

ARTICLE I. IN GENERAL

Secs. 22-1—22-25. Reserved.

ARTICLE II. LICENSES*

Sec. 22-26. Definitions.

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

Accessory use means a use customarily incidental and subordinate to the principal use of a building and located on the same lot with the principal use of the building.

Commercial establishment includes the following activities or commercial activity located in the city:

- (1) *Food establishment* means a building or premises or a portion thereof, the principal use of which is devoted to the sale, dispensing, distribution, serving, or storage of food, in or out of the building.
- (2) *Service establishment* means a building or premises or a portion thereof, the principal use of which is devoted to the rendering of personal or material services for profit, the wholesale distribution or storage of material, goods, wares, merchandise or other tangible chattels; the sale, servicing or storage of motor vehicles and equipment; the washing, cleaning, dyeing or repair of fabrics, wearing apparel or footwear; the storage, assembly, distribution, servicing or repair of building materials, electrical or mechanical equipment; the storage or distribution of fuels or petroleum products; the services of printing, blueprint-

ing, photocopying, multilithing, publishing, duplicating or similar reproduction services; the provision of facilities for a hotel, motel, motor hotel, apartment hotel or similar housing facilities for transient or permanent guests or persons; the provisions of facilities for instruction, training, participation in or presentation of the fine arts, athletic skills, dexterity or physical skills.

- (3) *Retail sales establishment* means a building or portion thereof, the principal use of which is devoted to the retail sale or distribution of materials, goods, wares or merchandise.
- (4) *Rental of residential dwellings* means the leasing or renting of any rental dwelling, apartment building, multiple unit, multiple dwelling, dwelling units, roominghouse or residential unit, or rental unit.

The term "commercial establishment" shall not include nonprofit organizations.

Nonprofit organization means an association or corporation organized to carry out any lawful purpose or purposes not involving pecuniary profit or gain for its directors, officers, shareholders or members.

Owner means any individual, firm, association, partnership, corporation, trust or any other legal entity having sufficient proprietary interest in a commercial establishment to maintain and manage its operation.

Rental dwelling means any structure, building or other facility promised or leased to a residential tenant or tenants for use as a house, residence or sleeping unit. This definition includes, but without limitation, one- or two-family dwellings, multiple dwellings, apartment units, boardinghouses, roominghouses, hotels, motels and flats.

*Cross reference—Advertising, ch. 6.

Rental unit means any one area, room, structure, apartment, flat or facility of a rental dwelling that is leased or rented to only one tenant, group of tenants, or family under one lease.

(Code 1979, § 7.500; Ord. No. 269-A, § I, 6-6-88)

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

Sec. 22-27. Interpretation.

The general provisions of this article, together with other relevant provisions of any ordinance or the general provisions hereafter authorized or required by state law, and any and all thereof relative to licenses, permits, businesses, premises or anything connected therewith, shall each be construed to be complementary and supplemental to each other so far as relevant, and where not otherwise provided or inconsistent herewith, shall constitute a part of the regulations and conditions applicable generally to any particular license or permit in the same manner as though these provisions were fully written into each separate ordinance.

(Code 1979, § 7.501; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-28. Purpose; jurisdiction.

Because each commercial establishment located in the city is a basic part of and affects the physical and economic well-being of the city, necessitating special services from the city in the form of fire, health, building and police inspections and services, such commercial establishments shall in all respects be in full compliance with the provisions contained in this article. This article is designed to provide for the means whereby the city may render the necessary inspections and services to commercial establishments and commercial areas in order to promote, protect and safeguard the public safety, health and welfare of the citizens of the city and to

enable the effecting of accurate records of commercial activities or commerce within the city.

(Code 1979, § 7.502; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-29. Record of establishments.

The city clerk shall cause to be maintained a record of all commercial establishments in the city for the purpose of classifying, serving, inspecting and licensing such establishments.

(Code 1979, § 7.503; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-30. License required to operate business.

No person shall, directly or indirectly, operate, conduct, maintain or manage any commercial establishment without first procuring a license from the city in the manner prescribed in this article.

(Code 1979, § 7.504; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-31. State license prerequisite to issuance of city license.

No license required by this article shall be issued to any person who is required to have a license from the state until such person shall submit evidence of such state license and proof that all fees appertaining thereto have been paid.

(Code 1979, § 7.505; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-32. Filing of application.

All commercial establishments in the city shall file with the city clerk an application for a license to operate the commercial establishment in the city on or before January 1 of each odd-numbered year at such time as the commercial establishment desires to com-

mence operation in the city. Application forms for such licenses shall be made available by the city clerk.

(Code 1979, § 7.506; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-33. Contents of application for license.

Each person required to procure a license from the city shall make application for the license to the city clerk in the form and manner prescribed by him and shall state under oath such facts as may be required for or applicable to the granting of such license, including the following:

- (1) The full names, business addresses and residence addresses, and telephone numbers of all the owners of the applicant's business, and the names, addresses and telephone numbers of each officer if the applicant is a corporation.
- (2) The place in the city where it is proposed to maintain the applicant's business and the length of time during which it is proposed that such business be conducted.
- (3) The nature, character and quality of the goods, wares, merchandise or services to be sold or offered for sale by the applicant in the city.
- (4) The nature and kind of business which the applicant proposes to conduct and the manner of operating the business.
- (5) A list of all assumed, trade, franchised or firm names under which the applicant intends to do business.
- (6) Whether or not the applicant or person conducting or managing the applicant's business has been convicted of a crime, misdemeanor or the

violation of any municipal ordinance and, if so, full particulars in connection therewith.

