

**Chapter 21**  
**BUSINESS REGULATIONS**

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**21.01            APPLICATIONS/PROHIBITED BUSINESSES**

A.    Applications: Unless provided herein, all business licensees shall submit in writing a completed application as contained in Appendix A of this Chapter before the City Council may consider granting said license. At the discretion of the Mayor, City Administrator or Chief of Police, the application may be modified to obtain the information needed to complete the process in an expeditious manner. (Ord. 2012-102,§1)

1.    For the purposes of this Section 21, when available, submission of applications by electronic means shall be allowable in place of written submissions provided all fees are collected with submission. Additionally, the method employed to allow for electronic submission shall contain obvious notice that such submission by licensee and/or their agent constitutes a true and accurate portrayal of information contained therein and that the electronic form of submission shall in no way affect, impair, invalidate or nullify any other part of this Section other than the method of submission. (Ord 2015-125, §1)

B.    Prohibited Business: The following businesses are prohibited in the City: pawnbroker. (Ord. 2012-102,§1; Ord. 2008-133,§1)

## **21.02 AUCTIONEERS**

A. Licensed Required: No person shall act as auctioneer or carry on the business of auctioneer in the City without a license issued by the Clerk. Application for this license shall include proof of state licensing. (Ord. 2012-102, §2)

B. Fee: Except as provided herein, a fee of \$50 shall be paid to the City for each auction event held in the City. (Ord. 2003-137)

C. Exceptions: Exceptions to this Section 21.02 are as follows: (Ord. 2003-137)

1. This Section 21.02 shall not apply to persons or officers acting under legal process.
2. Provided a waiver is granted by the City Council, not-for-profit organizations shall be exempt from paying the fee required herein.

## **21.03 AMUSEMENT AND VENDING LICENSES**

A. Coin Operated Amusement and Vending Machines or Devices: Except for vending machines which dispense tobacco products, including cigarettes or tobacco, that are licensed pursuant to Section 21.13 of this Code, it shall be unlawful for any person to own, use, possess, place or permit to be used or placed on the premises owned or controlled by him, any amusement or vending machine or device operated by inserting dollar bills, coins or tokens which returns to the player no money by right, anywhere in the City, without having first obtained a City license. (Ord. 2006-141,§1)

B. Non-Coin Operated Games: It shall be unlawful for any person to provide, for public use, any non-coin or token operated games, including, but not limited to, billiard tables or other similar games, in the City, without having first obtained a license from the City to do so.

C. Application: Application for such licenses shall be made in writing, with the required fee, to the Clerk. Such applications shall contain the number and identification of each amusement or vending machine or device or game to be operated or used. (Ord. 2012-102,§3; Ord. 2006-129,§IV; Ord. 2006-141,§2)

D. Annual License Fee: Licenses are issued for a calendar year and expire on the 31<sup>st</sup> day of December of said year. Applications shall be submitted to the City no later than December 1 for the following year. License fees shall double for applications received after December 1. (Ord. 2010-115, §3; Ord. 2006-129,§IV; Ord. 2006-141,§2)

1. The license fee for each coin operated amusement and vending machine or device and non-coin operated amusement game shall be \$60.00. (Ord. 2015-125,§2)

E. Investigation:

1. Examination of the application shall be made by and under the direction of the Chief of Police.

2. After conducting such investigation, the Chief shall forward his findings, together with his recommendation for approval or disapproval of the application, to the City Clerk. The Mayor and City Council shall then act on approval or disapproval of the application.

F. License Not Transferable, Posting: No license shall be assigned or transferred and shall apply only to the amusement device or game for which the license is issued. Each such license shall be posted conspicuously on the device for which it is issued.

G. Inspection: Appropriate agents of the City may periodically inspect items of property or goods being offered for sale by means of such machines or devices for the purpose of determining whether the machines or devices are being used legally and to determine whether the premises in which they are operated are in a clean and sanitary condition.

H. Penalty: In addition to the license fee being doubled or tripled pursuant to Section 1.14-A of this Code, any person, firm or corporation who violates any provision of this Section 21.03 shall be fined not less than \$25.00 nor more than \$500.00 for each offense, plus the City's costs of prosecution, including reasonable attorney's fees. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues. (Ord 2008-123,§9)

#### **21.04 ENTERTAINMENTS**

A. License Required: No person shall present for profit any exhibition, show, carnival, circus, concert, musical performance or other entertainment without a license issued by the Clerk.

B. Exceptions: This Section does not apply to the giving of entertainments by residents of the City who are not regularly engaged in the giving of such entertainments as a business or for personal gain.

C. Fees The annual fees for a license under this Section shall be \$50.00.

#### **21.05 MASSAGE ESTABLISHMENTS AND SERVICES**

A. Definitions: Terms used in this Chapter shall be found in Appendix A and as follows:

1. **Employee:** Any person over 18 years of age, other than a masseur, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.
2. **Massage:** Any method of treating the superficial parts of a patron for medical, hygienic, exercise or relaxation purposes by rubbing, stroking, kneading, tapping, pounding, vibrating or stimulating with the hands or any instrument, or the application of air, liquid or vapor baths any kind whatever.
3. **Massage Establishment:** Any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged in, or carries on any of the activities mentioned in subsection 21.05-A-2.
4. **Masseur:** Any person engaged in the practice of massage as defined in

subsection 21.05-A-2. The use of the masculine gender includes in all cases the feminine gender as well.

5. Patron: Any person over 18 years of age who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefor.
6. Recognized school: Any school or institution of learning which has for its purpose the teaching of the theory, method, professions or work of massage, which school requires a resident course of study of not less than 70 hours before the student is furnished with a diploma or certificate of graduation from such school following successful completion of such course of study or learning.

B. Required Permit: The following permits shall be required:

1. Business: No person shall engage in or carry on the business of massage unless he has a valid massage business permit issued by the City pursuant to the provisions of this section for each and every separate office or place of business conducted by such person.

C. Permit Application: In addition to the application requirements set forth in Section 21.01, the application for a permit to operate a massage establishment shall set forth the exact nature of the massage to be administered, and the proposed place of business and facilities. (Ord. 2012-102, §4)

D. Masseur Permit Application: Any person desiring a masseur's permit shall file a written application with the Chief of Police. The application shall be furnished by the Chief of Police. The applicant shall tender with the application the correct permit fee as provided in Section 21.04-H and shall furnish the following information:

1. The business address and telephone numbers where the massage is to be practiced;
2. The following personal information concerning the applicant:
  - a. Name, complete residence address and residence telephone number;
  - b. The two previous addresses immediately prior to the present address of the applicant;
  - c. Written proof of age;
  - d. Height, weight, color of hair and eyes and sex;
  - e. Two front-face portrait photographs taken within 30 days of the date of application and at least two inches by two inches in size;

- f. The massage or similar business history and experience, including but not limited to whether or not such person, in previously operating in this or another city or state under license or permit, has had such license or permit denied, revoked or suspended and the reason therefor, and the business activities or occupations subsequent to such action of denial, suspension or revocation;
  - g. All criminal convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convicted, and the offense for which convicted and the circumstances thereof;
  - h. A complete set of fingerprints taken, and to be retained on file, by the Chief of Police or his authorized representatives,
  - i. Diploma, certificate or other written proof of graduation from a recognized school where the theory, method, profession or work of massage is taught;
  - j. A written statement from a licensed physician in the state that he has examined the applicant and believes the applicant to be free of all communicable diseases.
- 3. Such other information, identification and physical examination of the person required by the Chief of Police;
  - 4. Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit;
  - 5. Written declaration by the applicant, under penalty of perjury, that the information required in the application is true and correct and said declaration dated and signed in the City.

E. Investigation of Applicant:

- 1. Upon receiving the application for a massage business or masseur's permit, the Chief of Police shall conduct an investigation into the applicant's moral character and personal and criminal history. The Chief of Police may, in his discretion, require a personal interview of the applicant, and such further information, identification and physical examination of the person as shall bear on the investigation.
- 2. In the case of applications for massage business permits, the Chief of Police shall conduct an investigation of the premises where the massage business is to be carried on, for the purposes of assuring that such premises comply with all the sanitation requirements as set forth in this section and with the regulations of public health, safety and welfare.

3. Before any permit is issued under this section, the Chief of Police shall first sign his approval of the application.

F. Permit Issuance, Denial: The Chief of Police shall issue a massage business permit within 45 days of receipt of the application unless he finds that:

1. The correct permit fee has not been tendered to the City, and, in the case of a check or bank draft, honored with payment upon presentation;
2. The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the City's building, zoning and health regulations;
3. The applicant, if an individual, or any of the stockholders of the corporation, any of the officers and directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, and the manager or other person principally in charge of the operation of the business, have been convicted of any crime involving dishonesty, fraud or deceit, unless such conviction occurred at least five years prior to the date of the application;
4. The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the City;
5. The applicant has had a massage business, masseur, or other similar permit or license denied, revoked or suspended for any of the causes designated in this section by the City or any other state or local agency within five years prior to the date of the application;
6. The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, and the manager or other person principally in charge of the operation of the business, is not over the age of 18 years; and
7. The manager or other person principally in charge of the operation of the business has not successfully completed a resident course of study or learning of not less than 70 hours from a recognized school where the theory, method, profession or work or massage is taught.

G. Permit Display: The massage business permit and the permit of each and every masseur employed in the establishment shall be displayed in an open and conspicuous place on the premises of the massage business.

