4. - Construction board of appeals hearing fee.

(a) The following fees shall be paid by a hearing applicant at time of application for hearing, in advance of hearing date.

Construction board of appeals hearing $300.00

(b) Any fee paid pursuant to this section in order to appeal from an allegedly erroneous decision by a member of the city staff shall be refunded to the applicant in the event that the board determines that the applicant has prevailed in the appeal.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 26-11, § 1, 9-22-11)

Sec. 7-14-5. - Field inspection fees.

(1) Reinspection fee $50.00

(2) Inspection for temporary power prior to final inspection (includes electrical and mechanical):

For one- and two-family dwellings $50.00

For commercial and multi-family dwellings $100.00

(3) Special inspection conducted outside of normal working hours $200.00

(4) Contractor assistance $50.00

(5) Reinspection of temporary and construction electrical services $50.00

(6) Pre-inspection survey service $50.00

(7) Partial certificate of occupancy inspection .....$100.00 for 30 dayTemp C.O.

(8) Business certificate of occupancy inspection $100.00

(9) A fifty dollar ($50.00) permit fee shall be charged for tree removal and/or tree trimming in the public right-of-way or canopy road tree protection zones.

(10) Engineering "as-built" inspection fee four hundred dollars ($400.00) plus one hundred dollars ($100.00) per acre in the development site. Each fractional acre shall count as an acre. When an as-built inspection fails because improvements do not comply with approved engineering plans a re-inspection fee of one-half (½) the initial fee shall be paid. When an erosion control compliance inspection fails because erosion control measures do not comply with approved plans a re-inspection fee of two hundred fifty dollars ($250.00) shall be paid.

(11) Zoning compliance inspection fees:

(a) Zoning compliance inspection fee for one- and two-family dwellings shall be one hundred dollars ($100.00).

(b) Zoning compliance inspection fee for accessory structures and buildings and additions to existing single family dwellings shall be fifty dollars ($50.00).

(c) Zoning compliance inspection fee for all other developments shall be four hundred fifty dollars ($450.00) plus three hundred dollars ($300.00) per acre in the development site. Each fractional acre shall count as an acre.

(d) When a zoning compliance inspection of landscaping, signage, parking, building features, and similar improvements fails because improvements do not comply with approved plans a re-inspection fee of two hundred fifty dollars ($250.00) shall be paid.

(12) Overgrown lot inspection (to be added to lot cutting fee) $30.00

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 24-09, § 3, 7-9-09; Ord. No. 26-11, § 1, 9-22-11; Ord. No. 26-19, § 3, 10-24-19)

Sec. 7-14-6. - Penalty fees.

(1) For construction work which commences prior to securing the appropriate permit or permits:

   (a) First occurrence: Four (4) times the permit fee.

   (b) Second and repeat occurrence: Prosecution for Code violation.

(2) Fine for removing trees or limbs without permit: One hundred dollars ($100.00) per caliper inch of tree trunk or limb.

(3) Nothing contained herein shall be construed to prohibit the prosecution of any Code violations, regardless of the number of times such violation may have occurred, when any person continues to perform work after being warned that a permit for the work is required and has not been issued or when work continues after a stop work order has been issued. Nor shall this provision be construed to prohibit the city from seeking injunctive or other relief from Code violations.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 26-11, § 1, 9-22-11)

Sec. 7-14-7. - Plan review fees for building code compliance.

(1) When construction plans are required, the plan review fee shall be one-half (½) the permit fee for the initial review and fifty dollars ($50.00) for the second plan review. This fee applies to each structural, electrical, mechanical and plumbing permit. However, there shall be no electrical, mechanical or plumbing plan review fee for single-family or duplex residential plans. Subsequent reviews for revised plans shall be fifty dollars ($50.00) per discipline for review.

(2) When a permit application is denied for the third and any subsequent time because the plans submitted do not comply with city and/or state codes, a plan re-submittal review fee of one-half (½) the permit fee shall be paid.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 26-11, § 1, 9-22-11)

Sec. 7-14-8. - Site plan review fees.

