

ORDINANCE NO. 2017-27

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, AMENDING CHAPTERS 3 AND 11 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 11-100 AND RENUMBERING IT AS SECTION 11-1 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; BY RENUMBERING SECTION 11-101 AS SECTION 11-2 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; CLASSIFICATIONS; BY AMENDING SECTION 11-102 AND RENUMBERING IT AS SECTION 11-3 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; LICENSE OR PERMIT REQUIRED; BY AMENDING SECTION 11-103 AND RENUMBERING IT AS SECTION 11-4 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; LICENSE; ISSUANCE; BY AMENDING SECTION 11-104 AND RENUMBERING AS SECTION 11-5 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; ISSUANCE OF PERMIT; BY RENUMBERING SECTION 11-105 AS SECTION 11-6 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; FEES; BY RENUMBERING SECTION 11-106 AS SECTION 11-7 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; INSPECTION; BY RENUMBERING SECTION 11-107 AS SECTION 11-8 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; LICENSE; PERMIT; EXPIRATION; BY AMENDING SECTION 11-108 AND RENUMBERING IT AS SECTION 11-9 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; LICENSE SUSPENSION; BY AMENDING SECTION 11-109 AND RENUMBERING IT AS SECTION 11-10 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; REVOCATION; LICENSES; PERMITS; BY AMENDING SECTION 11-110 AND RENUMBERING IT AS SECTION 11-11 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; HEARING; JUDICIAL REVIEW; BY RENUMBERING SECTION 11-111 AS SECTION 11-12 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; LICENSE TRANSFERS; BY RENUMBERING SECTION 11-112 AS SECTION 11-13 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; ADULT MOTELS; ADDITIONAL REGULATIONS; BY AMENDING SECTION 11-113 AND RENUMBERING IT AS SECTION 11-14 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS; BY RENUMBERING SECTION 11-114 AS SECTION 11-15 PERTAINING TO SEXUALLY ORIENTED BUSINESSES; LOITERING AND EXTERIOR LIGHTING AND MONITORING

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THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-100 and renumbering it as Section 11-1 pertaining to sexually oriented businesses; definitions and which shall read as follows:

Sec. 11-100. Sexually oriented businesses; definitions

~~In this chapter~~The following terms used in Sections 11-1 through 11-19 shall mean as follows, unless the context otherwise requires:

(a) *Adult arcade*: ~~means~~ Aa commercial establishment wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per device at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(b) *Adult bookstore, Adult retail store or Adult video store*: ~~means~~ Aa commercial establishment that meets all of the following:

(1) That as a substantial or significant portion of its stock in trade offering for sale or rental, for any form of consideration, any one or more of the following: (i) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations, video disks, computer animation or computer generated imaging that depict or describe "specified sexual activities" or "specified anatomical areas"; or (ii) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities," excluding condoms and diaphragms, contraceptive inserts, contraceptive medications and other birth control or disease prevention devices prescribed by a licensed medical doctor or osteopathic doctor.

(2) That regularly excludes all minors from the premises or a section thereof because of the sexually explicit nature of the items sold, rented or displayed therein.

(c) *Adult cabaret*: ~~means~~ Aa nightclub, bar, restaurant, or similar commercial establishment which during any part of any two or more days within any continuous thirty day period features live performances or activities which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities". The term "adult cabaret" is intended to apply to businesses which emphasize and seek, through the conduct of one or more dancers or performers, to arouse or excite the patron's sexual desires. Nothing in the definition of "adult cabaret" shall be construed to apply to the presentation, showing, or performance of any play, drama, or ballet in any theater, concert hall, fine arts academy, school, institution of higher education, or other similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

(d) *Adult motel*: ~~means~~ Aa hotel, motel or similar commercial establishment that:

- (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 this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than 10 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 (10) hours.

(e) *Adult motion picture theater*: ~~means~~ Aa commercial establishment having as a substantial or significant portion of its stock, where for any form of consideration, films, motion pictures, video cassettes, slides, video disks, or similar photographic or video graphic reproductions are regularly shown as one of its business purposes and that are characterized by the depiction of specified sexual activities or specified anatomical areas. Nothing in the definition of "adult motion picture theater" shall be construed to apply to the presentation, showing or performance of any play, drama or ballet in any theater, concert hall, fine arts academy, school, institution of higher learning or other similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purposes of advancing the economic welfare of a commercial or business enterprise.