H. Permit Fee: The permit fee for a massage business shall be \$50.00 per year or any part thereof. The permit fee for masseurs shall be \$10.00 per year or any part thereof. Each year shall commence on May first.

I. Permit Revocation, Suspension: Any massage business or masseur's permit issued under this section shall be subject to suspension or revocation by the Chief of Police for violating any provision of this section, or for any grounds that would warrant the denial of issuance of such permit in the first place. The Chief of Police, upon such revocation or suspension, shall state his reasons in writing, specifying the particular grounds for such revocation or suspension.

J. Records: Every person who operates a massage business or practices or provides a massage shall at all times keep an appointment book in which the name of each and every patron shall be entered, together with the time, date and place of service, and the service provided. Such appointment book shall be available at all times for inspection by the Chief of Police or his authorized representatives.

K. Permit Nontransferable: No massage business and masseur permits are transferable, separate or divisible, and such authority as permit confers shall be conferred only on the permittee named therein.

L. Sanitation and Safety Requirements: All premises used by permittees under this section shall be periodically inspected by the Chief of Police or his authorized representatives for each of the following:

1. The safety of the structure and adequacy of plumbing, ventilation, heating and illumination;
2. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given;
3. The floors shall be free from any accumulation of dust, dirt or refuse;
4. All equipment used in the massage operation shall be maintained in a clean and sanitary condition;
5. All towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered;
6. No towels, cloths and sheets shall be used by or for more than one patron;
7. Heavy, white paper may be substituted for sheets; provided that such paper is changed for every patron;
8. No massage service or practice shall be carried on within any cubicle, room, booth or any area within a massage establishment which is fitted with a door capable of being locked;
9. All construction and materials shall be in accordance with the building codes of the City.

Nothing contained in this subsection shall be construed to eliminate other requirements of any statute or ordinance concerning the maintenance of premises, nor to preclude any authorized inspection thereof.

M. Supervision: A permittee shall have the premises supervised at all times when open for business. Any business rendering massage services shall have one person who qualifies as a masseur on the premises at all times while the establishment is open. The permittee shall personally supervise the business, and shall not violate, or permit others to violate, any applicable provision of this section. The violation of any such provision by any agent or employee of the permittee constitutes a violation by the permittee.

N. Alcoholic Beverages Prohibited: No person shall sell, give, dispense, provide, or keep or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on the premises of any massage business.

O. Persons Under 18 Prohibited on Premises: No person shall permit any person under the age of 18 to come or remain on the premises of any massage business establishment, as masseur, employee or patron, unless such person is on the premises as a customer.

P. Operating Requirements:

1. Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
2. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
3. All employees, including masseurs and masseuses, shall be clean and wear clean, nontransparent outer garments. A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.
4. All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use and stored in a sanitary manner.
5. The sexual or genital area of patrons must be covered by towels, clothes or undergarments when in the presence of any employee, masseur or masseuse.
6. It is unlawful for any person in a massage establishment to place his or her hand upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of any person.
7. No masseur, masseuse, employee or operator shall perform, offer or agree to perform any act which would require the touching of the patron's genital area.
8. All walls, ceilings, floors, pools, 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. When carpeting is used on the floors it shall be kept dry.

9. Oils, creams, lotions or other preparations used in administering massage shall be kept in clean, closed containers or cabinets.
10. Eating in the massaging work areas shall not be permitted. Animals, except for seeing-eye dogs, shall not be permitted in the massage work area.
11. No masseur or masseuse shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption unless a physician duly licensed by the state certifies in writing that such person may be safely massaged, prescribing the conditions thereof.
12. Each masseur and masseuse shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each patron.

Q. Advertising: No massage establishment granted a permit under provisions of this section shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any services are available, other than those services described in this Section 31.01, or that employees, masseurs or masseuses are dressed in any manner other than prescribed in Section 21.05-R, nor shall any massage establishment indicate in the text of such advertising that any services are available other than those services described in Section 21.05.

R. Attire: Prior to, during, or after a massage, or at any time a patron is alone in a room with a masseur or an employee, said masseur or employee shall remain fully clothed. If said masseur or employee is a male, he shall wear slacks or trousers and shirt. If said masseur or employee is a female, she shall wear slacks and blouse or knee-length dress. All outer garments shall be of a non-transparent material.

S. Exceptions: The provisions of this section shall not apply to hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts under the laws of the state, or persons working under the direction of any such persons or in any such establishment, nor shall this Section apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by the state.

T. Violation, Penalties: Any person, firm or corporation violating any of the provisions of this section shall be fined not less than \$25.00 nor more than \$500.00 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

## **21.06 PESTICIDES, COMMERCIAL APPLICATORS**

Any commercial applicator who uses or supervises the use of any pesticide or insecticide within the City shall first give appropriate evidence to the City that said applicator holds a

commercial license issued by the director of the Illinois Department of Agriculture, and that such license is in good standing. Should such commercial applicator proceed to use or supervise the use of a pesticide within the City without the appropriate license, the City shall report such violation to the Department of Agriculture for appropriate action.

## **21.07        RAFFLES**

### **A.        License Required, Fee:**

1.        It is unlawful for any person, firm or corporation to conduct or operate a raffle or to sell, offer for sale, convey, issue or otherwise transfer for value a chance on a raffle, unless conducted pursuant to a license duly issued by the City and in accordance with the provisions of this section.
2.        Licenses shall only be issued to bona fide religious, charitable, labor, fraternal, educational or veterans organizations that operate without profit to their members and which have been in existence continuously for a period of five years immediately before making application for a license, and which have been, during that entire five-year period, a bona fide membership engaged in carrying out their objectives.
3.        The fee for a license shall be \$10.00 unless waived by the Council.

### **B.        License Application:**

1.        Contents of Application: Any person seeking to conduct or operate a raffle shall file an application with the Mayor. Said application shall contain the following information:
  - a.        The names, ages, addresses of the applicant in the case of an individual, or in such other case, by the duly authorized representatives of the applicant, the date of incorporation of any corporation, the date of formation of any club, the objects for which a club or corporation was formed, the names and addresses of the officers and directors of any club or business organization, the name and address of the local representative of any church;
  - b.        The character of business of the applicant and, in the case of a corporation, the objects for which it was formed;
  - c.        The location and description of the premises or place of business upon which the raffle will be held;
  - d.        The area of areas within the City in which raffle chances will be sold or issued, the time period during which raffle chances will be sold or issued, the time of determination of winning changes, and the method by which the winning chance will be determined;

- e. A statement attesting to the not for profit character of the respective license organization, signed by the presiding officer and secretary of the organization;
- f. A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this section, other ordinances of the City and laws of the state of Illinois or of the United States of America;
- g. Whether a precious license by any state or subdivision thereof or by the federal government has been revoked and the reasons therefor;
- h. A statement that the applicant will not violate any of the laws of the State of Illinois, federal government of the City in the conduct of the raffle; and
- i. A statement that the applicant will not allow gambling devices or gambling on the premises where the drawing will be held.
- j. A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

C. License, Issuance Restrictions: No such license shall be issued to:

- 1. A person who is not a resident of the City;
- 2. A person who is not a citizen of the United States;
- 3. A person who has been convicted of a felony under any federal or state law;
- 4. A person whose license issued under this section has been revoked for cause;
- 5. A person who, at the time of application for renewal of any license issued under this section, would not be eligible for such license upon a first application;
- 6. A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent of the stock of such corporation, would not be eligible to receive a license for any reason other than residence in the City;
- 7. Any law enforcing public official, any city manager, any member of the corporate authorities or any president or member of a county board, and no such official shall be interested in any way;
- 8. Any person who has been convicted of a felony, who is or has been a professional gambler or gambling promoter or is not of good moral

character;

9. Any firm or corporation in which a person defined in 21.07-D-8 above has a proprietary, equitable or credit interest, or in which such a person is active or employed;
10. Any organization in which a person defined in section 21.07-D-8 above is an officer, director or employee, whether compensated or not;
11. Any organization in which a person defined in Section 21.07-D-8 above is to participate in the management or operation of a raffle as defined by this section.
12. A person to whom a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period; and
13. Any premises for which a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period.

D. Conduct of Raffles: The operation and conduct of raffles are subject to the following restrictions:

1. The entire net proceeds of any raffle must be exclusively devoted to the lawful purpose of the organization permitted to conduct that game;
2. No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle;
3. No person may receive any remuneration or profit for participating in the management or operation of the raffle;
4. A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this section;
5. Raffle chances may be sold or issued only within the area specified on the license, and winning chances may be determined only at those locations specified on the license;
6. No person under the age of 18 years may participate in the conducting of raffles or chances. A person under the age of 18 years may be within the area where winning chances are being determined only when accompanied by his parent or guardian.

E. Limitations on Licenses, Appeals, Revocation Conditions:

1. A license authorizes the licensee to conduct raffles as defined in this section.

Each such license shall be valid for one raffle. The City Council, however, may authorize a single license to include additional raffles in such number as the City Council allows.

2. The following information shall be contained on the license:
  - a. Aggregate retail sale value of all prizes or merchandise awarded by the licensee in a single raffle;
  - b. The maximum retail value of each prize awarded by the licensee in a single raffle;
  - c. The maximum price which may be charged for each raffle chance issued or sold by the licensee; and
  - d. The number of days during which the chances are to be sold.

The aggregate retail value of the prizes, the retail value of each price, the price which may be charged for each raffle chance and the number of days during which said chances may be sold is subject to the approval of the City Council.