(1) *Zoning review fees:*

   (a) Zoning review fee for one- and two-family dwellings shall be one hundred dollars ($100.00).

   (b) Zoning review fee for accessory structures and buildings and additions to existing single-family dwellings shall be fifty dollars ($50.00).

   (c) Zoning review fee for all other developments shall be four hundred fifty dollars ($450.00) plus three hundred dollars ($300.00) per acre in the development site. Each fractional acre shall count as an acre.

   (d) When plans are denied because they do not comply with zoning requirements a plan re-submittal fee of one-half (½) the initial fee shall be paid.

(2) E*ngineering plan review fee.* Engineering plan review fee shall be four hundred dollars ($400.00) plus one hundred dollars ($100.00) per acre in the development site. Each fractional acre shall count as an acre. When plans are denied because they do not comply with engineering requirements a plan re-submittal fee of one-half (½) the initial fee shall be paid.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 26-11, § 1, 9-22-11)

Sec. 7-14-9. - Bayou Texar Shoreline and Escambia Bay Protection District Fees.

(1) Zoning review fee for one- and two-family dwellings located in the Bayou Texar Shoreline or Escambia Bay Protection Districts shall be three hundred dollars ($300.00). When plans are denied because they do not comply with zoning requirements a plan re-submittal fee of one-half (½) the initial fee shall be paid.

(2) Engineering plan review fee for one- and two-family dwellings located in the Bayou Texar Shoreline or Escambia Bay Protection Districts shall be two hundred dollars ($200.00). When plans are denied because they do not comply with engineering requirements a plan re-submittal fee of one-half (½) the initial fee shall be paid.

(Ord. No. 35-07, § 1, 7-12-07)

Sec. 7-14-10. - Subdivision construction plan review and inspection fees.

(1) Engineering construction plan review fee shall be five hundred dollars ($500.00) plus fifty dollars ($50.00) per lot in the subdivision. When plans are denied because they do not comply with engineering requirements a plan re-submittal fee of one-half (½) the initial fee shall be paid.

(2) Engineering "as-built" inspection fee shall be five hundred dollars ($500.00) plus fifty dollars ($50.00) per lot in the subdivision. When inspection fails because improvements do not comply with approved engineering plans a re-inspection fee of one-half (½) the initial fee shall be paid.

(Ord. No. 35-07, § 1, 7-12-07)

Sec. 7-14-11. - Driveway curb-cut right-of-way permits.

(1) *Single-family and duplex residential curb-cuts:* Seventy-five dollars ($75.00) for each driveway curb-cut permitted.

(2) *Commercial and all other development curb-cuts:* Two hundred dollars ($200.00) plus one hundred dollars ($100.00) for each additional driveway curb-cut permitted.

(Ord. No. 35-07, § 1, 7-12-07)

Sec. 7-14-12. - Miscellaneous other fees.

(1) A three dollar ($3.00) fee shall be charged for each document notarized.

(2) The fee for processing lien search requests for building permit information, building code violations, and demolition liens shall be twenty-five dollars ($25.00) per tax parcel identification number.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 26-19, § 4, 10-24-19)

Sec. 7-14-13. - Refunds.

(1) All fees will be refunded if a permit is issued in error by the inspection services department. Otherwise, the maximum refund will exclude an amount equal to all plan review fees, an administrative fee of forty dollars ($40.00), plus a fifty dollar ($50.00) fee for each completed inspection.

(2) There will be a ten (10) percent service charge on all materials such as maps which are returned in useable condition within five (5) working days of purchase. No refunds on materials after five (5) working days.

(3) Refunds will be made by check and will not be credited toward purchase of new permit or material.

(4) No refund will be made without a receipt.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 26-19, § 5, 10-24-19)

Section 7-15-1. Use of Fertilizer on Urban Landscapes.

(a) Legislative Findings.

As a result of impairment to the City of Pensacola's surface waters caused by excessive nutrients, or, as a result of increasing levels of nitrogen in the surface and/or groundwater within the aquifers or springs within the boundaries of the City of Pensacola, the City of Pensacola City Council has determined that the use of fertilizers on lands within City of Pensacola limits creates a risk to contributing to adverse effects on surface and/or groundwater. Accordingly, the City of Pensacola City Council finds that management measures contained in the most recent edition of the Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008, may be required by this ordinance.

