

Title 5

BUSINESS LICENSES AND REGULATIONS

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Chapter 5.04

LICENSING IN GENERAL

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5.04.010 Applications.

The application for every license required by and issued under authority of the city shall contain:

- A. The name of the person, firm or corporation desiring such license;
- B. The residence address of such applicant, or of each of the individual members of such firm, or of each of the directing officers of such corporation and its principal place of business;
- C. The kind of license desired, stating the business, trade or profession to be performed, practiced or carried on;
- D. The street address, if any, where such business is to be carried on;
- E. The year for which such license is sought; and
- F. Any other relevant information required by the terms of the provisions of this chapter relating to the particular license sought or deemed to be necessary by the city clerk for the particular license sought. (Ord. 1539 § 1, 1976; Ord. 1412 § 3(d), 1975; prior code § 26.1)

5.04.020 Issuance.

All licenses will be issued by the city clerk upon receipt of the following:

- A. A proper application containing all applicable information required by the preceding section;
- B. Proof that the annual fee has been paid in advance to the city clerk;
- C. The execution and delivery of any bond or insurance that may be required;
- D. The fulfillment of all other specific requirements relating to the issuance of the particular license.
The city council shall have the right to waive the fee required for any license specified in this

title upon a showing of good cause as to why the fee should be waived. (Ord. 1539 § 2, 1976; prior code § 26.2)

5.04.030 Contents.

Each license shall show upon its face the name of the person to whom it has been issued, the street address where any business is to be carried on, the kind of license, the amount paid therefore, the year for which such license is issued, and any other information required by this code to be displayed thereon. (Prior code § 26.3)

5.04.040 Term.

All licenses are issued on a calendar year basis only, and they expire with the calendar year for which they are issued. (Prior code § 26.4)

5.04.050 Fees Prorating.

In case a license is issued after June 30th of any year, the license fee shall be one-half of the annual license fee; provided, however, that license fees of five dollars or less per year shall not be prorated and shall be charged for on the yearly basis; and provided further, that the license fee prorating system shall not apply to license fees for seasonal businesses or activities. (Prior code § 26.5)

5.04.060 Records.

The city clerk shall keep a record of all licenses issued, setting forth the name of every licensee, the place of business licensed, if any, and the kind of license issued. (Ord. 1539 § 3, 1976; prior code § 26.6)

5.04.070 Posting and exhibition.

Every license for a business to be conducted at a particular street address shall be posted therein during the period such license is valid. It shall be the duty of each and every person to whom a license has been issued by the city, to exhibit the same upon the request of any law enforcement officer, inspector, or other officer of the city. (Prior code § 26.7)

5.04.080 Transfers.

No license may be transferred from one person to another, or from one place to another, except where permitted by state law or the provisions of this code relating to the particular license, and then only by the city clerk after written application therefore and the payment of a fee of one dollar for the transfer of such license. (Prior code § 26.8)

5.04.090 Renewals.

Any licensee may make application for a new license for the succeeding year and pay the required fee therefore, on or before the expiration date of any license or licenses issued to him for the current year. Whenever any application and license fee payment therefore is not received on or before the expiration date of any license issued for the current year, and the licensee continues to engage in the business or activity for which the license was issued, a penalty of ten percent of the amount of the license fee is imposed and collected and an additional five percent of the original fee is added to the last day of each calendar month after the expiration date. In addition to the above penalty provision, it is unlawful for a licensee to continue to engage in any business or activity after his license therefore has expired. (Prior code § 26.9)

5.04.100 Revocation.

The city council may, upon seven days' written notice to a licensee stating the contemplated action and in general the grounds therefore, and after a reasonable opportunity to be heard, revoke any license issued by the city if it finds that:

- A. The licensee has failed to pay the annual license fee; or
 - B. The licensee has failed to file any reports or furnish any other information that may be required by the provisions relating to the specific license; or
 - C. The licensee has violated any of the terms of the provisions pertaining to his license or any regulation or order lawfully made relating thereto; or
 - D. Any fact or condition exists which, if it has existed or had been known to exist at the time of the application for such license, would have warranted the refusal of the issuance of such license.
- (Prior code § 26.10)

5.04.110 Fees Return.

Upon refusal of any license, the fee paid therefore in advance shall be returned to the applicant. In the event that any license is revoked, all moneys paid therefore shall be and remain the moneys of the city and no refund shall be made to any licensee. (Prior code § 26.11)

Chapter 5.12

VENDORS AND PEDDLERS

Sections:.

- 5.12.010 Solicitations prohibited by posting of “No Solicitation” or “No Trespassing” sign.**
- 5.12.020 Attempt to obtain invitation prohibited.**
- 5.12.030 City council approval.**

5.12.010 Solicitations prohibited by posting of “No Solicitation” or “No Trespassing” sign.

No person shall enter or remain upon any public or private premises in the city, not having been requested or invited by the occupants thereof, for the purpose of soliciting the immediate or future purchase or sale of goods, services, or any other thing of value, or to solicit a gift or donation when a “No Solicitation” sign or “No Trespassing” or any other sign of similar import or meaning is posted at or near the entrance(s) to such premises. This provision shall apply to all solicitations, including, without limitation, those that are by a religious, charitable, school and civic organization, or other organization eligible for exemption under Section 501(C) of the Internal Revenue Code. (Ord. 5946 § 1 (part), 2015; Ord. 4513 § 2 (part), 2000)

5.12.020 Attempt to obtain invitation prohibited.

No person shall attempt to obtain, by telephone or otherwise, an invitation to visit any private residence for the purpose of soliciting the purchase or sale of goods, services, or any other thing of value, by knowingly making a false or deceptive representation or statement. (Ord. 5946 § 1 (part), 2015; Ord. 4513 § 2 (part), 2000)

5.12.030 City council approval.

No person shall sell or offer for sale any goods, services, or any other thing of value from or upon any street, alley, sidewalk, park or property owned or controlled by the public or by the city, except as may be authorized by the city council. The city council shall have the power to grant the privilege of selling or offering for sale any goods, services, or any other thing of value from or upon any street, alley, sidewalk, park, or property owned or controlled by the public or by the city pursuant to permit, request competitive bid, or otherwise as the council may from time to time determine. Such privilege shall be upon such terms and conditions as the city council deems appropriate to avoid an excess of vendors, derive revenue for the city, address public health and safety concerns, and to serve the public need. The city council delegates to the city manager or his designee the power to act on behalf of the city council in granting the above privileges, subject to the same terms and restrictions set forth above. (Ord. 5946 § 1 (part), 2015; Ord. 4803 § 6, 2003; Ord. 4513 § 2 (part), 2000)

Chapter 5.24

GAMES

Sections:

5.24.010	License Required.
5.24.020	License Fees.

5.24.010 License Required.

It is unlawful for any person to carry on the business of keeper, for gain or hire within the city, of any billiard table, bagatelle table, pigeonhole table, shuffleboard, pin alley, shooting gallery or other games of skill, motion picture show, miniature golf course, skating rink, table on which games are played with balls, or any place where pinball machines, photoelectric machines, or other electronic games, are played, without first obtaining a license therefore. (Ord. 4513 § 4, 2000; Ord. 1539 § 10 (part), 1976)

5.24.020 License Fees.

Any person desiring a license to operate the games listed in the preceding section shall pay the following fees per year:

- A. Skating rink, fifty dollars;
- B. Miniature golf, twenty-five dollars;
- C. Pin alley, ten dollars per alley;
- D. Shooting gallery, ten dollars each;
- E. Billiard table, fifty dollars per table;
- F. Shuffleboards, pinball machines, photoelectric machines, or other electronic games, twenty dollars per machine or game;
- G. Motion picture show, fifty dollars per screen. (Ord. 4513 § 5, 2000; Ord. 3692 § 1, 1990; Ord. 1539 § 10 (part), 1976)

Chapter 5.28

PAWNBROKERS

Sections:	5.28.010	Definitions.
	5.28.020	License required.
	5.28.030	Application.
	5.28.040	Application and License fees.
	5.28.050	Investigation and approval of applicants and managers required; self-reporting of violations.
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	5.28.200	Hours.
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	5.28.230	Period for initial compliance.
	5.28.240	Violations and penalties.
	5.28.250	Notice of penalties required.