(f) *City*: ~~means~~ ¶The City of Peoria and the Deputy City Manager for Development Services or such other designee of the City Manager or their

designee charged with the administration of sections ~~11-100 through 11-118~~11-1 through 11-19.

(g) ~~Employee: means a~~Employee: An individual who is hired, engaged or authorized to perform Any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the individual is denominated an employee, independent contractor or otherwise. Employee does not include an individual exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the licensee, nor an attorney, accountant or other person whose primary function is to provide professional advice and assistance to the licensee.

(h) ~~Established or establishment: means and includes~~Established or establishment: means and includes any of the following:

- (1) The operating 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 any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

(i) ~~License: means~~License: ~~the license required by sections 11-100 through 11-118~~the license required by sections 11-100 through 11-19 as a condition to operating a sexually oriented business.

(j) ~~Licensee: means a~~Licensee: A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license.

(k) ~~Manager: means a~~Manager: means a manager of an adult arcade, an adult motel, or an adult bookstore, who is authorized and required by sections 11-100 through 11-11819 to exercise overall operational control of the business.

(l) ~~Non-porous~~Non-porous excludes any wood, plywood, composition board or other porous material.

(m) ~~Nude Model Studio: means a~~Nude Model Studio: Any place where one or more persons appear semi-nude, in a state of nudity, or displays specified anatomical area, and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted, by other persons for any form of consideration. Nude model studio does not include proprietary schools licensed by this state, colleges, community colleges or universities that are supported entirely or in part by taxation, a private college or university that maintains and operates



educational programs in which the credits are generally transferable to a college, community college or university that is supported entirely or in part by taxation or to a structure that all of the following apply:

(1) That has no signage visible from the exterior of the structure and not other advertising that indicates a nude or semi-nude person is available for viewing; and

(2) When in order to participate in a program a student must enroll at least three (3) days in advance of the class.

(n) *Nudity or a state of nudity* means:

(1) The appearance of the cleft of the buttocks, anus, male genitals, female genitals, or areola of the female breast; or

(2) A state of dress which fails to opaquely cover the cleft of the buttocks, anus, male genitals, female genitals, or areola of the female breast.

(o) *Operate or causes to be operated*: means ~~to~~ cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, manager or licensee of the business.

(p) *Permit*: means ~~the~~ permit required by sections ~~11-100 through 11-118~~11-1 through 11-19 to work as an employee or as a manager of certain sexually oriented businesses.

(q) *Person*: means ~~a~~ An individual, proprietorship, partnership, corporation, association, or other legal entity.

(r) *Sex Club*: means a business, commercial enterprise, person or entity that as one of its principal business purposes offers for any form of consideration:

(1) Physical contact between persons of the opposite sex or person of the same sex; when one or more of the person is in a state of nudity in the forms of tumbling, wrestling or other similar activities for the purpose of engaging or attempting to engage in specified sexual activities or oral sexual conduct; or

(2) Activities between male and female person and or person of the same sex when one or more of the person is in a state of nudity for the purpose of engaging or attempting to engage in specified sexual activities or oral sexual conduct.

A Sex Club shall also include a business or commercial enterprise that charges persons an admission fee or membership fee for the purposes of entry into a building or structure to view or participate in those activities set forth in subparagraphs (1) and (2) of this subsection.

(s) *Sexually oriented business*: means ~~a~~An adult arcade, adult bookstore, adult cabaret, adult motel adult motion picture theater, adult mini motion picture theater or any combination of such businesses.

(t) *Specified anatomical areas*: means:

- (1) Human genitals in a state of sexual arousal;
- (2) The appearance of the cleft of the buttocks, anus, male or female genitals, or areola of the female breast; or
- (3) A state of dress that fails to opaquely cover the cleft of the buttocks, anus, male or female genitals, or areola of the female breast.

(u) *Specified sexual activities*: ~~means and i~~ncludes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Urinary or excretory functions as part of or in connection with any activities set forth in (1) through (3) above.

(v) *Transfer of ownership or control* of a sexually oriented business means 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, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(w) *Viewing room*: means ~~t~~The room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film,

video cassette, or other video reproduction.

SECTION 2. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-101 as Section 11-2 pertaining to Sexually oriented businesses; license or permit required and which shall read as follows:

Sec. 11-404~~2~~2. Sexually oriented businesses; classifications.

Sexually oriented businesses shall be classified as follows:

- (a) Adult arcades;
- (b) Adult bookstores;
- (c) Adult cabarets;
- (d) Adult motels;
- (e) Adult motion picture theaters
- (f) Nude Model Studios
- (g) Sex Club; and
- (h) Any combination of classifications set forth in subsections (a) through (g) above.