3. Except as provided in Section 21.07-F-2, the Mayor or his designee shall have 30 days in which to approve or disapprove a license application. In the event the Mayor or his designee fails to take action within the 30 day period, or in the event the license is not approved, or in the event the maximum price charged for each raffle chance is not approved, the applicant shall have the right, upon written receipt, to appeal that decision to the Corporate Authorities at the next regularly scheduled Council meeting. The Corporate Authorities shall have the right to review the application and approve or deny issuance of a license.
4. The Mayor or his designee may revoke any licenses issued by the City if it is determined that the licensee has violated any provision of this section.

F. Raffles Manager, Bonds: Operation and conduct of raffles shall be under the supervision of a single raffles manager designated by the person or organization making application for a license.

The raffles manager shall give a fidelity bond in an amount not less than the anticipated gross receipts for each raffle. The bond shall be in favor of the organization, and conditioned upon his honesty in the performance of his duties. Terms of the bond shall provide that notice shall be given in writing to the City not less than 30 days prior to its cancellation.

The Mayor or his designee is authorized to waive requirement for bond by including a waiver provision in the issued license, provided that the license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

G. Records:

1. Each licensee shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are to be determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.
2. Gross receipts from the operation of raffle programs shall be segregated from other revenues of the licensee, including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Illinois Department of Revenue, and placed in a separate account.
3. Each licensee shall have separate records of its raffles. The person who accounts for gross receipts, expenses and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the organization.
4. Each licensee shall report within 30 days after the conclusion of each raffle to its membership and to the City: its gross receipts, expenses and net proceeds for raffles, and the distribution of net proceeds itemized as required herein.
5. Records required herein shall be preserved for three years, and licensees shall make available their records relating to operation of raffles for public inspection at reasonable times and places.

H. Penalties: In addition to the license fee being doubled or tripled pursuant to Section 1.14-A of this Code, any person, firm, partnership or corporation who violates any provision of this Section 21.07 shall be fined not less than \$50.00 or more than \$500.00 for each offense, plus the City's cost of prosecution, including reasonable attorney's fees. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues. Each member of the sponsoring organization shall be jointly and severally liable with the organization and with each other for any violation. (Ord 2008-123,§ 10)

The imposition of penalties herein prescribed shall not preclude the City from instituting appropriate action to prevent unlawful raffles or to restrain, enjoin, correct or abate a violation of this section or of the conditions of the raffle license issued pursuant hereto.

**21.08 OUTDOOR MARKETS**

A City license shall be required for any outdoor market held on private or public property within the City. The fee for said license shall be \$25 per calendar day or \$50 for a calendar year that would expire on the 31st day of December of said year. Provided a waiver is granted by the City Council, not-for-profit organizations shall be exempt from paying the fee required herein. (Ord. 2021-109; Ord. 2003-137)

## 21.09 TAXICABS

A. License Required: It shall be unlawful to engage in the business of operating a taxicab in the City without first obtaining a City Taxicab License. All licenses, including those issued midyear, shall expire on the 31st of December. No license may be assigned, sold, loaned or transferred. No person, firm or corporation shall use or display any license that has been improperly acquired. (Ord. 94-156,§2, 1994)

B. License Application:

1. In addition to the application requirements set forth in Section 21.01, applications shall include any and all vehicle information as requested by the Chief of Police. The Clerk shall forward the application to the Chief of Police for consideration. After considering the information contained with the application, the Chief of Police shall recommend to the Mayor and City Council if a license should be issued. In the event an application is denied, the Chief of Police shall put his findings in writing and forward them to the Mayor and City Council. (Ord. 2012-102,§5; Ord. 94-156,§2, 1994)
2. Character of Applicant: A City Taxicab License shall not be issued or held by any person who is not of good character or who has been convicted of a felony; nor shall such license be issued to or held by any corporation if any officer thereof would be ineligible for a license. (Ord. 2012-102,§5; Ord. 94-156,§2, 1994)

C. License Fee:

1. The annual fee for a City Taxicab License shall be a flat \$100 plus \$25 for each taxicab operated. All fees shall be paid at the time an application is submitted to the City. In the event an application is denied the fee shall be returned to the applicant, less a \$25 processing fee. Whenever the number of taxicabs of a licensee is increased during the license year, the licensee shall notify the Chief of Police and pay the additional fee. (Ord. 94-156,§2)
2. The annual licensing fee shall be in lieu of any other vehicle fee required by City ordinances. (Ord. 94-156,§2, 1994)

D. Vehicle Equipment, Identification:

1. No taxicab shall be operated in the City unless it bears a City tag or sticker that is displayed in a prominent place on each taxicab while it is in use. If a taxicab is withdrawn from service and is replaced by another taxicab, the licensee shall notify the Police Department for a replacement tag or sticker. Said replacement tag or sticker shall be supplied without additional charge to the licensee. (Ord. 94-156,§2, 1994)
2. Any taxicab operated in the City must bear a state license and comply with all state statutes. Every taxicab operated in the City must be equipped with

proper brakes, lights, tires, horn, muffler, rear vision mirror and windshield wipers in good condition. It shall be the duty of the Chief of Police or his designee to inspect, or cause to be inspected, every taxicab as often as may be necessary to see to the enforcement provisions of this section. The Chief of Police shall require that each taxicab be inspected at an official testing station at least annually and shall require the licensee to submit a certificate of safety indicating that the taxicab is in a safe mechanical condition. No taxicab shall be operated upon the streets of the City if the safety test indicates that the taxicab is not in a safe mechanical condition. (Ord. 94-156, §2, 1994)

3. Each taxicab, while operated, shall have on each side, in letters readable from a distance of 20 feet, the name of the licensee operating it. Each taxicab shall also have a driver's identification card, including a picture of the driver, prominently displayed so it is clearly visible to the passengers. If more than one taxicab is operated by a licensee, each taxicab shall be designated by a different number, and such number shall appear on each side of such cab. (Ord. 94-156, §2, 1994)

E. Insurance: No taxicab shall be operated in the City unless it is covered by a bond or public liability policy as required by state statutes. A copy of said bond or public liability policy shall be filed with the City. The limits of liability shall not be less than \$500,000.(Ord. 94-156, §2)

F. Passengers:

1. It shall be the duty of the driver of any taxicab to accept as a passenger any person who seeks to so use the taxicab, provided such person conducts himself in an orderly manner. No person shall be admitted into a taxicab occupied by a passenger without the consent of the passenger. (Ord. 94-156, §2, 1994)
2. The driver shall take his passengers to their destination by the most direct available route from the place where the passenger enters the taxicab. (Ord. 94-156, §2, 1994)

G. Fare Rates: Each licensee shall establish its own rates of fare provided that, in the event the City and licensee enter into an agreement to provide public transportation services, the rates of fare shall be as established in said agreement. (Ord. 94-156, §2, 1994)

H. Taxicab Drivers:

1. No person shall drive a taxicab unless he is licensed in accordance with state statutes. Every driver who operates a taxicab within the City shall file a copy of his driver's license with the Chief of Police. (Ord. 94-156, §2, 1994)
2. It shall be unlawful for any driver of a taxicab, while on duty, to drink any intoxicating liquor, or to use any profane or obscene language, to shout or call to prospective passengers, or to disturb the peace in any way. (Ord. 94-



I. Revocation: Each license issued by the City hereunder shall be subject to revocation by the Mayor or City Council upon violation of the licensee's obligations hereunder, violation of any provision of the Illinois Vehicle Code, 625 ILCS 5/1-101 et seq., or violation of the Criminal Code of 1961, 720 ILCS 5/1-1 et seq.(Ord. 94-156,§2,1994)

## **21.10 FOOD DELIVERY VEHICLES**

A. License Required: It shall be unlawful to use or permit the use of any motor vehicle for the storage or carrying of any food products intended for human consumption, including beverages, in the City for the purpose of selling them at retail unless such vehicle is licensed by the City, in accordance with this Section 21.10. (Ord. 2012-102, §6; Ord. 95-125, §1, 1995)

B. Applications, Fee: Applications for such licenses shall be made to the City Clerk and include the name or names of the persons operating the vehicles, nature of the goods carried and a listing of the fixed route with approximate sales time at each destination. (Ord. 95-125, §1, 1995)

The annual license fee for a Food Delivery Vehicle License shall be \$500 for each vehicle and \$10.00 for each day the vehicle is operated in the City. Such fee shall be paid to the City Clerk at the time the application is filed. The annual fee shall be due and payable on the first day of January of each year and all issued licenses shall expire on the 31st day of December of said year. (Ord. 95-125, §1, 1995)

C. Exemption: No Food Delivery Vehicle License shall be required for any vehicle used to deliver foodstuff from any establishment located in the City. (Ord. 95-125, §1, 1995)

D. Regulations: All Food Delivery Vehicles shall comply with the applicable McHenry County Public Health Ordinance and submit proof of compliance with the application for the Food Delivery Vehicle License. (Ord. 95-125, §1, 1995)

E. Revocation: Any license issued under the provisions of this Section 21.09 may be revoked by the Mayor for any violation of any regulation herein, and such revocation shall be in addition to the penalty imposed in Section 21.09-F herein. (95-125, §1, 1995)

F. Penalty: Violation of this Section 21.09 or any of its requirements or provisions shall be punishable by a fine not less than \$400.00 for each offense plus attorney fees incurred by the City in prosecuting violations of this Section 21.09. Each day the violation continues shall constitute a separate offense. (Ord. 95-125, §1, 1995)

## **21.11 GARAGE SALES**

(Amended Ord. 2004-141)

A. Permits and Fees: It shall be unlawful for any person to conduct a garage sale in the City without first obtaining a permit from the City. There shall be no charge for said permit.