5.28.010 Definitions.

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

Applicant shall mean the individual, partnership, limited liability company, corporation, or other business entity that seeks a pawnshop license to be held in its name.

Contract for purchase shall mean a contract entered into between a pawnbroker and a customer pursuant to which money is advanced to the customer by the pawnbroker on the delivery of tangible personal property by the customer on the condition that the customer, for a fixed price and within a fixed period of time, to be no less than thirty (30) days, has the option to cancel the contract.

Chief of Police shall mean the duly appointed City of Loveland Chief of Police, or his or her designee.

City Clerk shall mean the duly appointed City of Loveland City Clerk, or his or her designee.

Customer shall mean a person who delivers personal property into the possession of a pawnbroker for the purpose of entering into a contract for purchase or a purchase transaction.

Fixed period of time shall mean that period of time, to be no less than thirty (30) days, set forth in a contract for purchase within which the customer has the option to cancel the contract.

Fixed price shall mean the amount agreed upon to cancel a contract for purchase during the option period. Said fixed price shall not exceed one-fifth (1/5) of the original purchase price for each month plus the original purchase price.

License shall mean any document or permit issued by the city which authorizes an individual, partnership, limited liability company, corporation, or other business entity to conduct pawnbroking activities within the city.

Manager shall mean an individual employed by a pawnbroker who is designated as manager or whose duties entail the exercise of discretion and independent judgment in the administration of the affairs of a pawnbroker's business and the supervision of other employees, as well as the making of loans, the execution of any documents required to be prepared pursuant to this chapter and/or the purchasing of goods or property on behalf of the business.

Manager's certificate shall mean the document issued by the city which authorizes an individual to perform his or her duties as manager for the pawnbroker.

Option shall mean the fixed period of time and the fixed price agreed upon by the customer and the pawnbroker in which a contract for purchase may be, but does not have to be, rescinded by the customer.

Owner shall mean a person, other than a pawnbroker, who claims to be vested with the legal or rightful title to certain tangible personal property.

Pawnbroker shall mean a person regularly engaged in the business of making contracts for purchase or purchase transactions in the course said business. The term does not include "secondhand dealers" as defined in and regulated by C.R.S. Sections 18-13-114 through 18-13-118. *Pawnbroker* shall also include, without limitation, all owners, managers or employees of a pawnbroker business required to be licensed by the city whose regular duties include making contracts for purchase, purchase transactions or executing any documents required to be prepared pursuant to this chapter.

Pawnbroking shall mean the business of a pawnbroker as defined by this section.

Peace officer shall mean any undersheriff, deputy sheriff (other than one appointed with authority only to serve summonses and execute civil process), city police officer, state patrol officer, town marshal, or investigator for a district attorney or the Attorney General, who is engaged in full-time employment by the State or a city, county, town or judicial district within this State.

Person shall mean any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, limited liability company, partnership, association, or other legal entity.

Pledge or pledged property shall mean any tangible personal property deposited with a pawnbroker pursuant to a contract for purchase in the course of his or her business as defined in this section.

Pledgor shall mean a customer who delivers a pledge into the possession of a pawnbroker.

Purchase transaction shall mean the purchase by a pawnbroker in the course of his or her business of tangible personal property for resale, other than newly manufactured tangible personal property which has not previously been sold at retail, when such purchase does not constitute a contract for purchase.

State shall mean the State of Colorado.

Tangible personal property shall mean all personal property other than choses in action, securities, or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of business in connection with a contract for purchase or purchase transaction.

5.28.020 License required.

It shall be unlawful for any person to engage in pawnbrokering except as provided in and authorized by this chapter and without first having obtained a license from the city clerk. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this section.

5.28.030 Application.

All applicants for a pawnbroker's license or manager's certificate shall file an application for such license or certificate with the city clerk's office on forms to be provided by the city clerk's office. Each individual, partner of a partnership, manager of a limited liability company, officer, director and holder of ten percent (10%) or more of the corporate stock of the corporate applicant or holder of ten percent (10%) or more interest in a limited liability company shall be named in each pawnbroker's license application form, and each of them shall provide a complete set of fingerprints as part of the application. In addition, each applicant shall certify that the proposed pawnbroker establishment meets the requirements of the city's municipal code and regulations and provide proof of the applicant's right to possession of the premises wherein pawnbrokering will be conducted. Each individual named in the application shall be of good moral character and each corporate applicant for a pawnbroker's license shall furnish evidence that it is in good standing with the state or, in the case of a foreign corporation, evidence that it is currently authorized to do business in the state and in good standing.

5.28.040 Application and License fees.

- A. Each applicant for a pawnbroker's license, whether an individual, partnership, limited liability company or corporation, shall pay an application and license fee at the time the application is filed for a new license, transfer of license or renewal . The application fee shall be set annually by city council resolution and shall be nonrefundable. Said application fee shall be an annual fee set in an amount necessary to defray the city's actual and reasonable direct and indirect expenses of processing the pawnshop licensing application.
- B. Each applicant for a pawnbroker's license whose application is approved shall receive a license. The license fee shall be set annually by city council resolution. Said fee shall be an annual fee set in an amount necessary to defray the city's actual and reasonable direct and indirect expenses related to administration and enforcement of this chapter. The license fee shall be refunded to the applicant, if no license is granted.
- C. An issued pawnbroker's license shall be valid only for the calendar year in which it is issued. A pawnbroker's license application or license renewal application shall be valid only for the calendar year in which the associated pawnbroker's license is issued.

5.28.050 Investigation and approval of applicants and managers required; self-reporting of violations.

- A. No pawnbroker's license shall be issued by the city clerk until such application for a license has been investigated by the chief of police and compliance with the city's municipal code and

regulations has been established. Each applicant shall submit a nonrefundable investigation and/or fingerprint and photograph fee for each individual named pursuant to Section 5.28.030 in the pawnbroker's license application at the time such application is filed in an amount not to exceed that charged by the Colorado Bureau of Investigation. Further, each applicant shall furnish sufficient documentation to prove the name, date of birth and residency of each individual named in the pawnbroker's license application, and shall provide any other information which is requested on such application.

- B. No licensee shall employ an individual as a manager, nor shall any individual accept such employment as a manager, unless such individual has been investigated and been granted a manager's certificate by the city clerk pursuant to the following:
 - 1. Prior to becoming employed as a manager by a licensee or to obtain a renewal certificate, an applicant for a manager's certificate shall provide a complete set of fingerprints as part of the application. Further, each applicant for a manager's certificate, or renewal of such certificate, shall furnish sufficient documentation to prove the applicant's name, date of birth and residency, and shall provide any other information which is requested on the application.
 - 2. An applicant for a manager's certificate shall pay a nonrefundable fingerprint and investigation fee in an amount not to exceed that charged by the Colorado Bureau of Investigation. If, however, the applicant can provide proof of a criminal history investigation completed by the Colorado Bureau of Investigation within the year immediately preceding the application, such individual need only submit a fingerprint card and photograph and pay the associated fee.
 - 3. Notwithstanding subsections 1 and 2 of paragraph B of this section, any individual named pursuant to Section 5.28.030 in a new pawnbroker's license application that is approved may receive a manager's certificate for the premises specified in the application without cost or further investigation, but shall be subject to and shall meet all other standards and qualifications required to obtain a manager's certificate as provided in this chapter.
 - 4. Each manager's certificate shall have clearly imprinted thereon a statement that it is valid only for the period of time specified thereon, and only in the pawn industry. A provisional certificate shall be issued by the city clerk upon filing of the application, which provisional certificate shall remain in effect during the pendency of an applicant's background investigation. Each provisional or regular manager's certificate shall be stamped with the name of the pawnbroker and business location(s) for which it is valid. A regular certificate issued shall be for a maximum period of three (3) years; and such certificate shall automatically expire: (i) upon a change of employment by the certificate holder, unless renewed within ten (10) days thereafter, or (ii) if the certificate holder is not employed in the pawn industry within the city for a period of ninety (90) days or more. A manager's certificate which has expired may be renewed by the application process described above.
 - 5. A manager's certificate may be revoked when the certificate holder has been determined by the city clerk to be in violation of any of the provisions of this chapter.
- C. It shall be unlawful for any person to make a false statement upon an application for a pawnbroker license and/or application for a manager's certificate.
- D. No pawnbroker license or manager's certificate shall be renewed or issued to the following persons under the provisions of this chapter:
 - 1. Subject to the provisions contained in C.R.S. Section 24-5-101, a person who has been convicted of: any felony of this State or any crime elsewhere which under the laws of this State would be a felony; any crime of which fraud or intent to defraud was an element, whether in this State or elsewhere; any crime of embezzlement or larceny in this State or elsewhere against an employer or business; or any criminal or civil violation in this State or elsewhere related to any law or ordinance pertaining to the pawn industry;
 - 2. Any individual under the age of eighteen (18); or