(i) Sexually oriented businesses shall not include escorts and related businesses defined in Section 11-20.

SECTION 3. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-102 and renumbering it as Section 11-3 pertaining to Sexually oriented businesses; license or permit required and which shall read as follows:

Sec. 11-402~~3~~3. Sexually oriented businesses; license or permit required.

(a) It shall be unlawful for any person:

(1) To operate a sexually oriented business without a valid license, issued by the City for the particular type of business, except that no license shall be required of an adult bookstore that is not required to comply with Section ~~11-113~~11-14.

(2) To employ a person who does not possess a sexually oriented business employee permit as required by subsection (b) or (c) of this section or who is not authorized temporarily to work or perform services pursuant to subsection (d) of this section.

(3) To operate an adult arcade, an adult motel, adult bookstore or nude model studio operated in combination with an adult arcade or adult motel without a manager who has been issued a permit as such pursuant to the provisions of sections ~~11-100 through 11-118~~11-1 through 11-19.

(b) Except as provided in subsection (d) of this section, it shall be unlawful for any person who is an employee of an adult cabaret or a nude model studio to appear on the premises of the adult cabaret or a nude model studio in a state of nudity or in a live performance or activity that is characterized by the exposure of specified anatomical areas or by specified sexual activities, without a valid permit.

(c) Except as provided in subsection (d) of this section, it shall be unlawful for a person to be a manager of an adult arcade, adult motel, adult bookstore or a nude model studio-operated in combination with an adult arcade or an adult motel, without a valid permit.

(d) Provided that required zoning approvals have been obtained, an applicant for an employee's or manager's permit, upon receipt by the City of his or her application for a permit, shall be granted a temporary work permit to allow them to work or perform services until such time as the regular permit is granted or the decision to deny the permit becomes final pursuant to Section 11-109. Upon receipt of the applicant's completed application for a permit, the City shall issue the applicant a temporary work permit. The applicant shall keep the temporary work permit on his or her person or on the premises where the applicant is then working or performing services, and produce such permit for inspection upon request by a law enforcement officer or other authorized city official.

(e) An applicant for a license or permit shall file in person at the City an application made on a form prescribed and provided by the City. The applicant shall be qualified according to the provisions of sections ~~11-100 through 11-118~~11-1 through 11-19. The application shall be signed under oath by the applicant and notarized. The application shall include but not be limited to the information called for in paragraphs 1 through 8:

- (1) The full true name and any other names used in the preceding five (5) years.
- (2) Current residential mailing address and telephone number.
- (3) If the application is for a license, the name, business location, mailing address and phone number of the sexually oriented business.
- (4) Written proof of age, in the form of a birth certificate, current driver's license with picture, or other picture identification document issued by a governmental agency.

(5) Two (2) identical, portrait passport-quality photographs of the applicant, approximately two (2) inches by two (2) inches in size, taken within the preceding month and two (2) sets of the applicant's complete fingerprints.

(6) The issuing jurisdiction and the effective dates of any license or permit relating to a sexually oriented business, whether any such license or permit has been denied, revoked or suspended and, if so, the reason or reasons therefore.

(7) All criminal charges, complaints, information, or indictments in the preceding five (5) years which resulted in a conviction or a plea of guilty or no contest for any offense described in Section 11-4034(a)(7) and committed in this state, or any offense committed outside this state which if committed in this state would constitute an offense described in Section 11-4034(a)(7).

(8) If the application is for a license, the name and address of the statutory agent or other agent authorized to receive service of process.

The information provided pursuant to paragraphs (1) through (8) of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the City within ten (10) working days of a change of circumstances that would render the information originally submitted false or incomplete.

(f) The application for a license shall be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall 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. Applicants who are required to comply with Section 11-41311-14 shall submit a diagram meeting the requirements of Section 11-41311-14.

(g) If a person who wishes to operate a sexually oriented business is an individual, they shall sign the application for a license as applicant. Except as otherwise provided in this subsection if a person who wishes to operate a sexually oriented business is other than an individual, each officer, director, general partner or other person who will participate directly and regularly in decisions relating to management of the business shall sign the application for a license as applicant. Each applicant must be qualified under Section 11-404-5 and each applicant shall be considered a licensee if a license is granted. Attorneys, accountants and other persons whose primary function is to provide professional advice and assistance to the licensee, are not required to sign the application for a license as an applicant.