B. Permit: Said permit shall be issued to any one address only two times within a 12 month period. Each garage sale shall not exceed three consecutive calendar days. Each permit

issued under this Section 21.10 shall be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the permitted sale.

C. Signs: Signs advertising or indicating the existence, location and time of a sale shall be limited to two on the subject property and shall be displayed only during the dates the sale is in progress. A sign must have its own support or post to be affixed in the ground. Under no circumstances shall a sign be attached to a utility pole, tree or a federal, state or local sign or signal. No sign shall project higher than three feet above the ground or exceed two feet by two feet. All signs must be removed by the permit holder within 24 hours of the last day of the sale. Banners, streamers or any other form of advertising or indicating the existence, location and time of a sale is strictly prohibited.

D. Sale Hours, Display of Goods, Preparations: No sales may take place prior to 9 a.m. or after 4 p.m. All items offered for sale must be kept on private property; no items may be placed in the public right-of-way. Outdoor garage sale preparations shall not take place more than 24 hours before the sale. All sale items shall be removed within 24 hours after the close of the sale

E. Permit Information: The following information shall be required on the garage sale permit application:

1. Name of the person, firm, group, corporation, association or organization conducting said sale.
2. Name of the owner of the property on which said sale is to be conducted if the applicant is other than the owner.
3. Location at which the sale is to be conducted.
4. Dates of the sale.
5. Date, nature of any past sale(s).
6. Relationship or connection the applicant may have had with any other person, firm, group, organization, association or corporation conducting any past sale and the date or dates of such sale.
7. Whether or not the applicant has been issued any other vendor's license by any local, state or federal agency.
8. The location of any signs that will be used to advertise the sale.
9. Sworn statement or affirmation by the person signing the permit application that the information therein is full and true and known to him to be so.

F. Persons and Sales Excluded: The provisions of this Section 21.10 shall not apply to or affect the following persons or sale:

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 person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.
4. Not-for-profit corporations provided they file with the City Clerk a request for exception containing the information in Section 21.10-E herein together with the name of the organization, proof of its not-for-profit status and a description of the purpose of the sale.

G. Penalty: Any person, association or corporation conducting any such sale without being properly permitted or who shall violate any of the provisions herein shall be not less than \$50 nor more than \$500 for each offense and be responsible for the City's cost of prosecution including attorney fees incurred by the City. Each day that a violation continues shall be considered a separate offense.

**21.12 ADULT BUSINESS LICENSES**  
(Ord. 98-109,§1,1998)

A. Definitions: Terms used in this Section 21.12 are defined in Ordinance 98-111.

B. License:

1. Except as provided in Section 21.12-B-4 herein, from and after the effective date of this Section 21.11 (March 13, 1998) no Adult Business shall be operated or maintained in the City without first obtaining a license to operate issued by the City.
2. A license may be issued only for one Adult Business located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one Adult Business must have a license for each.
3. No license or interest in a license may be transferred to any person, partnership or corporation.
4. All Adult Businesses existing at the time of the passage of this Section 21.12 must submit an application for a license within 90 days of the passage of this Section 21.12. If an application is not received within said 90 day period, then such existing Adult Business shall cease operations.

C. Application for License:

1. Any person, partnership or corporation desiring to secure a license shall make application to the City Clerk. The application shall be filed in triplicate with and dated by the City Clerk. A copy of the application shall be distributed promptly by the City Clerk to the Police Department. (Ord. 2012-105, §7)
2. In addition to the application requirements set forth in Section 21.01, applications shall include:
  - a. The business, occupation or employment of the applicant for 10 years immediately preceding the date of application. (Ord. 2012-105, §7)
  - b. Whether the applicant previously operated in this or any other county, city or state under an Adult Business License or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension revocation. (Ord. 2012-105, §7)
  - c. All criminal statutes, whether federal or state, or City ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations. (Ord. 2012-105, §7)
3. Within 21 days of receiving an application for a license the City Clerk shall notify the applicant whether the application is granted or denied.
4. Whenever an application is denied, the City Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within 10 days of receipt of notification of denial, a public hearing shall be held within 10 days thereafter before the City Council, as hereinafter provided.
5. Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this ordinance, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the City Clerk.

D. Standards for Issuance of License:

1. To receive a license to operate an Adult Business, an applicant must meet the following standards:
  - a. If the applicant is an individual:

- i. The applicant shall be at least 18 years of age.
  - ii. The applicant shall not have been convicted or, pleaded no contest or stipulated to the facts involving a felony or any crime, involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.
  - iii. The applicant shall not have been found to have previously violated this Section 21.12 within five years immediately preceding the date of the application.
2. If the applicant is a corporation:
  - a. All officers, directors and stockholders required to be named under Section 21.12-C-2-j herein shall be at least 18 years of age.
  - b. No officer, director or stockholder required to be named under Section 21.12-C-2-j herein shall have been convicted of, pleaded no contest or stipulated to the facts involving a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.
  - c. No officer, director or stockholder required to be named under Section 21.12-C-2-j herein shall have been found to have previously violated this ordinance within five years immediately preceding the date of the application.
3. If the applicant is a partnership, joint venture or any other type of organization where two or more persons have a financial interest:
  - a. All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least 18 years of age.
  - b. No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded no contest or stipulated to the facts involving a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application.
  - c. No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this Section 21.12 within five years immediately preceding the date of the application.
4. No license shall be issued unless the Police Department has investigated the

applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the City Clerk no later than 14 days after the date of the application.

E. Fees: A non-refundable application fee of \$500 shall be submitted with the application for a license. If the application is granted, an annual license fee of \$1,140 shall be paid to the City. License fees paid less than 12 months prior to renewal shall not be prorated.

F. Display of License of Permit: The license shall be displayed in a conspicuous public place in the Adult Business such that it may be readily seen by a person entering the premises.

G. Renewal of License of Permit:

1. Every license issued pursuant to this ordinance will terminate on April 30 of each year unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the City Clerk. The application for renewal must be filed no later than 60 days before the license expires. The application for renewal shall be filed in triplicate with and dated by the City Clerk. A copy of the application for renewal shall be distributed promptly by the City Clerk to the Police Department and to the operator. The application for renewal shall be upon a form provided by the City Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.
2. A license renewal fee of \$1,140.00 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of \$100.00 shall be assessed against the applicant who files for a renewal less than 60 days before the license expires. If the application is denied, one-half of the total fees collected shall be returned.
3. If the Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the City Clerk.

H. Revocation of License:

1. The City Council shall revoke a license or permit for any of the following reasons:
  - a. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
  - b. The operator or any employee of the operator, violates any provision of this Section 21.12 or any rule or regulation adopted by the City Council pursuant to this Section 21.12; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30

days if the Council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

- c. The operator becomes ineligible to obtain a license or permit.
  - d. Any cost or fee required to be paid by this Section 21.12 is not paid.
  - e. Any alcoholic liquor is served or consumed on the premises of the Adult Business.
  - f. Violation of any City ordinance, code or resolution and failure to pay the required fine or penalty or failure to cure the violation.
  - g. The transfer of a license or any interest in a license.
- 2. Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an Adult Business for six months from the date of revocation of the license.
  - 3. The City Council, before revoking or suspending any license or permit, shall give the operator at least 10 days' written notice of the charges against him, and the opportunity for a public hearing before the City Council.

I. Employees: It shall be unlawful for any Adult Business licensee or his manager or employee to employ in any capacity within the Adult Business any person who is not at least 18 years of age.

J. Physical Layout of Adult Business:

- 1. Any Adult Business having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:
  - a. Access: Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the Adult Business, and shall be unobstructed by any door, lock or other control-type devices.
  - b. Construction: Every booth, room or cubicle shall meet the following construction requirements.
    - i. Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.
    - ii. Have at least one side totally open to a public lighted aisle so

that there is an unobstructed view at all times of anyone occupying same.

- iii. All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, non-absorbent, smooth textured and easily cleanable.
  - iv. The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
  - v. The lighting level of each booth, room or cubicle, when not in use shall be a minimum of 10 foot candles at all times, as measured from the floor.
- c. Occupants: Only one individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.
2. Any Adult Business as defined herein which features dancers or other entertainers or forms of entertainment, must comply with the following requirements:
- a. All dancing or other entertainment shall occur on a platform intended for that purpose which is raised at least two feet from the level of the floor.
  - b. No dancing or other entertainment shall occur closer than 10 feet to any patron.
  - c. No dancer or other entertainer shall fondle or caress any patron and no patron shall fondle or caress any dancer or other entertainer.
  - d. No patron shall directly pay or give any gratuity or tip to any dancer or other entertainer and no dancer or other entertainer shall solicit directly or indirectly any pay or gratuity or tip from any patron.

K. Responsibilities of the Operator:

- 1. The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, Social Security number, date of employment and termination and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of three years following termination.
- 2. The operator shall make the register of employees available immediately for



the inspection upon demand of a member of the Police Department at all reasonable times.

3. Every act or omission by an employee constituting a violation of the provisions of this Section 21.12 shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
4. Any act or omission of any employee constituting a violation of the provisions of this Section 21.12 shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
5. No employee of an Adult Business shall allow any minor to loiter around or to frequent an Adult Business.
6. The operator shall maintain the premises in a clean and sanitary manner at all times.
7. The operator shall maintain at least 10 foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one foot candle of illumination in said aisles, as measured from the floor.
8. The operator shall insure compliance of the establishment and its patrons with the provisions of this Section 21.12.