3. Any person who has made a false, misleading or fraudulent statement on his or her application for a pawnbroker's license or a manager's certificate.
- E. Any applicant holding a pawnbroker's license, individual named pursuant to Section 5.28.030 in a pawnbroker's license application, or individual holding a manager's certificate pursuant to this chapter who is convicted of any violation set forth in subsection 1 of paragraph D of this section subsequent to the issuance of such license or certificate shall report such conviction to the city clerk's office within five (5) business days of the conviction.
- F. Notwithstanding subsection 1 of paragraph D of this section, a pawnbroker's license or manager's certificate may be issued, renewed or retained where the sole basis for a denial or revocation of such license or certificate is a conviction for a criminal or civil violation related to any law or ordinance pertaining to the pawn industry and where the applicant demonstrates to the city clerk satisfactory evidence of rehabilitation, especially evidence pertaining to the period of time between the applicant's conviction that serves as the basis for the denial and the consideration of the application for such license or certificate.
- G. No employee under eighteen (18) years of age shall make loans, purchase any goods or property on behalf of the business or execute any document required to be prepared pursuant to this chapter, unless such employee is under the direct supervision of a manager holding a valid manager certificate who is physically present on the licensed premises.
- H. Within forty-five (45) days of receipt of an application for a new license, for a transfer of ownership, or to renew a license, the city clerk shall issue, transfer or renew such license, provided that compliance with the city's municipal code and regulations has been established and the chief of police, after investigation, has made a recommendation regarding whether or not the applicant will operate or has operated the business in such a manner as to fully comply with the requirements and purposes of this chapter and is of good moral character. Such recommendation shall be made within thirty (30) days of receipt of said application from the city clerk's office.
- I. A license shall be limited to use at the premises specified in the application. Such license shall not be transferable to a premises at a different location except as expressly provided in paragraph A of Section 5.28.220.

5.28.055 Transferability.

- A. No license issued under this chapter shall be transferred except as provided in this section.
- B. No later than thirty (30) days after any transfer of a ten percent (10%) or more ownership interest in a pawnbroker business licensed under this chapter, whether the transfer is voluntary or involuntary (such as the result of death or by operation of law), an application for the transfer, on a form provided by the city clerk, shall be filed with the city clerk, which application shall include any sets of fingerprints the city clerk determines are needed for the city's review of the transfer application under the provisions of this chapter. There shall also be paid to the city clerk at the time of the filing of the transfer application any transfer application fee set by the city council by resolution. The transfer application shall be reviewed in accordance with the same criteria required in Section 5.28.050 for a new license application and in accordance with all other applicable provisions of this chapter.
- C. Once a completed transfer application is filed and any required fee is paid, as provided in paragraph B of this section, the pawnbroker business that is the subject of the application may continue to operate as if licensed under this chapter for a period of forty-five (45) days provided the business operates in accordance with all other applicable requirements of this chapter. If for any reason the applicant's transfer application has not been approved within that forty-five (45) day period, any continued operation of the pawnbroker business after that period shall be considered a violation of Section 5.28.020.

5.28.060 Manager or change of manager.

- A. A pawnbroker may employ a manager to operate a pawnbrokering business, provided that the pawnbroker retains complete control of all aspects of the pawnbrokering business, including but not limited to the pawnbroker's right to possession of the premises, his or her responsibility for all debts and his or her risk of all loss or opportunity for profit from the business.
- B. In the event a pawnbroker changes the manager of a pawnbroker establishment, the pawnbroker shall report such change to the city clerk's office and register the new manager on forms provided by the city clerk's office within thirty (30) calendar days of such change. The new manager shall be subject to and shall meet the standards and qualifications required to obtain a manager's certificate as provided in this chapter.
- C. Failure of a pawnbroker to report such change in manager or to report the failure of the manager to meet the standards and qualifications as required in this chapter to obtain a manager's certificate, may be grounds for termination of the license.

5.28.070 Surety bond required.

- A. Every applicant for a pawnbroker's license shall furnish a bond from a responsible surety, to be approved by the city clerk, in the amount of five thousand dollars (\$5,000.00), for the benefit of the people of the city, which bond shall be conditioned upon the safekeeping or return of all tangible personal property held by the pawnbroker, as required by law and ordinance, and upon compliance with all of the provisions of this chapter.
- B. No license shall be issued or renewed absent such approved bond. Termination or cancellation of an approved bond shall be grounds for summary suspension of the license and for subsequent revocation if a new bond is not furnished within thirty (30) days after demand by the city clerk.

5.28.080 City Clerk's approval required, suspension, revocation, renewal, appeal.

- A. The City Clerk shall have final authority to approve or deny any new license application, transfer application or renewal application for a pawnbroker's license or manager's certificate, and to review any determination of or recommendation by any city department made with respect thereto. The city clerk in his or her discretion may issue the license or deny the license application upon the basis of the criteria set forth in this chapter.
- B. The city clerk shall have the authority to suspend or revoke the pawnbroker's license or manager's certificate pursuant for failure to meet the standards and qualifications as required in this chapter.
- C. The revocation, suspension or denial of the issuance, transfer or renewal of a license or manager's certificate may be appealed to the city manager pursuant to the appeals procedure set forth in Chapter 7.70 of this code.

5.28.090 Required book and records.

- A. Every pawnbroker shall keep books and records sufficient to identify each pledge, contract for purchase or purchase transaction, and each forfeiture of property pursuant to the terms of a contract for purchase. Every customer shall provide to the pawnbroker the following information for such books and/or records:
 - 1. The customer's name and date of birth;
 - 2. The current street address, city, state and zip code of the customer's residence; and
 - 3. The customer's identification from:
 - a. An identification card issued in accordance with C.R.S. Section 42-2-302;
 - b. A valid State driver's license;
 - c. A valid driver's license containing a picture issued by another state;
 - d. A United States military identification card;
 - e. A valid passport;
 - f. An alien registration card; or

- g. A non-picture identification document lawfully issued by a state or federal governmental entity, if in addition to the document, the pawnbroker also obtains a clear imprint of the consignor's, seller's or trader's right index finger (or in the event the right index finger is missing, then the customer's left index finger).
- 4. A clear imprint of the individual's right index finger. In the event that the right index finger is missing, the customer's left index finger shall be imprinted or, if the left index finger is missing, then any other of the customer's fingers or thumbs may be imprinted. If all fingers and thumbs are missing, this fingerprint requirement shall not apply.
- B. All transactions shall be kept in a numerical register in the order in which they occur, which register shall show the printed name and signature of the pawnbroker or agent, the purchase price or other monetary amount of the transaction, the date, time and place of the transaction, and an accurate and detailed account and description of each item of tangible personal property involved, including but not limited to any and all trademarks, identification numbers, serial numbers, model numbers, owner-applied numbers, brand names or other identifying marks on such property. The books and records of the licensee shall also reveal the date on which each extension of credit under a contract for purchase was terminated and whether and by whom the pawned personal property of the customer was redeemed, renewed or forfeited upon the expiration of the contract for purchase.

5.28.100 Declaration of ownership.

- A. The pawnbroker shall at the time of making the contract for purchase or purchase transaction obtain a written declaration of ownership from the customer stating:
 - 1. Whether the property that is the subject of the transaction is solely owned by the customer and, if not solely owned by the customer, the customer shall attach a power of attorney from all co-owners of the property authorizing the customer to sell or otherwise dispose of the property;
 - 2. How long the customer has owned the property;
 - 3. Whether the customer or someone else found the property; and
 - 4. If the property was found, the details of the finding.
- B. The pawnbroker shall require the customer to sign his or her name, in the presence of the pawnbroker, on the declaration of ownership and in the register to be kept under this chapter. The customer shall be given a copy of the contract for purchase or a receipt for the purchase transaction.
- C. A contract for purchase or subsequent renewal of any contract for purchase shall contain the following information: the name and address of the licensee; a description of the pledged property sufficient to adequately identify the pledged property; the date of the transaction; and the amount, duration and terms of the contract for purchase. The pawnbroker may insert on the contract for purchase any other terms, conditions and information not inconsistent with the provisions of this chapter.