(h) A person who possesses a valid video center license or theater license is not exempt from the requirement of obtaining a license. A person who operates a sexually oriented business and possesses a video center license or theater license shall comply with the requirements and provisions of sections 11-

~~100 through 11-118~~11-1 through 11-19 and the Peoria sales tax code when applicable.

(i) The information provided by an applicant in connection with the application for a license or permit under sections ~~11-100 through 11-118~~11-1 through 11-19 shall be maintained by the City on a confidential basis, except that such information may be disclosed to other governmental agencies in connection with a law enforcement or public safety function.

SECTION 4. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-103 and renumbering it as Section 11-4 pertaining to Sexually oriented businesses; license; issuance and which shall read as follows:

Sec. ~~11-103~~11-4. Sexually oriented businesses; license; issuance.

(a) Upon filing an application, the City shall issue a temporary license that is valid for a period of sixty (60) days. The Temporary license may not be extended. The City by its ~~Management Services~~Finance Director or designee shall approve or deny the issuance of a permanent license within sixty (60) days after receipt of an application. If the City fails to approve or deny the permanent license within sixty (60) days after receipt of an application, the license shall be deemed to have been approved. The City shall approve the issuance of a permanent license unless one or more of the following is found to be true:

- (1) An applicant is under eighteen years of age.
- (2) An applicant or an applicant's spouse is delinquent in the payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business or arising out of any other business activity owned or operated by the applicant or the applicant's spouse and licensed by the City.
- (3) An applicant has failed to provide information required by sections ~~11-100 through 11-118~~11-1 through 11-19 for issuance of the license or has falsely answered a question or request for information on the application form.
- (4) An applicant or an applicant's spouse has been convicted of a violation of a provision of sections ~~11-100 through 11-118~~11-1 through 11-19, other than the offense of operating a sexually oriented business without a license, within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
- (5) The application fee required by sections ~~11-100 through 11-118~~11-1 through 11-19 has not been paid.
- (6) An applicant or the proposed establishment is in violation of or is not in compliance with ~~Sections 10-136, 10-141, 10-142, 10-143, 10-144, 10-~~

~~148, or the applicable provisions of Chapter 21 of the Peoria Zoning Ordinance City Code, including failure.~~

~~a. An applicant has failed to obtain the required permits under the Peoria Zoning Ordinance.~~

(7) An applicant or an applicant's spouse:

aA. Has been convicted of any of the following offenses if committed in this state or any offense committed outside this state that if committed in this state would constitute one of the following offenses:

As described in Chapter 14 of the Arizona Criminal Code:

1. Indecent exposure;
2. Public sexual indecency;
3. Sexual abuse;
4. Sexual conduct with a minor;
5. Sexual assault;
6. Sexual assault of a spouse;
7. Molestation of a child;

As described in Chapter 32 of the Arizona Criminal Code

8. Enticement of persons for purpose of prostitution;
9. Procurement by false pretenses of person for purpose of prostitution;
10. Procuring or placing persons in house of prostitution;
11. Receiving earnings of prostitute;
12. Causing spouse to become prostitute;
13. Taking child for purpose of prostitution;
14. Detention of persons in house of prostitution for debt;
15. Keeping or residing in house of prostitution;
16. Pandering;
17. Transporting persons for purpose of prostitution or other immoral purpose;
18. Child prostitution;
19. Prostitution;

As described in Chapter 35.1 of the Arizona Criminal Code

20. Commercial sexual exploitation of a minor;
21. Sexual exploitation of a minor;
22. Portraying adult as minor;
23. Admitting minors to public displays of sexual conduct;
24. Incest as described in Chapter 36 of the Arizona Criminal Code;

25. Prostitution and related offenses and solicitation as described in Chapter 13, of this Code;
26. Public display of explicit sexual material offensive to others;
27. Permitting minors to enter premises wherein there is displayed explicit sexual material which is offensive to others;
28. Attempt, solicitation, conspiracy, or facilitation to commit any of the foregoing offenses.

bB. For which:

1. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
2. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction whichever is the later date, if the conviction is of a felony offense; or
3. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

(b) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

(c) An applicant who has been convicted or whose spouse has been convicted of an offense listed in paragraph (7) a. of this section may qualify for a license only when the time period required by paragraph (7) b. of this section has elapsed.

(d) The license shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to that applicant, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

State Law Reference. Ch. 14, A.R.S. §13-1401, et seq. Sexual Offenses.