L. Exclusions: All private schools and public schools, as defined in the Illinois Compiled Statutes, located within the City are exempt from obtaining a license hereunder when instructing pupils in sex education as part of their curriculum.

M. Penalties and Prosecution:

1. Any person, partnership or corporation who is found to have violated this Section 21.12 shall be fined not less than \$300 nor more than \$750 per offense plus costs of prosecution by the City including reasonable attorney fees and shall result in the revocation of any license.
2. Each violation of this Section 21.12 shall be considered a separate offense and any violation continuing more than one day shall be considered a separate offense.

N. Enforcement: The Police Department shall have the authority to enter any Adult Business at all reasonable times to inspect the premises and enforce this Section 21.12.

**21.13 TOBACCO SALES LICENSE**  
(Ordinance 98-126,§4,1998)

A. License Required: It shall be unlawful to any person to sell or offer for sale, whether through direct contact or vending machine or device, any tobacco products without first having obtained an annual City license, signed by the Mayor. It shall further be unlawful for any person to sell any tobacco products in violation of Section 27.16 of this Code or any State statute relating to the sale of tobacco products to minors. Signs informing the public of the age restriction provided herein shall be posted by every licensee at or near every display of tobacco products and on or upon every vending machine of tobacco products for sale. Each sign shall be plainly visible and shall state:

**THE SALE OF TOBACCO PRODUCTS TO PERSONS  
UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW**

In addition to the application requirements set forth in Section 21.01, in the case of vending machines or devices for tobacco projects, the number of machines or devices for which such licenses are to be issued and are located within the building or structure. (Ord. 2012-105, §8; Ord. 2006-141,§3)

B. Personal Nature of Licenses; Expiration: A license shall be a purely personal privilege, good for the license period which shall expire on April 30 next following the date of issuance, unless revoked. No such license shall be transferable. Any licensee may renew his license at the expiration thereof.

C. License Fee: The Mayor and City Clerk are hereby authorized to issue licenses to sell the Tobacco Products to all persons carrying on any regular mercantile business who shall apply for the same and shall pay into the General Fund the annual sum of \$100.00 per year in advance. It is hereby made the duty of every holder of such license to place such license in some conspicuous part of the main room in which said Tobacco Products are kept for sale or sold. (Ord. 2006-129, §IV)

D. Responsibility for Agents and Employees: Every act or omission of whatsoever nature, constituting a violation of any of the provisions of this Chapter 21 or Section 27.16 of this Code by an officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such licensee; and such licensee shall be punishable in the same manner as if such act or omission had been done or omitted by the licensee personally.

E. No individual, partnership or corporation that has been issued a license pursuant to this Section shall sell or offer for sale or deliver any item of synthetic alternative drugs, as defined in Appendix A, Definitions, of this Code, and drug paraphernalia, as defined in the Drug Paraphernalia Control Act, 720 ILCS 600/2 *et seq.* Specifically, “drug paraphernalia” shall mean all equipment, products, materials or objects of any kind intended to be used unlawfully in ingesting, inhaling or otherwise introducing cocaine, hashish or hashish oil into the human body including, where applicable, the following items. Ord. 2012-117, §2; Ord. 2009-109, §1)

1. Water pipes;
2. Carburetion tubes and devices;
3. Smoking and carburetion masks;
4. Miniature cocaine spoons and cocaine vials;
5. Carburetor pipes;
6. Electric pipes;
7. Air-driven pipes;
8. Chillums;
9. Bongs; and
10. Ice pipes or chillers.

Any violation of this Section 21.13-E shall be grounds for the suspension, revocation, written reprimand and/or the imposition of fines pursuant to Section 21.13-F.

E. Suspension; Revocation of License; Fines; Costs:

1. The Mayor may suspend, revoke or issue a written reprimand to any licensee issued under the provisions of this Chapter, if the Mayor determines that the licensee has violated any of the provisions of this Chapter 21 or any of the provisions of Section 27.16 of this Code.

If the Mayor determines that a letter of reprimand is warranted or the license should be suspended or revoked, he shall issue a written order within five days stating the reasons for the determination, and shall cause a copy of such order to be served upon the licensee within 10 days.

When any license shall have been revoked for any cause, no license shall be granted to said licensee for the period of six months thereafter for the conduct of the business of selling Tobacco Products in the premises described in said revoked license.

2. In addition to the suspension or revocation of the issued license for violation of this Section 21.13 or Section 27.16 of this Code, the Mayor may cause a complaint to be filed in the Circuit Court of McHenry County. Any violation of the provisions of this Section 21.13 shall be punished by a minimum fine of \$50.00 and a maximum fine of \$750.00, plus attorneys' fees incurred by the City relating to the prosecution of the violation.
3. In addition to any suspension, revocation or written reprimand for violation of this Section 21.13 or Section 27.16 of this Code directly relating to a tobacco product vending machine, the licensee shall be required to equip each vending machine with either a remote usage switch or only permit the use of tokens. Either option shall be under the direct control of the licensee or its agents. (Ord. 2006-141, §4)

**21.14**

**HOME OCCUPATIONS PERMIT**

(Ord 2019-102, §22; Ordinance 2004-108, §11)

A. Permit Required: Any home occupation shall be subject to the provisions of the UDO and be required to obtain a home occupation permit from the City. Such permit shall only be issued by the City Council.

B. Application; Fee: Application for a home occupation permit shall be made to the City Clerk and include the name of the property owner, address and telephone number if different from the applicant. The applicant shall also list the estimated number of customer visits that will be anticipated per week at the home occupation. A \$100 fee shall be submitted with the application.

C. City Council Action: Not less than 15 days before the City Council will consider the application, notice of said action shall be given to contiguous property owners. At the time of the filing of the petition for a home occupation use permit, the petitioner or his attorney or agent shall furnish the City Clerk with the names and addresses of the persons who have last paid taxes on all property contiguous to or abutting the parcel or parcels in question in the petition, including such taxpayers of record as may own property across the road, street or alley which may abut the premises concerned on one or more sides. It shall then be the duty of the City Clerk to send such persons a copy of the petition.

D. Revocation: A home occupation permit may be revoked by the City Council for any violation of this Section 21.14.

E. Abandonment: Except as hereafter set forth, if the subject property to which a home occupation use permit has been issued discontinues operations on the subject property for a period of 180 consecutive days or whenever there is evidence of a clear intent to abandon the subject property, said home occupation use permit shall be subject to revocation. If the discontinued operation is due to fire or other such damage wherein the Building Commissioner deems the subject property uninhabitable, said 180-day period shall be stayed only until occupancy is granted by the Building Commissioner.

F. In the event the permitted home occupation ceases to operate or information submitted to the City changes, the City Clerk shall be promptly notified.

## **21.15 BANQUET HALL LICENSE**

A. License Required: Any business operating as a public accommodation that is not licensed under the Liquor Control Act of 1934 (235 ILCS 5/1-1 et seq.) shall not permit the consumption of alcoholic liquor on the business premises without a City Banquet Hall License. For purposes of this Section 21.15, a public accommodation means a refreshment, entertainment or recreation facility of any kind, including banquet halls, whose goods, services, facilities, privileges or advantages are extended, offered, sold or otherwise made available to the public. The annual Banquet Hall License fee shall be equal to the fee for a Class A Liquor license, as amended from time to time. For any start-up banquet hall, a nonrefundable \$500.00 application fee shall be required to cover the City's cost of processing the application. In addition, there is a nonrefundable one-time license fee of \$10,000.00. Issuance of such license shall be subject to the approval of the Liquor Commission. (Ord. 2023-105, §1; Ord. 2006-142,§1)

B. Application for License: Application for a banquet hall license shall be made to

the Mayor in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof if a group or corporation, verified by oath or affidavit, and shall be addressed to the Mayor. The Mayor shall act to approve or deny the application and, if approved, to issue the license. Application procedures shall be as follows:

1. All applicants may be subject to a background check, which may be conducted by the City through the Federal Bureau of Investigation, the Illinois State Police or other law enforcement agency.
2. For any start-up business the applicant must make application not less than 90 days prior to the issuance date of the license to provide sufficient time for a background check.
3. An applicant applying for an annual banquet hall license shall first deposit the license fee, security deposit and, if applicable, the application fee with the Mayor. There shall be no rebate of any portion of the license fee due to the fact that the application is made after the beginning of the license year. All applicants desiring a banquet hall license shall be required to pay the full license fee, whether the license is issued for a full or partial year.
4. In the event there is a change of ownership in a licensed business, or change of managers or partners in a partnership, or shareholders in a corporation who own more than 5 percent of the stock of a corporation, or members in a limited liability company, the Mayor may issue the license prior to receiving the results of the background check. However, if the background check reveals information provided in the application is false, the license will be subject to immediate revocation, the applicant will be subject to a fine and there shall be no refund of any portion of the license fee.
5. An applicant shall allow at least six weeks for processing an application. The application shall include the following information, statements and attachments:
  - a. Partnership, Proprietorship or Joint Venture: The name, date of birth and address of all applicants, including all partners, general or limited, character of business in which applicant is engaged and for which said license is desired.
  - b. Corporation: The name, corporate address, principal place of business; character of business; the names and addresses of the officers and directors; if a majority interest of stock in said corporation is owned by one person or his nominee, the name and address of such person; the name and address of the two largest shareholders of each class of stock in said corporation; the name and address of the person or persons owning controlling interest in said corporation; the name and address of the manager or person(s) in daily charge and control of the business operation; in the case of

a copartnership, the persons entitled to share in the profits thereof; the name, date of birth and address of the party to be manager of the corporate facility for which the license is sought; a certified copy of the corporate charter; and a copy of by-laws, including the objects for which organized.