- (7) The name, address and phone number of the person to contact in emergency.
- (Code 1979, § 7.507; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-34. Amount of license fee.

The city council shall by proper resolution set the amount of the fee, and certain regulations pertaining thereto, to be paid by an applicant for any license required by this chapter and issued by the city.

(Code 1979, § 7.508; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-35. Proration, collection, refund of license fee.

(a) Where an initial license is issued on or after January 1 of the even-numbered year, the license fee for the unexpired term of the license year shall be one-half of the normal license fee.

(b) The required fee for each license issued shall be collected in full prior to or at the time of the issuance and delivery thereof.

(c) No rebate or refund shall be made of any license fee, or part thereof, by reason of the death of a licensee or by reason of nonuse of the license or discontinuance of the operation of the commercial establishment.

(d) Licenses issued for temporary use (less than three months' duration) shall be excluded from the half rate provision and subject to full license fee.

(Code 1979, § 7.509; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-36. Exemption from payment of license fee.

No license fee shall be required from any person exempt from payment of the fee by

state or federal law. Such persons shall comply with all other provisions of this article. The city clerk shall, in all such cases, issue to such persons licenses which are clearly marked as to the exemption and the reason thereof. (Code 1979, § 7.510; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-37. Term of license.

Subject to the terms and provisions of this article, the city clerk shall cause to be issued a license to permit the operation of the commercial establishment in the city for a period of two years, which shall begin on January 1 of the odd-numbered year and shall terminate on December 31 of the following even-numbered year.

(Code 1979, § 7.511; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-38. Display of certain licenses prohibited.

No person shall display any expired, suspended or revoked license or any license for which a duplicate has been issued.

(Code 1979, § 7.512; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-39. New license required for new location.

If a commercial establishment moves its place of operation from one location in the city to another location in the city, a new commercial establishment license shall be required for the new location in accordance with the terms and provisions of this article. (Code 1979, § 7.513; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-40. Separate license required for each location.

No license for the operation of a commercial establishment in the city shall be construed by any person to permit the operation of a commercial establishment in more than

one location in the city. A separate license shall be required for each location of a commercial establishment. For the purposes of this article, the determination of one location shall be construed that all buildings containing the principal or accessory uses be connected or be on the same lot or parcel, be operated and managed by the same person or owner, and be a commercial establishment with the same classification; provided, however, that two or more buildings separated by one or more dedicated public rights-of-way or by one or more buildings or vacant lots or parcels shall not be considered as one location.

(Code 1979, § 7.514; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-41. Renewal.

Unless otherwise provided in this article, an application for renewal of a license shall be considered in the same manner as an original application.

(Code 1979, § 7.515; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-42. Hindrances to issuance.

In addition to the causes enumerated in this article, no license for the operation of a commercial establishment in the city shall be issued if one or more of the following conditions are determined by the city clerk to exist:

- (1) The building or premises of the commercial establishment does not comply with the provisions and terms of the building code, zoning ordinance, fire regulations, health regulations, or any other ordinances and regulations of the city.
- (2) The building or premises of the commercial establishment are in such unsanitary or unsafe condition as to endanger the public safety, health and welfare.

- (3) The owner of the commercial establishment or such legal entity comprising the commercial establishment is delinquent in the payment of personal property taxes, real property taxes, assessments, or other obligations due to the city.

(Code 1979, § 7.516; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-43. Denial, revocation, suspension—Causes, notice.

The provisions of this article shall govern the causes for the denial, revocation and suspension of a license required under this article, and the notice requirements for such denial, revocation or suspension.

(Code 1979, § 7.517; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-44. Same—Procedures.

(a) Any owner whose license is revoked or suspended, or any owner whose application for a license is denied, shall have the right to a hearing before the city council, provided a written request therefor is filed with the city council within ten days following the delivery or mailing of the notice of revocation, suspension or denial of a license.

(b) Any owner who has been denied a license or whose license has been suspended or revoked may continue the operation of the commercial establishment pending the final determination of the city council on the appeal.

(c) The city council may refer the matter to the chief of police, fire chief, building official, health officer, or any other officer or employee of the city for an investigation and recommendation on matters pertaining to the public safety, health or welfare which are or may be involved as the basis for the denial, revocation or suspension of a license. Failure of the applicant or licensee to cooperate fully

with the officer or employee of the city, including entry for inspection of the licensed premises, shall be taken into consideration by the city council in its final determination on the appeal of the owner.

(d) The city council shall establish the date, time and place for the hearing. At such hearing, the owner shall have the right to defend against the cause or causes for the denial, revocation, or suspension by way of confronting adverse witnesses, by the presentation of live witnesses or other evidence in its own behalf, and to present arguments either personally or through legal counsel.

(e) The city council may make such decision as it deems best will serve the public health, safety and welfare by revoking the license, affirming the suspension, granting the license, or by attaching such requirements to correct the conditions connected with the denial, revocation or suspension of the license.

(f) The city council shall prepare a written statement of its findings and decision, which may be formal or informal in nature, within a reasonable time, not to exceed 30 days after the conclusion of the hearing. Notice of the city council's decision shall be mailed or personally delivered to the owner. The owner shall within ten days after the mailing or delivery of the city council's decision and determination to deny, revoke or suspend the license, cease the operation of the commercial establishment.

(Code 1979, § 7.518; Ord. No. 269-A, § I, 6-6-88)

Sec. 22-45. Penalty for noncompliance.

Failure to secure and maintain a license in accordance with the provisions of this article is a violation of this article and every person convicted of a violation of this article shall be punished by a fine as provided in section 1-16