5.28.110 Internet subscription service requirement.

Except for pawnbrokers exclusively dealing in the pawnbrokering of motor vehicles, every pawnbroker shall own, maintain and operate a computer system with Internet access that includes an Internet subscription service to a city-approved, national database of contracts for purchase or purchase transactions such as LEADS Online and maintain said subscription during the term of the pawnbroker's license. The pawnbroker shall enter and upload all information from its books and records regarding contracts for purchase, pledges and purchase transactions to such national database on a weekly basis.

5.28.120 Requirements for records.

- A. All original records required to be kept under this chapter must be kept in the English language, in a legible manner and shall be preserved and made accessible for inspection for a period of three (3) years after the date of redemption or forfeiture and sale of the property. Information from records and fingerprints inspected by the police department pursuant to this chapter shall be used for regulatory and law enforcement purposes only.
- B. Upon the demand of any peace officer, based upon reasonable suspicion, the pawnbroker shall produce and show any tangible personal property given to the pawnbroker in connection with any contract for purchase or purchase transaction. The pawnbroker's books shall list the date on which each contract for purchase was canceled, whether it was redeemed, or forfeited and sold.

5.28.130 Minimum fixed period of time; maximum fixed price.

- A. No contract for purchase shall be for a fixed period of time of less than thirty (30) days.
- B. No pawnbroker shall ask, demand or receive any fixed price that exceeds one-fifth (1/5) of the original purchase price for each month plus the amount of the original purchase price.

5.28.140 Holding period and sale of tangible personal property.

- A. A pawnbroker shall hold all property purchased by him or her through a purchase transaction for thirty (30) days following the date of purchase, during which time such property shall be held separate and apart from any other tangible personal property and shall not be changed in form or altered in any other way.
- B. A pawnbroker shall hold all goods received through a contract for purchase within his or her jurisdiction for ten (10) days following the maturity date of the contract for purchase, during which time such goods shall be held separate and apart from any other tangible personal property and shall not be changed in form or packaged or altered in any way.

5.28.150 Hold order; surrender of property.

- A. Any peace officer may order a pawnbroker to hold any tangible personal property deposited with or in custody of any pawnbroker, if the officer has reasonable suspicion to believe that such property is connected with criminal activity, for purposes of further investigation. No sale or other disposition may be made of such property held by any pawnbroker while the hold order remains outstanding. Any such hold order shall be effective for ninety (90) days only, unless a peace officer provides written notice to the pawnshop that a criminal prosecution has been undertaken with regard to any such property within such ninety-day period, in which event the hold order shall remain in effect until the prosecuting agency has notified the pawnbroker that the prosecution has been completed or dismissed.
- B. Unless a warrant is required by law or consent is given, if any peace officer determines, after investigation, that any article of personal property held by a pawnbroker is stolen or illegally obtained property, such officer may take such property into evidence after giving the pawnbroker a receipt for it which sets forth the police department's case number as well as the reason for the confiscation.
- C. A hold order shall be a written notice issued by a peace officer to a pawnbroker in any format that, at a minimum, provides a description of the personal property subject to the hold order sufficient to adequately identify such property, states that the personal property is related to a criminal investigation, sets forth the effective date of the hold order, and contains sufficient information to identify the issuing peace officer.
- D. It shall be unlawful for any pawnbroker to sell or otherwise dispose of an item of personal property after having been notified by a peace officer of a hold order on such property as provided in this section.

5.28.160 Seized property held by police; interpleader to determine ownership.

When property which was removed from the pawnbroker, his or her employee, agent or any other person acting on his or her behalf, either by consent, as provided in Section 5.28.150, or seized by warrant, and held by the police department as evidence, is no longer needed as evidence for further legal proceedings and there has been no judicial determination as to who is the legal owner of the property, the city may interplead the property with the District Court for Larimer County, Colorado to resolve any ownership dispute.

5.28.170 Prohibited Transactions.

- A. It is unlawful for any pawnbroker, his or her employee, agent or any other person acting on his or her behalf to make a contract for purchase or make a purchase transaction with any of the following:
 - 1. Any individual under eighteen (18) years of age;
 - 2. Any individual under the influence of alcohol or any illegal narcotic drug, substance, stimulant or depressant;
 - 3. Any person the pawnbroker knows and/or whose actions would give the pawnbroker probable cause to believe the tangible property, which is the subject of a contract for purchase or purchase transaction with that customer, was obtained illegally; or
 - 4. Any person in possession of tangible personal property, which is the subject of a contract for purchase or purchase transaction, with an identification number thereon which is obscured. For the purposes of this subsection, the term obscure means to destroy, remove, alter, conceal or deface so as to render the identification number illegible by ordinary means of inspection.
- B. With respect to a contract for purchase, no pawnbroker may permit any customer to be obligated on the same day in any way under more than one (1) contract for purchase agreement with the pawnbroker which would result in the pawnbroker's obtaining a greater amount of money than would be permitted if the pawnbroker and customer had entered into only one (1) contract for purchase covering the same tangible personal property.
- C. No pawnbroker shall violate the terms of any contract for purchase.

5.28.180 Safekeeping; insurance.

Any pawnbroker licensed and operating under the provisions of this chapter shall provide a safe place for the keeping of pledged property received by him or her, and shall have sufficient insurance on the pledged property held by him or her for the benefit of the pledgor to pay fifty percent (50%) of the fair-market value thereof in case of fire, theft or other casualty loss. A copy of the insurance policy shall be deposited with the city clerk's office prior to approval of the license. Neither the pawnbroker nor insurer shall be relieved from their responsibility by reason of such fire, theft or other casualty loss, or from any other cause, save full performance.

5.28.190 Inspection of premises, contents and records.

At all times during the term of the license, the pawnbroker shall allow any peace officer, based upon reasonable suspicion, to inspect licenses and businesses, to enter the premises where the licensed business is located, including any locked area or off-site storage facilities, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, wares, merchandise and records therein to verify compliance with this chapter and for the purpose of investigation. For the purposes of this provision, the term licensed premises shall not include any private residence adjacent to the licensed premises except such portion of said residence, if any, that is used in the operation of the business of the pawnbroker.

5.28.200 Hours.

It is unlawful for any person to operate as a pawnbroker between the hours of 8:00 p.m. and 12:00 midnight, and between the hours of 12:00 midnight and 8:00 a.m. of any day.

5.28.210 Pawnbroker license limited to one location.

A pawnbroker shall conduct his or her pawnshop business from only the licensed premise which shall be the location listed on the application for a pawnbroker's license and the pawnbroker's license. This provision shall not prohibit a pawnbroker from using warehouses or other storage locations away from the licensed place of business, but such other location shall be used only if the pawnbroker first submits notice to the city clerk's office in writing of such off-site locations or if the pawnbroker has previously identified such other location in his or her application for a pawnbroker's license. Such off-site locations shall be open to any peace officer for inspection as provided for in Section 5.28.190 of this code.

5.28.220 Location of pawnbroker businesses.

- A. Notwithstanding any other provision in the city code to the contrary, the business premises of a pawnbroker shall not be located within one (1) mile of the business premises of another pawnbroker. This restriction shall apply to all pawnbroker licenses issued under this chapter after March 21, 2012. However, this one-mile restriction shall not apply to pawnbroker businesses licensed under this chapter having a city sales tax license issued prior to February 21, 2012. Such exempted pawnbroker businesses shall also be permitted to relocate one time to a new location within the city without being subject to this one-mile restriction. A relocating pawnbroker shall notify the city clerk in writing of the relocation and provide the city clerk with the address of the new location and the date of occupancy, which notice shall be provided to the city clerk within thirty (30) days of the pawnbroker's occupancy of the new location.
- B. For the purpose of this section, the distance between pawnbroker businesses shall be measured in a straight line, without regard to intervening structures, objects or city limits, from the property line of one (1) pawnbroker business to the property line of the other pawnbroker business. For the purposes of the one-mile restriction, determination of the propriety of a location will be made by the city clerk before a pawnbroker's license is issued.