- c. Limited Liability Corporation: The name, date of birth and address of all members, character of business in which applicant is engaged and for which said license is desired; and the name and address of the manager or person(s) in daily charge and control of the business operation.
6. Citizenship of the applicant(s), respective places of birth, and if a naturalized citizen(s) of the United States, the date and place of said respective naturalization.
7. Length of time the applicant has been in business of that character; or if a corporation, whether the corporation is either a continuation or successor of a prior entity and if so, the character of the prior entity's business.
8. A statement that the applicant will allow neither gambling nor gambling devices on the premises except licensed raffles and "Las Vegas" type events, for which all necessary permits have been obtained.
9. A statement that the applicant will not violate any laws of the state, the United States or any ordinance of the City.
10. A complete set of fingerprints of all persons listed on the banquet hall license application shall be provided as part of the background investigation.
11. In the event the premises to be licensed are leased, a copy of the lease shall be included with the application.
12. Security Deposit: A security deposit of \$500 shall accompany each license application and renewal application. Said security deposit shall be held as security for payment of any fines assessed against the licensee. Upon application of the security deposit, the licensee shall pay the remainder of any fines due and replenish the security deposit fund before further occupancy of the banquet hall. The balance of the security deposit shall be maintained at \$500 at all times.

C. License Renewal: Not less than six weeks before a banquet hall license is scheduled to expire and after a renewal notice is provided by the City to the licensee, the licensee may submit an application for renewal provided the applicant 1) is then qualified to receive a license and 2) the premises for which such renewal license is sought is suitable for the licensed purposes. The renewal privilege provided herein shall not be construed as a vested right and the Mayor reserves the absolute right to determine the number of licenses to be issued within the

City. In the event a renewal application is submitted less than six weeks before a banquet hall license expires, and after a 10-day written notice is mailed by the City to the licensee, the applicant shall be subject to an additional renewal application fee of \$500.

D. Change of Location: The location of the license may be changed only upon the receipt of written permission from the Mayor. No change of location shall be permitted unless the proposed new location is in compliance with the provisions of this Section 21.15.

E. Insurance Requirements: Prior to the issuance of a banquet hall license pursuant to the provisions of this Section 21.15 the applicant shall file with the City a dram shop liability insurance certificate certifying that the applicant has in full force and effect, for a term concurrent with the term of the license to be issued, dram shop liability insurance with limits of liability in excess of the statutory liability for dram shop under the Act and general liability insurance in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Any such certificate of insurance shall provide that the insurance coverage may not be cancelled unless written notice is given to the City at least 15 days prior to the effective date of such cancellation. The failure of the licensee to have such insurance coverage in full force and effect at any time during the term of such license shall be cause for the revocation of the license.

F. First Floor of Premises: No license shall be issued for the consumption of any alcoholic liquor to any person, firm or corporation whose place of business is located or designated to be in a basement or in any story of any building other than the first floor of said building.

G. Prohibited Activities by Licensees: No person holding a banquet hall license issued by the City shall, in the conduct of the licensed business or upon the licensed premises, either directly or through the agents or employees of the licensee:

1. Violate or permit a violation of any federal law, state statute or regulation related to the control of liquor.
2. Permit the consumption of any alcoholic beverages outdoors absent a specific permit issued by the City.
3. Allow fighting, disorderly conduct or excessive noise constituting a nuisance or tumultuous conduct of patrons and/or employees of the licensee, as defined in this Code, to take place on the licensed premises or on, about and/or adjacent to the licensed premises.
4. Allow patrons to serve or distribute alcoholic beverages to minors on the licensed premises or allow minors to drink alcoholic beverages on the licensed premises.
5. Fail to call the City Police Department upon the violation of any City ordinance or state law relating to fighting, disorderly conduct or excessive noise constituting a nuisance or tumultuous conduct of patrons and/or employees on the licensed premises.

6. Permit any gambling on any licensed premises.
7. Submit to the City an application for a license containing a false or misleading statement.
8. Permit or allow any of the following activity, as defined in Ordinance 98-111, *An Ordinance Defining Certain Terms Relating to Adult Businesses in the City of Harvard*, passed March 3, 1998, to be conducted on the premises: Adult Business, Adult Entertaining Center or Facility, Adults-Only Activity, Bookstore, Motion Picture Theater, Nightclub, Sauna, Nudity, Obscene Activity, Rap Parlor, Sodomasochistic Activity or Sexual Conduct Activity.

H. Noise Prohibited: It shall be unlawful, and is hereby declared a nuisance, for any person to use or operate a sound amplifying device on the licensed premises so that the device produces loud and raucous sounds at a distance greater than 50 feet from said device. The prohibited noise shall only be in effect from 10 a.m. to 11 p.m., local time, Sunday through Saturday.

I. Public Consumption: It is unlawful either directly or through the agents or employees of the licensee to have or possess any glass, bottle, can or other container of alcoholic liquor with the seal broken, or to consume any alcoholic beverage upon any street, sidewalk or other public place including the exterior grounds of the licensed banquet hall premise.

J. Garbage, Refuse: It is unlawful either directly or through the agents or employees of the licensee to allow the deposit of garbage, rubbish or any offensive substance on any street, sidewalk or public place, or on any private property. No such refuse shall be so placed that it can be blown about or scattered by the wind.

K. Abandonment: If a banquet hall licensee discontinues operations at the licensed premises for a period of 60 consecutive days, (except as hereafter set forth) or whenever there is evidence of a clear intent of the licensee to abandon the premises, said license shall be subject to revocation. If said discontinued operation is due to fire or other such damage wherein the Building Commissioner deems the premises uninhabitable, said 60-day period shall be stayed only until occupancy is granted by the Building Commissioner.

L. Licensing After Revocation: If a license is permanently revoked, no license shall be granted to any person for a period of one year thereafter for the conduct of a business permitting the consumption of alcoholic liquors in the premises described in such revoked license.

M. Cause for Revocation: Proof before the Mayor of the facts which establish a violation of any federal law, state statute, City ordinance or resolution shall be sufficient cause for revocation, suspension and fine of any licensee, irrespective of whether or not a conviction has been obtained in any court. In addition, the licensee shall be obligated to reimburse the City for all attorneys' fees incurred as a result of the prosecution of the offending licensee.

N. Penalty Provision: The Mayor may revoke or suspend any local banquet hall



license issued by him if he determines that the licensee has violated any provision of this Section 21.14 or any valid ordinance or resolution enacted by the City or any applicable rule or regulation established by the Mayor or the State Liquor Control Commission which is not inconsistent with law, either in addition to said revocation or suspension or in lieu of suspension or revocation. The Mayor may levy a fine on the licensee for such violation. The fine imposed shall not exceed \$1,000 for the first violation within a 12-month period, \$1,500 for a second violation within a 12-month period and \$2,500 for a third or subsequent violation within a 12-month period. Each day on which a violation continues shall constitute a separate violation. Not more than \$15,000 in fines under this Section 21.14-R may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the City's general corporate fund.

## **21.16 CABLE AND VIDEO CUSTOMER PROTECTION LAW**

### **A. Customer Service and Privacy Protection Law**

1. Adoption: The regulations of the Cable and Video Customer Protection Law, 220 ILCS 5/70-501 *et seq.*, are hereby adopted by reference and made applicable to the cable or video providers offering services within the City's boundaries.
2. Amendments: Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Chapter shall be incorporated into this Chapter by reference and shall be applicable to cable or video providers offering services within the City's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Chapter by reference without formal action by the City Council.

### **B. Enforcement**

Pursuant to law, the City declares its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the City.

### **C. Penalties**

1. Penalty: In addition to the penalties provided by law, the schedule of penalties found in 220 ILCS 5/70-501(r)(1) shall be applicable for any material breach of the Cable and Video Protection Law by cable or video providers. The monetary penalties shall apply on a competitively neutral basis and shall not exceed \$750 for each day of the material breach and shall not exceed \$25,000 for each occurrence of a material breach per customer.

For purposes of this Section, material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

A material breach, for the purpose of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice pursuant to Section 21.15-C(2).

2. Notice: The City shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least 30 days from the receipt of the notice to remedy the specified material breach.

D. Customer Credits

The credits provided in 220 ILCS 5/70-501(s) shall be applied on the statement issued to the customer for the next billing cycle following a violation or the discovery of a violation of this Chapter. The cable or video provider shall be responsible for providing the credits and the customer is under no obligation to request the credit.

**21.17 SECONDHAND MERCHANDISE SALES**  
(Ord. 2008-133,§2)

A. Definitions: In addition to those terms defined in Appendix A of this Code, the following terms are defined as follows:

**Engaged in or conducting business**: The purchase, sale, barter or exchange of any item by a secondhand dealer, including advertising therefore, at any location within the City, irregardless of whether the location is temporary or permanent.

**Gems**: Any item containing or having any precious or semi-precious stones customarily used in jewelry or ornamentation.

**Secondhand dealer**: An individual, partnership, corporation, joint venture, trust, association or any other legal entity however organized engaged in or conducting business in the City for purchasing, trading, bartering or exchanging secondhand personal property, gold, silver and/or other precious metals.