(b) Purpose and Intent.

This ordinance regulates the proper use of fertilizers by any applicator; requires proper training of Commercial and Industrial Fertilizer Applicators; establishes training and licensing requirements; establishes a Prohibited Application Period; and specifies allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions. The ordinance requires the use of Best Management Practices which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been observed in and on City of Pensacola's natural and constructed stormwater conveyances, rivers, creeks, canals, springs, estuaries, and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural, and economic well-being of the residents of the City of Pensacola and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

(c) Definitions.

For this section 7-15, the following terms shall have the meanings set forth in herein unless the context clearly indicates otherwise.

"Administrator" means the City Administrator, or an administrative official of the City of Pensacola government designated by the City Administrator to administer and enforce the provisions of this Article.

"Application" or "Apply" means the actual physical deposit of fertilizer to turf or landscape plants.

"Applicator" means any person who applies fertilizer on turf and/or landscape plants in the City of Pensacola.

"Best management practices" means turf and landscape practices or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological

consideration, for improving water quality, conserving water supplies, and protecting natural resources.

“City of Pensacola Approved Best Management Practices Training Program” means the Florida Department of Environmental Protection’s recommended training program approved pursuant to Section 403.9338, Florida Statutes, or any more stringent requirements set forth in this section that includes the most current version of the Florida Department of Environmental Protection's Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008, as revised, and approved by the City of Pensacola Administrator.

“Code Enforcement Officer, Official, or Inspector” means any designated employee or agent of the City of Pensacola whose duty it is to enforce codes and ordinances enacted by the City.

“Commercial fertilizer applicator,” except as provided in § 482.1562(9), Florida Statutes, means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer or the employer of the applicator.

“Fertilize,” “Fertilizing,” or “Fertilization” means the act of applying fertilizer to turf, specialized turf, or landscape plants.

“Fertilizer” means any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides corrective measures to the soil.

“Guaranteed Analysis” means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

“Institutional Applicator” means any person, other than a private, non-commercial or a commercial applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional applicators shall include, but shall not be limited to, owners, managers, or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites, and any residential properties maintained in condominium and/or common ownership.

“Landscape Plant” means any native or exotic tree, shrub, or groundcover (excluding turf).

“Low Maintenance Zone” means an area a minimum of ten feet wide adjacent to water courses which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

“Person” means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.

“Prohibited Application Period” means the time period during which a flood watch, flood warning, tropical storm watch, tropical storm warning, hurricane watch, or hurricane warning is in effect for any portion of the City of Pensacola, issued by the National Weather Service, or if rainfall greater than 2 inches in a 24-hour period is likely.

“Saturated Soil” means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this article, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.

"Slow Release," "Controlled Release," "Timed Release," "Slowly-Available," or "Water-Insoluble Nitrogen" means nitrogen in a form which delays the availability for plant uptake and use after application, or which extends its availability to the plant longer than a reference rapid or quick release product.

"Turf," "Sod," or "Lawn" means a piece of grass-covered soil held together by the roots of the grass.

"Urban landscape" means pervious areas on residential, commercial, industrial, institutional, highway rights-of-way, or other nonagricultural lands that are planted with turf or horticultural plants. For the purposes of this section, agriculture has the same meaning as in Section 570.02, Florida Statutes.

Sec. 7-15-2. Timing of Fertilizer Application. No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the Prohibited Application Period, or to saturated soils.

Sec. 7-15-3. Fertilizer Free Zones. Fertilizer shall not be applied within ten (10) feet of any pond, stream, watercourse, lake, canal, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a seawall, unless a deflector shield, drop spreader, or liquid applicator with a visible and sharply-defined edge is used, in which case a minimum of three (3) feet shall be maintained. If more stringent City of Pensacola Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. Newly planted turf and/or landscape plants may be fertilized in this Zone only for a sixty (60) day period beginning thirty (30) days after planting if needed to allow the plants to become well-established. Caution shall be used to prevent direct deposition of nutrients into the water.