5.28.230 Period for initial compliance.

All pawnbrokers are hereby granted six (6) months from March 21, 2012 in which to come into full compliance with all applicable requirements of this chapter, after which date any pawnbroker operating within the city without a license shall be deemed in violation of Section 5.28.020.

5.28.240 Violations and penalties.

In addition to being subject to the revocation, suspension or denial of a license or manager's permit issued under this chapter, any person, including but not limited to any customer or pawnbroker, who violates any provision of this chapter shall be guilty of a misdemeanor offense punishable in accordance with Section 1.12.010 of this code.

5.28.250 Notice of penalties required.

Every pawnbroker shall conspicuously post a written notice, provided by the city's police department, in a place clearly visible to all customers which sets forth the penalties of this chapter and of C.R.S. Section 12-56-104(5), concerning providing false information to a pawnbroker and C.R.S. Section 18-4-410, concerning theft by receiving. (Ord. 5670 §1, 2012; Ord. 4129 § 1, 1995)

Chapter 5.40

SEXUALLY ORIENTED BUSINESS REGULATION AND LICENSING

Sections:

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5.40.010 Purpose and description.

The purpose of these regulations is to provide for the regulation and licensing of sexually oriented businesses within the city in a manner which will protect the property values, neighborhoods, and residents from the potential adverse secondary effects of sexually oriented businesses while providing to those who desire to patronize sexually oriented businesses the opportunity to do so. It is not the intent of this chapter to suppress any speech activities protected by the First and Fourteenth Amendments of the United States Constitution or Article II, Section 10 of the Colorado Constitution, but to impose content-neutral regulations which address the adverse secondary effects of sexually oriented businesses. Nothing in this chapter is intended to authorize or license anything otherwise prohibited by law.

Sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution. The concern over sexually transmitted diseases is a legitimate health concern of the city which demands reasonable regulation of sexually oriented businesses to protect the health and well-

being of the citizens, including the patrons of sexually oriented businesses. Licensing of sexually oriented businesses is a legitimate and reasonable means of ensuring that operators of sexually oriented businesses comply with reasonable regulations and that operators do not knowingly allow their businesses to be used as places of illegal sexual activity or solicitation. There is convincing documented evidence that sexually oriented businesses, because of their nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas, causing increased crime and downgrading of property values. The purpose of this chapter is to control adverse effects from sexually oriented businesses and thereby protect the health, safety, and welfare of the citizens; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of the surrounding neighborhoods, and deter the spread of urban blight. (Ord. 4452 § 1 (part), 1999)

5.40.020 Definitions.

- A. "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video, or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- B. "Adult bookstore, adult novelty store, or adult video store" means a business having as a substantial and significant portion of its stock and trade, revenues, space, or advertising expenditures of one or more of the following:
 - 1. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, or video reproductions, laser disks, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - 2. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."
- C. "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:
 - 1. Persons who appear in a state of nudity; or
 - 2. Live performances which are characterized by the exposure of "specified sexual areas" or by "specified anatomical activities"; or
 - 3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- D. "Adult motel" means a hotel, motel, or similar commercial establishment which:
 - 1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of such adult photographic reproductions; or
 - 2. Offers a sleeping room for rent for a period of time that is less than ten hours; or
 - 3. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.
- E. "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are primarily characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

- F. "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity, or live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."
- G. "Employee" means and includes any person who is paid directly or indirectly by the licensee for services performed on the premises whether such person would otherwise as a matter of law be classified as an employee, agent, manager, entertainer, or independent contractor, and whether or not the person is paid a salary, wage, or other compensation by the operator of the business.
- H. "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- I. "Escort agency" means a person or business association which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
- J. "Licensee" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.
- K. "Licensing officer" means the city clerk.
- L. "Manager" means any person other than a licensee who is employed by a sexually oriented business to act as a manager or supervisor of the employees, finances, or patrons of the business or is otherwise responsible for operation of the business.
- M. "Nude model studio" means any place where a person who appears in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the state of Colorado or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:
 - 1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - 2. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
 - 3. Where no more than one nude model is on the premises at any one time.
- N. "Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; or the showing of the covered male genitals in a discernibly turgid state.
- O. "Peep booth" means a viewing room, other than a private room, of less than one hundred fifty square feet of floor space upon the premises of a sexually oriented business where there are exhibited photographs, films, motion pictures, video cassettes, or other video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas."
- P. "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- Q. "Premises or licensed premises" means any premises that requires a license and that is classified as a sexually oriented business, including parking lots and sidewalks immediately adjacent to the structure containing the sexually oriented business.
- R. "Principal owner" means any person owning, directly, or beneficially, ten percent or more of the ownership interests in the entity operating a sexually oriented business.
- S. "Private room" means a room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging.

- T. "Residential district" means any district zoned R1e, R1, R2, R3e, R3, and any PUD district permitting the construction of dwelling units.
- U. "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas."
- V. "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or other similar business and includes:
 1. The opening or commencement of any sexually oriented business as a new business;
 2. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business;
 3. The addition of any sexually oriented business to any other existing sexually oriented business;
 4. The relocation of any sexually oriented business; or
 5. The continuation of a sexually oriented business in the existence on the effective date of the ordinance adopting this chapter.*

The term "sexually oriented business" shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state of Colorado engages in medically approved and recognized sexual therapy.

W. "Specified anatomical areas" means:

1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
2. Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

* This ordinance became effective on July 30, 1999.

X. "Specified criminal acts" means sexual crimes against children, sexual abuse, sexual assault, or crimes connected with another sexually oriented business, including, but not limited to, distribution of obscenity, prostitution, or pandering.

Y. "Specified sexual activities" means any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; or
3. Masturbation, actual or simulated; or
4. Human genitals in a state of sexual stimulation, arousal, or tumescence; or
5. Excretory functions as part of or in connection with any of the activities set forth in (1) through (4) above.

Z. "Stage" means a raised floor or platform at least three feet above the surrounding floor measured perpendicularly from the edge of the stage to the surrounding floor and at least thirty-six square feet in area.

AA. "Transfer of ownership or control of a sexually oriented business" means and includes any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3. The establishment of a trust, management arrangement, gift, or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control. (Ord. 4452 § 1 (part), 1999)

5.40.030 License required.

- A. No sexually oriented business shall operate in the city without a valid sexually oriented business license issued by the city under the provisions of this chapter.
- B. No license shall be issued under the Loveland Municipal Code for any sexually oriented business within any zone district other than an industrial zone.
- C. No license shall be issued under the Loveland Municipal Code for any sexually oriented business that does not meet the requirements of Chapter 18.76. (Ord. 4452 § 1 (part), 1999)

5.40.040 Application for license of sexually oriented business.

- A. An applicant for a sexually oriented business license shall submit one original and three copies of a completed sworn license application on the standard application form supplied by the city.
- B. The completed application shall contain the following information and shall be accompanied by the following documents:
 - 1. If the applicant is an individual, the individual shall state his/her legal name and any aliases, submit satisfactory proof that he/she is twenty-one years of age or older, and sign the application for a license.
 - 2. If the applicant is a legal entity, the person completing the application on behalf of the applicant shall state the applicant's complete name, the date and place of its organization, the names and capacity of all officers, directors, managers, and principal owners, and the name of the registered agent and the address of the registered office for service of process, if any. The applicant shall provide evidence that it is in good standing under the laws of the state in which it is organized, and if it is organized under the law of a state other than Colorado, that it is registered to do business in Colorado. The person completing the application on behalf of the applicant shall sign the application, indicating his/her official title or relationship to the applicant. In addition, all principal owners of the applicant shall sign the application.
 - 3. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the sexually oriented business's fictitious name shall be stated.
 - 4. A diagram (eight and one-half inches by eleven inches) showing the configuration of the premises to be occupied by the sexually oriented business, including a statement of total floor space occupied by the business and designation of the use of each room or other area within the premises. In addition, the diagram shall meet the following requirements:
 - a. The diagram shall designate those rooms or other areas of the premises where patrons are not permitted.
 - b. The diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
 - c. The diagram shall designate the place at which the license will be conspicuously posted.
 - d. If the sexually oriented business has or will have a peep booth or peep booths which are subject to Section 5.40.260 of this chapter, the diagram shall show the locations of each manager's station.
 - e. No alteration in the configuration of the premises or any change in use of any room or area as shown on the diagram shall be made without the prior written approval of the city.
 - 5. Whether the applicant or any of the other individuals listed pursuant to (B)(1) or (2) of this section have been convicted of a specified criminal act within the times set forth in Section 5.40.070(C)(1)(i) of this chapter, and if so the specified criminal act involved, the date of conviction, and the place of conviction.
 - 6. Whether the applicant or any of the other individuals listed pursuant to subsection (B)(1) or (2) of this section has had a previous license under this chapter or any similar sexually oriented business chapter from another city or county denied, suspended, or revoked, and, if so, the name and location of the sexually oriented business for which the license was denied, suspended, or revoked, as well as the date of the denial, suspension, or revocation.