**Secondhand good or used personal goods**: Any item of personal property or object of value such as gold, silver, jewelry and/or other precious metals, which is not purchased or sold as new. Secondhand or used personal goods do not include property purchased by one licensed, established merchant in the normal course of business from another licensed, established merchant. Secondhand or used personal goods shall include, but not be limited to the following items:

1. Office supplies;
2. Furniture fixtures;
3. Electronic equipment such as televisions, radios, stereos and VCRs;
4. Appliances;

5. Clothing; and
6. Toys.

B. Exclusions: The provisions of this Section shall not apply to the following businesses or dealers:

1. Junk dealers;
2. Used motor vehicles;
3. Antique dealers, which for purpose of this exclusion, shall be read to be defined as any dealer who engages exclusively in the business or occupation of selling, bartering or exchanging any painting, furniture, china or other object painted or made more than 50 years prior to the date of sale, which is valuable primarily by reasons of age, scarcity or the skill and craftsmanship of the article and artisan. Antiques will not include family heirlooms made of gold, silver or other precious metals;
4. Coin collectors or coin dealers who engage exclusively in the coin business or occupation;
5. Jewelry stores; and
6. Neighborhood garage sales.

C. License; Requirements:

1. **Secondhand Dealer License Required**: It shall be unlawful for an individual partnership, corporation, joint venture, trust, association or other legal entity to engage in the business of secondhand goods or used personal property without first obtaining a Secondhand Dealer License as provided herein. A Secondhand Dealer License is purely a personal privilege. A license year is from May 1 to April 30 of the following year. It is effective until the first or earliest of (a) one year from the date of issuance; (b) April 30 of the year following the date of issuance; (c) suspension or revocation; or (d) abandonment.
2. **License Limitations**: No more than two Secondhand Dealer Licenses will be issued in the B-1 Central Business District and no more than two Secondhand Dealer Licenses will be issued in the B-2 Commercial District. (Ord 2019-102, §23)
3. **License Limitations**: No more than two Secondhand Dealer Licenses will be issued in the B-2 Central Business District and no more than two Secondhand Dealer Licenses will be issued in the B-3 Commercial District.

4. License Not Transferable; Fee: The privilege of being issued an annual Secondhand Dealer License is a personal privilege and cannot be transferred to another individual or entity. The license fee, to be determined by the City Council from time to time, shall not be prorated if issued mid-year.
5. Place of Business; License Restrictions. Any license issued pursuant to this Section shall state the address of such business and be prominently displayed. Such business shall not be carried on or conducted in any other place than that designated in or by such license.
6. Exhibition of License: The Secondhand Dealer license shall be posted in a prominent place on the business premises.

D. License Application: A written sworn application, signed by the applicant if an individual, by all partners if a partnership; by all members of a joint venture or association; and by the president of a corporation, shall be filed with the City Administrator. (Ord. 2012-102,§9)

E. Denial of a License: The Administrator may deny a license for one or more of the following reasons:

1. Conviction of any felony within five years immediately preceding the date of the filing of the application.
2. Fraud, misrepresentation or false statement of facts of material consequence in the application.
3. Proof of a complaint with appropriate officials in the area where the last business was pursued within the 12 months preceding the current application or on file with the City indicating that the applicant has engaged in a fraudulent transaction or enterprise.

The Administrator shall issue a letter of rejection of license application to the applicant's listed address by certified mail with a statement indicating the reasons for the rejection.

F. Appeal:

1. An appeal from the Administrator's decision to deny a license application shall be made to the Mayor, in writing, within seven days of the receipt of the decision.
2. The appeal shall state the specific grounds for the appeal.
3. The applicant will be provided the opportunity to present evidence to the Mayor why the license should be issued.

G. Records and Inspections:

1. Every Secondhand Dealer licensee is required to keep records of purchased transactions for electronic equipment and appliances. Such record shall be made at the time of the transaction and retained not less than one year from the date of the transaction. Each record and shall be written in the English language and in a clear, legible manner.
2. Each record shall be written in the English language, in a clear, legible manner and contain the following information:
  - a. General information including the name and address of the purchaser;
  - b. The price of consideration paid or received at the time of the transaction;
  - c. The signature of the seller.
3. The record book, and the goods, articles or things purchased by every secondhand dealer, shall be open to inspection of any member of the Police Department at all reasonable business times, or any person duly authorized, in writing, for such purpose by the Chief of Police.

H. Melting of Items: No secondhand dealer shall melt any watch, watchcase, jewelry or other identifiable article composed or manufactured, in whole or in part, of gold, silver, platinum or other precious metals until such dealer has a record of such intention and has reported the proposed action to the Chief of Police.

I. Violation: In the event of any violation of the provisions of this Section, the Administrator shall file a complaint against the licensee and the matter shall be set for a hearing before the Mayor. Notice to the licensee shall be sent a minimum of 5 calendar day prior the hearing. Such notice shall be sent by regular mail to the address on file with the City stating (a) time, place and nature of violation; (b) reference to the provision of this Section at issue; and (c) a statement informing the licensee of his or her ability to respond to the complaint. Following the hearing, the Mayor shall issue a written decision within 5 calendar days.

J. Suspension, License Revocation:

1. Upon conviction of a violation of any of the provisions of this Section, the Secondhand Dealer License shall be suspended not less than 30 days. City Council approval shall be required prior to resuming the business.
2. Upon a second conviction for a violation of any provision of this Section within the license period under which the previous suspension occurred, the Secondhand Dealer License shall be revoked for a minimum of one year. Upon the expiration of the suspension, an application may be submitted for a Secondhand Dealer License pursuant to the terms of this Section.

**21.18 LICENSING SECOND-HAND ARTICLES DROP-OFF CONTAINERS**  
(Ord. 2012-102, §11)

A. Definitions: In addition to those terms defined in Appendix A of this Code, the following words, whether capitalized or not, are defined as follows for this section:

**Second-Hand Articles Drop-Off Container** is any receptacle, box or holder used to collect second hand articles. Whenever the words “Container” or “Containers” are used herein, they shall mean a **Second Hand Articles Drop-Off Container**. Examples of such containers are the containers placed by Good Will, Amvets and other non-profit/charitable organizations for the collection of second hand articles.

B. Prohibitions: Second hand articles drop-off containers are prohibited in all zoning districts except in the “M” Manufacturing Zoning District.

C. Licensing: All containers located in the City must be inspected and licensed by the City. The inspection shall be conducted annually by the Community Development Department. The annual fee for such a license and inspection shall be \$250 for the first container owned by the entity and \$50 for each additional container, owned by the entity that is located in the City.

D. Regulations: The following regulations shall apply to all such containers:

1. No articles shall be permitted to accumulate outside of the container;
2. The container must not block any public road or sidewalk;
3. The container must not impede motorists’ line of sight;
4. No flammable or hazardous materials or perishable items should be placed or kept in said container;
5. The container shall be no larger than 60 cubic feet;
6. The container shall be anchored to the ground in such a manner that it cannot be easily tipped over;
7. The container and the area surrounding it shall be kept clean and free from trash and debris;
8. The container shall be kept freshly painted and no rust shall be allowed to show;
9. The container shall be equipped with a lid and/or doors that automatically close after articles are deposited in the container.

E. Non-Usable Container: Once a container becomes unusable, or does not pass inspection by the Community Development Department, it must be immediately removed. If it is not removed within seven days of the Building Department’s notice to remove, the City may remove and dispose of same and charge the licensee its costs of removal and disposal.

F. Application for License: An applicant for a license must submit an application form provided by the City. The applicant must sign the application. In the event the applicant is a corporation or partnership, it must be signed by the President and Secretary of the corporation, if a corporation, and by all the partners if a partnership. All such signatures shall be under oath. The application shall contain, at a minimum, the following information and documents:

1. Name and principal street address of applicant;
2. A statement that the applicant is a not-for-profit entity (documentation evidencing same shall be furnished);
3. A description of where the used articles are sent and the ultimate disposition of same;
4. Whether the used articles are sold, and if so, an explanation why;
5. A statement as to how long the entity has been in business;
6. A color photograph of the proposed container; and
7. A site plan showing the proposed location(s) of the container.
8. Shall have written permission from the property owner.

G. Exception: The provisions of this Section 21.18 shall not apply to any educational institution, which are subject to the following conditions:

1. All containers shall be located on property owned by said educational institution.
2. The proposed location of all containers shall be approved by the Community Development Department.

H. Penalty: Any person, firm or corporation violating any provisions of this Section shall be fined in accordance with Section 1.14-A, Settlement of Offenses, and be responsible for the City's cost of persecution, including reasonable attorney fees. Each day that a violation exists shall be considered a separate offense.

## **21.19 LAUNDRY, LAUNDROMATS**

(Ord. 2012-105, §10; Ord. 2008-133,§3)

A. Laundry and Laundromat Defined: As used in this Section, a laundry is a place, building, structure, room or establishment, or a portion thereof, which is used for the purposes of washing, drying, starching or ironing wearing apparel, table, bed or other household linens, towels, curtains, draperies or other washable fabrics, with such work being done for the general public. A laundromat is a self-service laundry, with or without an attendant on duty.

B. License Required: No person shall conduct, operate, maintain or carry on the business of a laundry or laundromat in the City without first obtaining a Laundry License.

C. License Application: A written sworn application, signed by the applicant if an individual, by all partners if a partnership; by all members of a joint venture or association; and by the president of a corporation, shall be filed with the City Administrator.(Ord. 2012-105, §10).