Sec. 7-15-4. Low Maintenance Zones. A ten (10) foot low maintenance zone is required from any pond, stream, water course, lake, wetland, or from the top of a seawall. A swale/berm system is required to be installed at the landward edge of this low maintenance zone to capture and filter runoff. No mowed or cut vegetative material may be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone.

Sect. 7-15-5. Fertilizer Content and Application Rates.

(a) Fertilizers applied to turf within the City of Pensacola city limits shall be applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements for Urban Turf Fertilizers.

(b) Fertilizer containing nitrogen or phosphorus shall not be applied before seeding or sodding a site, and shall not be applied for the first thirty (30) days after seeding or sodding, except when hydro-seeding for temporary or permanent erosion control in an emergency situation (wildfire, etc.), or in accordance with the Stormwater Pollution Prevention Plan for that site.

(c) Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants except as provided in subsection 42-408(1) for turf, or in UF/IFAS recommendations for landscape plants, vegetable gardens, and fruit trees and shrubs, unless a soil or tissue deficiency has been verified by an approved test.

Section 7-15-6. Application Practices.

(a) Spreader deflector shields are required when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from impervious surfaces, fertilizer-free zones, and water bodies, including wetlands.

(b) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.

(c) Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent possible.

(d) Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site or returned to the original or other appropriate container.

(e) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

Section 7-15-7. Management of Grass Clippings and Vegetative Matter. In no case shall grass clippings, vegetative material, and/or vegetative debris be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent possible.

Section 7-15-8. Exemptions. The provisions set forth above in this Ordinance shall not apply to:

(a) bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14, Florida Statutes;

(b) other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock;

(c) any lands used for bona fide scientific research, including, but not limited to, research on the effects of fertilizer use on urban stormwater, water quality, agronomics, or horticulture.

Section 7-15-9. Training.

(a) All commercial and institutional applicators of fertilizer within the City of Pensacola city limits shall abide by and successfully complete the six-hour training program in the Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries that is offered by the Florida Department of Environmental Protection through the University of Florida Extension “Florida-Friendly Landscapes” program, or an approved equivalent program.

(b) Private, non-commercial applicators are encouraged to follow the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.

Section 7-15-10. Licensing of Commercial Fertilizer Applicators.

(a) Commercial Fertilizer Applicators within the City Limits of the City of Pensacola shall abide by and successfully complete training and continuing education requirements in the Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries that is offered by the Florida Department of Environmental Protection through the University of Florida Extension “Florida-Friendly Landscapes” program, or an approved equivalent program, prior to obtaining a license to do business in the City for any category of occupation which may apply any fertilizer to turf and/or landscape plants. Commercial Fertilizer Applicators shall provide proof of completion of the program to the Director of Public Works and Facilities or his designee at within thirty days of the effective date of this ordinance.

(b) All Commercial Fertilizer Applicators within the City of Pensacola city limits shall have, and carry in their possession at all times when applying fertilizer, evidence of certification by the Florida Department of Agriculture and Consume Services as a Commercial Fertilizer Applicator per Rule 5E-14.117(18), Florida Administrative Code.

(c) All businesses applying fertilizer to turf and/or landscape plants (including, but not limited to, residential lawns, golf courses, commercial properties, and multi-family and condominium properties) must ensure that at least one employee has a Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries training certificate prior to the business owner obtaining a business license. Owners of any business regulated by this section which may apply any fertilizer to turf and/or landscape plants shall provide proof of completion of the program to the Director of Public Works and Facilities or his designee.

Section 7-15-11 Enforcement.

(a) The provisions of this section shall be enforced pursuant to the provisions of sections 13-1-1 through 13-1-12; 13-2-1 through 13-2-4 and section 1-1-8.

(b) Funds generated by penalties imposed under this section shall be used by the City of Pensacola for the administration and enforcement of Section 403.9337, Florida Statutes, and this section of the City Code, and to further water conservation and nonpoint pollution prevention activities.

(Ord. 17-20; 7-16-20)