7. Whether the applicant or any other individuals listed pursuant to subsection (B)(1) or (2) of this section has been a partner in a partnership or a principal owner of a corporation or other legal entity whose license has previously been denied, suspended, or revoked, and, if so, the name and location of the sexually oriented business for which the license was denied, suspended, or revoked, as well as the, date of denial, suspension, or revocation.
8. Whether the applicant or any other individual listed pursuant to subsection (B)(1) or (2) of this section holds any other licenses under this chapter or other similar sexually oriented business ordinances from another city or county, and, if so, the names and locations of such other licensed businesses.
9. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number.
10. Proof of the applicant's right to possession of the premises for the duration of the license wherein the sexually oriented business shall be conducted.
11. The applicant's mailing address and residential address.
12. A current certificate and straight-line drawing prepared by a state-registered land surveyor within thirty days prior to an initial application depicting:
 - a. The boundary lines of the real property upon which the sexually oriented business is proposed to be located, as well as the building footprint of each structure located on said property; and
 - b. The location of the property lines of any church, school, licensed daycare facility, park, or boundary of a residential district within one thousand five hundred feet of the property to be certified; and
 - c. The location of the property lines and the building footprints of any structure licensed, used, or operated as a sexually oriented business within one thousand five hundred feet of the property to be certified.

For the purpose of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

13. Fingerprints of the applicant and all principal owners.
- C. For renewal applications, the city may waive the requirement that an applicant provide a diagram of the premises if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared and that the use of any area or room in the premises has not changed.
 - D. Contemporaneously with the submission of an application for a license, the applicant shall submit an approved permit from the city's current planning manager or the current planning manager's designee indicating that the requirements of Title 18 of the Loveland Municipal Code are met, unless the applicant's sexually oriented business is an existing nonconforming use under the provisions of Chapter 18.56 of the Loveland Municipal Code. In the event that such permit is subject to appeal, no further action shall be taken upon the application for a sexually oriented business license until such appeal is finally adjudicated.
 - E. The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business license.
 - F. In the event the licensing officer determines or learns at any time that the applicant has improperly completed the application for the proposed sexually oriented business, he/she shall promptly notify the applicant of such fact and allow the applicant ten days to properly complete the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.
- (Ord. 4452 § 1 (part), 1999)

5.40.050 Duty to supplement application.

Applicants for a license under this chapter shall have a continuing duty to promptly supplement application information required by this chapter in the event that said information changes in any way

from what is stated on the application. The failure to comply with said continuing duty within thirty days from the date of such change shall be grounds for suspension of a license. (Ord. 4452 § 1 (part), 1999)

5.40.060 Review of license application.

- A. The licensing officer shall be responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business licenses for proposed or existing sexually oriented businesses.
- B. The director of community services or his/her designee shall be responsible for ascertaining whether a proposed sexually oriented business for which a license application has been submitted complies with all locational requirements of this chapter.
- C. The chief of police or his/her designee shall be responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time period set forth in this chapter.
- D. The building division shall be responsible for inspecting the premises proposed to be used as a sexually oriented business in order to ascertain whether it is in compliance with the applicable statutes and ordinances. (Ord. 4452 § 1 (part), 1999)

5.40.065 Investigation.

- A. Upon receipt of an application for a sexually oriented business license properly filed with the licensing officer and upon payment of the nonrefundable application fee, the licensing officer shall immediately stamp the application as received and send the photocopies of the application to the department of community services, the police department, and the building division. Each department or agency shall promptly conduct an investigation of the applicant, application, and the proposed sexually oriented business in accordance with its responsibilities under this chapter. Said investigation shall be completed within twenty days of receipt of the application by the licensing officer. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and, in the event it disapproves, state the reasons therefore. The police department shall only be required to provide the information specified by this chapter, and shall not be required to approve or disapprove applications.
- B. A department or agency shall disapprove an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation, or other law in effect in the city. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the licensing officer. (Ord. 4452 § 1 (part), 1999)

5.40.070 Issuance of license.

- A. The licensing officer shall grant or deny an application for a permit within thirty days from the date of its proper filing. Upon the expiration of the thirtieth day, the applicant shall be permitted to begin operating the business for which the license is sought, unless the licensing officer has notified the applicant of a denial of the application and states the reason(s) for that denial.
- B. Grant of Application for License.
 - 1. The licensing officer shall grant the application unless one or more of the criteria set forth in subsection C below is present.
 - 2. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business.
- C. Denial of Application for License.
 - 1. The licensing officer shall deny the application for any of the following reasons:
 - a. An applicant is under twenty-one years of age.

- b. An applicant is overdue on his/her payment to the city of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.
 - c. An applicant has failed to provide information required by this chapter for the issuance of the license or has falsely answered a question or request for information on the application form.
 - d. The premises to be used for the sexually oriented business has been disapproved by an inspecting agency pursuant to the provisions of this chapter.
 - e. The application or license fees have not been paid.
 - f. An applicant or the proposed sexually oriented business is in violation of, or is not in compliance with, any of the provisions of this chapter.
 - g. The granting of the application would violate a statute, ordinance, or court order.
 - h. An applicant has a license under this chapter which has been suspended or revoked within the previous twelve months.
 - i. An applicant or any of its principal owners has been convicted of a specified criminal act or acts for which: (i) less than two years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense; (ii) less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; or (iii) less than five years have elapsed since the date of conviction or the date of release or confinement, whichever is the later date, if the convictions are of two or more misdemeanors. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant. An applicant who has been convicted of a specified criminal act or acts, or which has an officer, director, manager, or principal owner who has been convicted of a specified criminal act or acts, may qualify for a sexually oriented business license only when the time periods required above have elapsed.
- D. If the licensing officer denies the application, he/she shall notify the applicant of the denial and state the reason(s) for the denial in writing. (Ord. 4452 § 1 (part), 1999)

5.40.080 Expiration and renewal of license.

- A. Each license issued under this chapter shall expire one year from the date of issuance and may be renewed by making application as provided by Section 5.40.040 of this chapter.
- B. Application for renewal of a license shall be made at least thirty days before the expiration date of the license. If a renewal application is made fewer than thirty days before the expiration date of the license, the expiration of the license shall not be extended and the license shall expire.
- C. The licensing officer shall approve or deny the renewal application in accordance with the procedures set forth in Sections 5.40.060 and 5.40.070.
- D. If, subsequent to denial of a renewal, the licensing officer finds that the basis for denial of the renewal of the permit has been corrected, the applicant shall be granted a license.
- E. An expired license may not be renewed. A new license shall be applied for. (Ord. 4452 § 1 (part), 1999)

5.40.090 License suspension and revocation.

- A. The licensing officer shall suspend a sexually oriented business license if he/she determines that a licensee, or employee of a licensee, has:
 - 1. Violated or is not in compliance with any section of this chapter; or
 - 2. Refused to allow an inspection of the sexually oriented business premises as authorized by Sections 5.40.060 and 5.40.200 of this chapter; or
 - 3. Operated the sexually oriented business in violation of any building, fire, health, or zoning statute, code, ordinance, or regulation, whether federal, state, or local, currently in effect, said determination being based on investigation by the division, department, or agency charged