D. Number of Licenses: There shall be two licenses available.

E. License Fee: The annual license fee shall be determined from time to time by the City Council.

F. Conditions: All laundries and laundromats shall be subject to the following conditions of this Section.

1. All floors, walls, ceilings, windows, woodwork, machinery, utensils and fixtures and every place used as a laundry, or for the storage of unlaundered or laundered fabrics in connection therewith, shall, at all times, be kept in good repair and maintained in a clean and sanitary condition. Such place shall be kept free from rats, mice and vermin and all matter of an infectious or contagious nature.
2. Every place used as a laundry or Laundromat shall comply with the building codes adopted in Chapter 19, Building Code and shall be subject to yearly inspections by the City for code compliance.
3. It shall be unlawful to employ any person afflicted with a venereal or any other contagious disease.
4. No wallpaper shall be applied upon the walls or ceilings of a room used for laundry purposes.

G. Violation: In the event of any violation of the provisions of this Section, the Administrator shall file a complaint against the licensee and the matter shall be set for a hearing before the Mayor. Notice to the licensee shall be sent a minimum of 5 calendar day prior the hearing. Such notice shall be sent by regular mail to the address on file with the City stating (a) time, place and nature of violation; (b) reference to the provision of this Section at issue; and (c) a statement informing the licensee of his or her ability to respond to the complaint. Following the hearing, the Mayor shall issue a written decision within 5 calendar days.

H. Suspension, License Revocation:

1. Upon conviction of a violation of any of the provisions of this Section, the Laundry License shall be suspended not less than 30 days. City Council approval shall be required prior to resuming the business.
2. Upon a second conviction for a violation of any provision of this Section within the license period under which the previous suspension occurred, the Laundry License shall be revoked for a minimum of one year. Upon



the expiration of the suspension, an application may be submitted for a Laundry License pursuant to the terms of this Section.

## **21.20 AMUSEMENT REGULATIONS**

(Added Ord. 2015-116)

A. Definitions. In addition to those terms defined in Appendix A of this Code, the following words, whether capitalized or not, are defined as follows for this Section:

**Amusement** means (1) any exhibition, performance, presentation or show for entertainment purposes, including, but not limited to, any theatrical, dramatic, musical or spectacular performance, promotional show, motion picture show, flower, poultry or animal show, animal act, circus, rodeo, athletic contest, sport, game or similar exhibition such as boxing, wrestling, skating, dancing, swimming, racing, or riding on animals or vehicles, baseball, basketball, softball, football, tennis, golf, hockey, track and field games, bowling or billiard or pool games; (2) any entertainment or recreational activity offered for public participation or on a membership, user fee, or other fee basis including, but not limited to, carnivals, amusement park rides and games, bowling or billiard or pool games, dancing, tennis, racquetball, swimming, weightlifting, bodybuilding or similar activities; or (3) any paid television programming, whether transmitted by wire, cable, fiber optics, laser, microwave, radio, satellite or similar means.

**Amusement Operator** means any person who provides or conducts any theatrical, exhibition, show or amusement within the City for which an admission charge, membership, user fee, or other fee basis is collected.

**Person** means any person, trustee, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, co-partnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. Whenever the term "Person" is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean the owners or part-owners thereof, and as applied to corporations, the officers thereof.

**Admission Charge** means any charge for the right or privilege to be admitted to the premises of a theatrical, exhibition, show, amusement or place of amusement, to view, observe or to pay a membership, user fee, or other fee to participate in any theatrical, exhibition, show or amusement located in the City.

B. Licenses.

Amusement Operators conducting amusements or amusement businesses open to the public shall obtain a license in accordance with the fee schedule as set forth by the City. It shall be unlawful to conduct amusements or amusement businesses without first obtaining such license.

C. Tax Imposed.

There is hereby levied and imposed a tax upon every Person who pays any charges to participate in or fees for any Amusement located within the corporate limits of the City of Harvard of three percent (3%) of all gross receipts received at said place, exclusive of state or federal taxes. The tax levied by this ordinance shall be collected from the Person paying such at the time such charge or fee is collected.

As to athletic contests and exhibitions “for gain,” pursuant to Section 11-54-1 of the Municipal Code, such tax shall be no more than three percent (3%) of all gross receipts received at said place.

The ultimate incidence of and liability for payment of said tax shall be borne by the Person who seeks participation in, or admission to, any such amusement. It shall be the duty of the Amusement Operator receiving a charge or fee upon which a tax is levied under this ordinance to secure said tax from the Person, to act as trustee for and on account of the City, and to pay over to the City Treasurer said tax under procedures prescribed by the City or as otherwise provided in this ordinance.

D. Exemptions.

The tax described in Section C above shall not be applicable to any Amusement shown, exhibited or staged by:

1. Any unit of government, church, school or certain senior citizen organizations that have applied for and received an exemption identification number (“E” number) from the Illinois Department of Revenue to qualify as tax-exempt purchasers.
  - a. Said exemption shall be based upon the Internal Revenue Code for Exempt Purposes to wit: The exempt purposes set forth in Section 501(C)(3) are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term charitable is used in its generally accepted legal sense and includes relief of the poor, the distressed or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public building, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.
2. Any person, business or entity that is conducting an eligible event at any location other than on dedicated city park lands.
  - a. For the purposes of this section the location of the event itself shall determine exemption regardless of the location of on or off premise sales of admission.

3. Any specific and./or individual amusement not eligible in this Section and waived by consent of the Harvard City Council.

E. Tax Collection.

1. The tax shall be collected by any Amusement Operator from those persons who are charged an admission, membership, user fee, or other fee basis within the corporate boundaries of the City. Every Amusement Operator shall, on or before the twentieth fifth (25<sup>th</sup>) day of each month, file with the City Treasurer a tax return, on a form provided by the City, signed and sworn to by the Amusement Operator or its authorized agent indicating the total number of persons who are charged an admission charge, membership, user fee, or other fee and admitted to a theatrical, exhibition, show, amusement or place of amusement within the corporate boundaries of the City and the tax collected from such persons by the Amusement Operator during the preceding calendar month and any penalties and interest due. A remittance for the amount of the tax imposed by this Section shall accompany the tax return.
2. The tax so collected shall be due and payable on the 25<sup>th</sup> day of each month for the preceding calendar month. The tax shall be paid to and collected by the City Treasurer.
3. The tax collected shall be deposited in the corporate general fund and budgeted towards the maintenance and/or operational expenditures for the park lands and improvements in the city parks.

F. Administration and Enforcement.

1. The City Administrator is hereby designated as the enforcement officer of the tax and regulations hereby imposed by the City. It shall be the responsibility and duty of the City Administrator to collect all amounts due the City if such payments have not been made to the City Treasurer.
2. The City may request an accounting to ensure the proper collecting of the tax, which shall be provided by the Amusement Operator within fourteen (14) days of a request for same by the City. Said accounting shall be certified by a certified public accountant and shall consist of all information requested by the City to ensure the proper collection and accounting of said tax. If any Amusement Operator fails to provide said accounting within said fourteen (14) days, the City shall be empowered to employ the services of a certified public accountant to audit the records of said Amusement Operator for the purposes of ensuring the proper administration and collection of the tax hereby imposed by this ordinance. In the event that any audit, as described in the previous sentence, discloses a discrepancy in excess of three percent (3%), the Amusement Operator shall immediately pay any tax due, together with any interest and penalties

as described below, to the City, and shall also immediately reimburse the City for the cost of said audit. It shall be the duty of every Amusement Operator to keep accurate and complete books and records and to keep same at the Amusement Operator's principal place of business within the City, containing all information necessary for the collection of the tax hereby imposed, which records shall include a daily sheet showing: (1) all tickets or admissions sold during the immediately preceding day and the then current day; and (2) the actual admission or ticket receipts collected for the dates in question.

3. The City Administrator may petition the Mayor for the suspension and revocation of any license issued to an Amusement Operator for failure to comply with the provisions of this Chapter. A revocation or suspension shall take place only after a hearing based upon previously presented written charges and with at least fourteen (14) days' prior written notice. At that hearing the party charged may be represented by counsel, and any witnesses called shall be subject to cross examination. The Mayor shall issue a written opinion, with findings of fact, within fourteen (14) days after the conclusion of the hearing. Any person aggrieved by any decision of the Mayor to suspend or revoke any license issued to an Amusement Operator may appeal that decision to the City Council within fourteen (14) days of the issuance of the Mayor's decision by delivering a written notice to the Mayor setting forth the facts on which the person bases the appeal.
4. The City Council decision on an appeal regarding a suspension and/or revocation shall be a final administrative decision of the City subject to judicial review in the Circuit Court of McHenry County, Illinois, pursuant to the provisions of the Administrative Review Act, 735 ILCS 5/301, *et seq.*

G. Interest and Penalties.

1. In the event of a failure by any Amusement Operator to pay to the City Treasurer the tax required hereunder within ten (10) days after the same shall be due, interest shall accumulate and be due upon said tax at the rate of one percent (1%) per month commencing as of the first day of the month following the month for which the tax was to have been collected.
2. In addition to the provision of this Section, any Amusement Operator found guilty in a court of competent jurisdiction of violating, disobeying, omitting, neglecting or refusing to comply with or resisting or opposing the enforcement of any provision of this Chapter, upon conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than \$500.00 for the first offense, and not less than \$100.00 nor more than \$500.00 for the second and each subsequent offense. Each day any violation of any provision of this Ordinance shall continue to exist shall constitute a separate offense.