Ch. 32, A.R.S. §13-3201, et seq. Prostitution. Ch. 35.1, A.R.S. §13-3551, et seq. Sexual Exploitation of Children. Ch. 36, A.R.S. §13-3601, et seq. Family Offenses.



SECTION 5. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-104 and renumbering it as Section 11-5 pertaining to Sexually oriented businesses; issuance of permit and which shall read as follows:

Sec. 11-~~104~~5. Sexually oriented businesses; issuance of permit.

(a) Upon filing an application, the City shall issue a temporary permit that is valid for a period of sixty (60) days. The Temporary permit may not be extended. The City shall approve or deny the issuance of a permanent permit within sixty (60) days after receipt of an application. If the City fails to approve or deny the issuance of a permanent permit within sixty (60) days after receipt of an application, the permit shall be deemed to have been approved. The City shall approve the issuance of a permanent permit unless one or more of the following is found to be true:

- (1) The applicant is under eighteen (18) years of age.
- (2) The applicant has failed to provide information required by sections ~~11-100 through 11-118~~11-1 through 11-19 for issuance of the permit or has falsely answered a question or request for information in the application form.
- (3) The applicant has been convicted of a violation of a provision of sections ~~11-100 through 11-118~~11-1 through 11-19 within (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.
- (4) The application fee required by sections ~~11-100 through 11-118~~11-1 through 11-19 has not been paid.
- (5) The applicant has been convicted of an offense listed in Section 11-~~1034~~4(a)(7)(a). for which the time period required in Section 11-~~1034~~4(a)(7)(b). has not elapsed. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

(b) The permit shall state on its face the name of the permittee, the number of the permit issued to that applicant and the expiration date. The permit shall contain a photograph of the permittee. A permittee shall keep the permit on his or her person or on the premises where the permittee is then working, and shall produce such permit for inspection upon request by a law enforcement officer or other authorized city official.

SECTION 6. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-105 as Section 11-6 pertaining to Sexually oriented businesses; fees and which shall read as follows:

Sec. 11-~~105~~6. Sexually oriented businesses; fees.

(a) The nonrefundable application fee for a license is set in chapter 2 of this code. The nonrefundable application fee for a permit is set in chapter 2 of this code.

(b) If an applicant for a license is required by this Code to also obtain a video center license or theater license for the business at a single location, payment of the application fee for the sexually oriented business license exempts the applicant from payment of the application and license fees for the video or theater licenses. If an applicant for a license is required by this code to also obtain a film or videotape viewing device license for the business at a single location, payment of the application fees for both the sexually oriented business license and the film or videotape viewing device exempts the applicant from payment of the license fees for the film or videotape viewing device.

SECTION 7. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-106 and renumbering it as Section 11-7 pertaining to Sexually oriented businesses; inspection and which shall read as follows:

Section 11-~~106~~ 7 Sexually oriented businesses; inspection

(a) A licensee, manager or employee shall permit law enforcement officers, and any other federal, state, county or city agency in the performance of any function connected with the enforcement of sections ~~11-100 through 11-118~~11-1 through 11-19, normally and regularly conducted by such agency, to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with sections ~~11-100 through 11-118~~11-1 through 11-19, at any time after it is occupied or open for business.

(b) It shall be unlawful for a licensee, manager or employee of a sexually Oriented business to refuse to permit law enforcement officers to inspect the videotapes of monitoring to be made and maintained under Section ~~11-113~~11-14(a)(22) or to refuse to permit a law enforcement officer or any agency enumerated in subsection (a) of this section to inspect the premises at any time the premises is occupied or open for business.

(c) The provisions of this section do not apply to areas of an adult motel that are currently being rented by a customer for use as a permanent or temporary habitation.

SECTION 8. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-107 and renumbering it as Section 11-8 pertaining to Sexually oriented businesses; license; permit; expiration and which shall read as follows:

Sec. 11-~~107~~8. Sexually oriented businesses; license; permit; expiration.

Each license shall expire on December 31 and may be renewed only by making application as provided in Section 11-~~102~~3. Each permit shall expire on

December 31, and may be renewed only by making application as provided in Section 11-4023. The application shall contain the information required to be submitted with an original application provided that a renewal application need not contain information that has been provided in a previous application and has not changed since the date of the most recent application. Application for renewal of a license or permit should be made at least thirty (30) days before the expiration date, and when made less than (30) days before the expiration date, the expiration of the license will not be affected.

SECTION 9. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-108 and renumbering it as Section 11-9 pertaining to Sexually oriented businesses; license; permit; expiration and which shall read as follows:

Sec. 11-4089. Sexually oriented businesses; license suspension.