- with enforcing said rules or laws. In the event of such a statute, code, ordinance, or regulation violation, the licensing officer shall promptly notify the licensee of the violation and shall give the licensee a seven-day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the seven-day period, the licensing officer shall forthwith suspend the license and shall notify the licensee of the suspension; or
4. Engaged in a license transfer contrary to Section 5.40.110 of this chapter. In the event that licensing officer suspends a license on the ground that a licensee engaged in a license transfer contrary to Section 5.40.110, the licensing officer shall forthwith notify the licensee of the suspension. The suspension shall remain in effect until the applicable section of the chapter has been satisfied; or
 5. Operated the sexually oriented business in violation of the hours of operation provisions of Section 5.40.270; or
 6. Knowingly allowed repeated incidents of disorderly conduct to occur within the licensed establishment or upon the premises of the licensed establishment involving patrons, employees, or the licensee.
- B. The suspension shall remain in effect until the violation of the statute, code, ordinance, or regulation in question has been corrected, or for a period of up to thirty days, whichever last occurs.
- C. The licensing officer shall revoke a sexually oriented business permit upon a determination that:
1. A cause of suspension as set forth above in this section has occurred and the license has been suspended within the preceding twelve months; or
 2. A licensee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a license; or
 3. A licensee, manager, or an employee of the licensee has knowingly allowed possession, use, or sale of controlled substances (as defined in C.R.S. Section 12-22-303(7), as amended) on the premises of the sexually oriented business; or
 4. A licensee, manager, or an employee of the licensee has knowingly allowed prostitution on the premises of the sexually oriented business; or
 5. A licensee, manager, or an employee of the licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended; or
 6. A licensee, officer, director, manager, or principal owner has been convicted of a specified criminal act for which the time period set forth above has not elapsed; or
 7. On two or more occasions within a twelve-month period, a person or persons committed an offense, occurring in or on the licensed premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the license; or
 8. A licensee is delinquent in payment of any taxes or fees to the city or state; or
 9. A licensee, manager, or an employee of the licensee has knowingly allowed any specified sexual activity to occur in or on the licensed premises; or
 10. The licensee has operated more than one sexually oriented business within the same building, structure, or portion thereof without a sexually oriented business license.
- D. When the licensing officer revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective. (Ord. 4452 § 1 (part), 1999)

5.40.100 Suspension or revocation hearing.

- A. Under this chapter, a licensee shall be entitled to a hearing before the licensing officer or his/her designee if the city seeks to suspend or revoke his/her license based on a violation of this chapter. The business may continue to operate during the hearing process.

- B. When there is probable cause to believe that cause for suspension or revocation exists, the city attorney's office may file a written complaint with the licensing officer or his/her designee setting forth the circumstances of the alleged violation.
- C. The licensing officer or his/her designee shall provide a copy of the complaint to the licensee, together with notice to appear before the licensing officer or his/her designee for the purpose of a hearing on a specified date to show cause why the licensee's license should not be suspended or revoked.
- D. At the hearing, the licensing officer or his/her designee shall hear such statements and consider such evidence as the police department or other enforcement officers, the owner, occupant, lessee, or other party in interest or any other witness shall offer which is relevant to the violation alleged in the complaint. The licensing officer or his/her designee shall make findings of fact from the statements and evidence offered as to whether a cause for suspension or revocation within or upon the premises of the licensed establishment exists. If the licensing officer or his/her designee determines that a cause for suspension or revocation exists, he/she shall issue an order suspending or revoking the license within thirty days after the hearing is concluded based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license.
- E. The order of the licensing officer or his/her designee made pursuant to subsection D of this section shall be a final decision and may be appealed to the district court of Larimer County pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of a licensee to timely appeal the order constitutes a waiver by the licensee of any right the licensee may otherwise have to contest the suspension or revocation of the license.
- F. The licensing officer or his/her designee shall have the power to administer oaths, issue subpoenas, and when necessary, grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books, and records necessary to the determination of any hearing which the licensing officer or his/her designee conduct. It is unlawful for any person to fail to comply with any subpoena issued by the licensing officer or his/her designee. A subpoena shall be served in the same manner as a subpoena issued by the district court of the state.
- G. All hearings held before the licensing officer or his/her designee regarding suspension or revocation of a license issued under this chapter shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the licensing officer or his/her designee, and shall pay all costs of preparing such record.
- H. In the event of suspension, revocation, or cessation of business, no portion of the license fee shall be refunded. (Ord. 4452 § 1 (part), 1999)

5.40.110 Transfer of license.

- A. No licensee shall operate or cause to be operated a sexually oriented business under the authority of a license at any place other than the address designated in the application for license and on the posted license.
- B. No licensee shall transfer his/her license to another person unless and until such other person satisfies the following requirements:
 - 1. Obtains an amendment to the license from the licensing officer which provides that he/she is now the licensee, which amendment may be obtained only if he/she has completed and properly filed an application with the licensing officer, setting forth the information under Section 5.40.040 of this chapter in the application; and
 - 2. Pays a transfer fee of twenty percent of the annual license fee.
- C. No license may be transferred when the licensing officer has notified the licensee that suspension or revocation proceedings have been or will be brought against the licensee.
- D. No licensee shall transfer his/her license to another location.

- E. Any attempt to transfer a license either directly or indirectly in violation of this section is hereby declared void. (Ord. 4452 § 1 (part), 1999)

5.40.120 Posting of license.

The license shall be posted in a conspicuous place at or near the entrance of the sexually oriented business so that it can be easily read at any time. The location of the posted license shall correspond to the location of the license as depicted on the diagram provided pursuant to Section 5.40.040 (B)(4)(c) of this chapter. (Ord. 4452 § 1 (part), 1999)

5.40.170 Manager license required.

- A. No licensee shall allow any person to work as a manager of the licensee's sexually oriented business without first obtaining a manager's license and paying the manager's license annual fee for that person.
- B. The licensee shall submit a manager's application on a form to be provided by the licensing officer. The application shall contain the proposed manager's name, address, date of birth, phone number, and the information required in section 5.40.040 of this chapter.
- C. The police department shall conduct an investigation of the proposed manager to determine if the proposed manager has been convicted of a specified criminal act within the times set forth in Section 5.40.070(C)(1) (i) of this chapter.
- D. The licensing officer shall grant the application within ten days of its filing unless:
 - 1. The proposed manager is under the age of twenty-one; or
 - 2. The proposed manager failed to provide the information required by this section; or
 - 3. The license fee has not been paid; or
 - 4. The proposed manager has been convicted of a specified criminal act within the times set forth in Section 5.40.070(C)(1) (i) of this chapter. (Ord. 4452 § 1 (part), 1999)

5.40.180 Change in manager.

- A. No licensee shall fail to notify the city of a change in manager within five days of the proposed manager's employment.
- B. No licensee shall fail to complete the application form for a change in manager, including payment of the manager's annual license fee, within thirty days of the proposed manager's employment. (Ord. 4452 § 1 (part), 1999)

5.40.190 Employee registration.

- A. No licensee shall fail to register each of the licensee's employees with the city within five days of the employee's employment.
- B. The licensee shall submit the employee registration on a form to be provided by the licensing officer. The registration form shall contain the employee's full name, aliases if any, current address, telephone number, date of birth, and the information required in Section 5.40.040 of this chapter.
- C. The police department shall conduct an investigation of the employee to determine if the employee has been convicted of a specified criminal act within the times set forth in Section 5.40.070(C)(1)(i) of this chapter.
- D. The licensing officer shall approve the registration within ten days of its filing unless:
 - 1. The employee is under the age of eighteen; or
 - 2. The employee failed to provide the information required by this section; or
 - 3. The licensee failed to pay the registration fee; or
 - 4. The employee has been convicted of a specified criminal act within the times set forth in Section 5.40.070(C)(1)(i) of this chapter.

- E. In the event that an employee's registration is not approved pursuant to this section, no licensee shall allow such employee to work in the licensee's sexually oriented business. (Ord. 4452 § 1 (part), 1999)

5.40.200 Inspection.

- A. An applicant or licensee shall permit representatives of the building division, the health department, the police department, and the fire department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
- B. No person shall refuse to permit such lawful inspection of the premises at any time that it is occupied or open for business. (Ord. 4452 § 1 (part), 1999)

5.40.260 Regulation of peep booths.

- A. A person who operates or causes to be operated a sexually oriented business which exhibits in a peep booth a film, videocassette, or other reproduction depicting specified sexual activities or specified anatomical areas, shall comply with the requirements of this section.
- B. The sexually oriented business shall have one or more manager's stations. A manager's station may not exceed thirty-two square feet of the floor area. No alteration in the configuration or location of the manager's station may be made without the prior approval of the licensing officer.
- C. At least one employee shall be on duty and situated at each manager's station at all times that any patron is present inside the premises.
- D. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding rest rooms. Rest rooms may not contain video display equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. The view area shall remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times, and no patron shall be permitted access to any area on the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Section 5.40.040 of this chapter.
- E. No peep booth may be occupied by more than one person at any one time.
- F. No door, screen, or other covering shall be placed or allowed to remain on any peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two adjacent peep booths.
- G. All peep booths shall be separated from other viewing booths by a solid, uninterrupted physical divider which is a minimum of one quarter inch thick and prevents any physical contact between occupants of any booth. (Ord. 4452 § 1 (part), 1999)

5.40.270 Hours of operation.

- A. No sexually oriented business shall be open for business nor shall the licensee or any employee of a licensee allow patrons on the licensed premises:
 - 1. On any Tuesday through Saturday from two a.m. until seven a.m.; and
 - 2. On any Monday other than a Monday which falls on January 1, from twelve a.m. until seven a.m.; and
 - 3. On any Sunday from two a.m. until eight a.m.; and
 - 4. On any Monday which falls on January 1, from two a.m. until seven a.m.
- B. This section shall not apply to those areas of an adult motel that are private rooms. (Ord. 4452 § 1 (part), 1999)

5.40.280 Minimum age.

- A. No person under the age of eighteen years shall be upon the premises of a sexually oriented business.
- B. No licensee or any employee of the licensee shall allow anyone under the age of eighteen years upon the premises of a sexually oriented business.
- C. The minimum age for persons conducting live, nude dancing entertainment shall be eighteen years. (Ord. 4452 § 1 (part), 1999)

5.40.290 Lighting regulations.

- A. Excluding a private room of an adult motel, adult motion picture theaters, and adult arcades, the interior portion of the premises of a sexually oriented business to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place, including peep booths, at an illumination of not less than five foot candles as measured at the floor level.
- B. Adult motion picture theaters and adult arcades shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and to provide an illumination of not less than one foot candle of light as measured at the floor level.
- C. It shall be the duty of the licensee and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises. (Ord. 4452 § 1 (part), 1999)

5.40.300 Additional regulations? Adult cabarets and adult theaters.

Any adult cabaret or adult theater shall have one or more separate areas designated as a stage in the diagram submitted as part of the application for the license. Entertainers shall perform only upon the stage. The stage shall be fixed and immovable. No seating for the audience shall be permitted within six feet of the edge of the stage. No member of the audience shall be permitted upon the stage or within six feet of the edge of the stage. (Ord. 4452 § 1 (part), 1999)

5.40.310 Adult motel regulations.

An adult motel that, in addition to the renting of private rooms, operates a sexually oriented business as otherwise defined in this chapter shall comply with all of the requirements set forth in the chapter pertaining to that business. (Ord. 4452 § 1 (part), 1999)

5.40.320 Conduct in sexually oriented businesses.

- A. No licensee, manager, or employee mingling with the patrons of a sexually oriented business, or serving food or drinks, shall be in a state of nudity. It is a defense to prosecution for a violation of this section that a licensee, manager, or employee of a sexually oriented business exposed any specified anatomical area during such person's bona fide use of a rest room, or during such person's bona fide use of a dressing room which is accessible only to the licensee, managers, and employees.
- B. No licensee, manager, or employee shall encourage or knowingly permit any person upon the premises to touch, caress, or fondle the breasts, anus, or specified anatomical areas of any person.
- C. No licensee, manager, or employee shall perform any obscene acts which simulate specified sexual activities.
- D. No live adult entertainment performances shall be visible anywhere outside of the licensed establishment. (Ord. 4452 § 1 (part), 1999)

5.40.330 Employee tips.

- A. No employee of a sexually oriented business shall receive tips from patrons, except as set forth in subsection B of this section.

- B. A licensee that desires to provide for tips from its patrons shall establish one or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the sexually oriented business into the tip box.
- C. A sexually oriented business that provides tip boxes for its patrons as provided in this section shall post one or more signs conspicuously visible to the patrons on the premises in letters at least one inch high to read as follows: "All tips are to be placed in the tip box and not handed directly to employees. Any physical contact between a patron and employees is strictly prohibited." (Ord. 4452 § 1 (part), 1999)

5.40.340 Unlawful acts.

- A. No person shall operate or cause to be operated a sexually oriented business if said person knows or reasonably should know that:
 - 1. The business does not have a sexually oriented business license; or
 - 2. The business has a license which is under suspension; or
 - 3. The business has a license which has been revoked; or
 - 4. The business has a license which has expired.
- B. No licensee, manager, or employee shall violate any of the requirements of this chapter or shall knowingly permit any patron to violate the requirements of this chapter. (Ord. 4452 § 1 (part), 1999)

5.40.400 City's remedies.

- A. Any person who fails or refuses to obey or comply with or violates any of the provisions of this chapter, upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished as provided in Section 1.12.010. Each violation or instance of noncompliance shall be considered a separate and distinct offense. Further, each day of continued violation shall be considered as a separate offense.
- B. Nothing herein contained shall prevent or restrict the city from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or to remedy any violation or noncompliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.
- C. All remedies and penalties provided for in this section shall be cumulative and independently available to the city, and the city shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law. (Ord. 4452 § 1 (part), 1999)

5.40.410 Fees.

- A. The annual fee for a sexually oriented business license, the annual manager's license fee, and the nonrefundable application fee for a sexually oriented business shall be in accordance with the schedule of fees adopted by resolution of the city council.
- B. The applicant for a sexually oriented business license shall pay a nonrefundable application fee at the time of filing the application.
- C. The applicant for a sexually oriented business license shall pay an annual license fee at the time of filing the application. If a license is not issued, the license fee shall be returned in full to the applicant.
- D. The applicant for a manager's license for a sexually oriented business shall pay an annual manager's license fee at the time of registration. If the manager's license is not issued, the manager's license fee shall be returned in full to the applicant.
- E. No application fee shall be charged on a renewal of an existing license; however, an expired sexually oriented business license and any change in ownership of a sexually oriented business shall require submission of a new application, application fee, and license fee. (Ord. 4452 § 1 (part), 1999)

Chapter 5.44

GARAGE SALES

Sections:

- 5.44.010 Definitions.**
- 5.44.020 Permitted garage sales.**
- 5.44.030 Restrictions.**
- 5.44.040 Traffic control.**
- 5.44.050 Nonprofit permit.**

5.44.010 Definitions.

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

“Garage sale” means the temporary and occasional sale of used tangible personal property belonging to either the owner or lessee of the premises from which the tangible personal property is sold or to a neighbor of the owner or lessee of said premises. “Nonprofit entity” means any entity organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. (Ord. 4545 § 1 (part), 2000)

5.44.020 Permitted garage sales.

A garage sale shall be allowed when conducted in conformity with this chapter. The property upon which a garage sale is to be conducted shall be the primary seller's premises. (Ord. 4545 § 1 (part), 2000)

5.44.030 Restrictions.

- A. It shall be unlawful for the owner or occupant of any premises to conduct a garage sale for more than seventy-two consecutive hours and to conduct more than three garage sales per calendar year, per address.
- B. No person shall place garage sale items on any right-of-way or in any manner that may impede or impair traffic visibility.
- C. Garage sale items shall be stored in an enclosed structure by sunset of each day. (Ord. 4545 § 1 (part), 2000)

5.44.040 Traffic control.

It shall be the duty of the person conducting the garage sale to ensure the free flow of traffic and pedestrians in the immediate vicinity of such garage sale so that hazardous conditions do not exist. A member of the police department shall be empowered to make a prima facie determination of whether hazardous conditions do exist so as to pose a danger to pedestrians or vehicular traffic. If such condition is determined to exist, such member of the police department shall have the authority to order the immediate cessation of the garage sale. (Ord. 4545 § 1 (part), 2000)

5.44.050 Nonprofit permit.

A nonprofit entity shall be permitted to conduct a garage sale to sell items of personal property other than those belonging solely to the owner or lessee of the premises. A nonprofit entity shall comply with all other requirements of this chapter in conducting any garage sale. (Ord. 4545 § 1 (part), 2000; Ord. 5376 § 2-4, 2008)

End Title 5