Upon a reasonable belief that any of the following items have occurred, the City shall issue a Notice and Order suspending a license for a period not to exceed thirty (30) days. The Notice and Order shall become effective within ten (10) days after issuance, unless the licensee shall have filed a request for hearing with the ~~Deputy City Manager for Development Services~~ or their designee pursuant to section 11-110.

- (1) The licensee, manager or an employee of the licensee has violated and is not in compliance with sections 11-4067, 11-44412, 11-44213, 44-44311-14, 11-44415, 11-448-19 or applicable provisions of the Peoria Zoning Ordinance.
- (2) The licensee or manager has been on the sexually oriented business premises while in an intoxicated condition or has committed disorderly conduct as defined in A.R.S. §13-2904 while on the premises of the sexually oriented business, or knowingly has permitted an employee to be on the business premises while the employee is in an intoxicated condition;
- (3) The licensee, manager or an employee of the licensee refused to allow an inspection of the sexually oriented business premises or the videotapes required to be made and maintained pursuant to Section 44-44311-14(a)(22);
- (4) The licensee, manager or an employee of the licensee knowingly permitted gambling by any person on the sexually oriented business premises.

SECTION 10. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-109 and renumbering it as Section 11-10 pertaining to Sexually oriented businesses; revocation; licenses; permits; and which shall read as follows:

Sec. 11-~~409~~10. Sexually oriented businesses; revocation; licenses; permits

(a) The ~~Deputy City Manager for Development Services~~ or designee shall file a Notice of Revocation of License by serving personally or sending in first class United States Mail to the licensee's address on file with the City if a cause of suspension in Section 11-~~408-9~~ and the license has been suspended within the preceding twelve (12) months.

(b) The ~~Deputy City Manager for Development Services~~ or designee shall file a Notice of Revocation of License if they or their designee determines that:

(1) A licensee gave false or misleading information in the application.

(2) A licensee, manager or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(3) A licensee, manager or an employee has knowingly allowed prostitution; indecent exposure; public sexual indecency or lewd and lascivious acts on the premises as defined in Chapter 14, Title 13, Arizona Revised Statutes;

(4) A licensee, manager or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended.

(5) A licensee has been convicted of an offense listed in Section 11-~~4034~~(a)(7)a. for which the time period required in Section 11-~~4034~~(a)(7)b. has not elapsed;

(6) On two (2) or more occasions within a twelve (12) month period, a person or persons while in or on the licensed premises committed an offense listed in section 11-~~4034~~(a)(7)a., for which a conviction has been obtained, and the person or persons were managers or employees of the sexually oriented business at the time the offenses were committed;

(7) A licensee, manager or an employee has knowingly allowed any act of sexual intercourse, oral sexual contact or sexual contact, including masturbation to occur in or on the licensed premises. The terms "sexual intercourse", "oral sexual contact" and "sexual contact" shall have the same meanings as defined in A.R.S. § 13-1401; or

(8) A licensee is delinquent in payment to the City of taxes or fees related to the sexually oriented business or arising out of any other business activity owned or operated by the licensee and licensed by the City.

(c) The ~~Deputy City Manager~~ or ~~their D~~designee shall file Notice of Revocation of Permit by serving personally or by first class United States mail to the Permittee's address on file with the City if they or their designee determines that:

(1) A permittee gave false or misleading information in the application; or

(2) A permittee has been convicted of an offense listed in section 11-~~4034~~(a)(7)a. for which the time period required in Section 11-~~4034~~(a)(7).b has not elapsed; or

(3) A permittee has violated a provision of sections ~~11-100 through 11-118~~11-1 through 11-19 of this code.

(d) When the City revokes a license, the revocation shall continue for one (1) year from the date the revocation became final and not subject to further appeal and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation becomes final and effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant shall be granted a license if at least Ninety (90) days have elapsed since the date the revocation became effective if the license was revoked under subsection (b)(5) of this section, an applicant will not be granted another license until the appropriate number of years required under Section 11-~~4034~~(a)(7)b. has elapsed.

(e) Upon issuance of Notice of Revocation of Permit, the Revocation shall become effective immediately upon service of the Notice. If the Licensee or Permittee requests a hearing within 10 days after the date of service of the Notice of Revocation in accordance with section 11-110 of this code, the Notice of Revocation of License or Permit shall be stayed until issuance of the decision by the hearing officer. If the City revokes a permit, the revocation shall continue for one (1) year and the permittee shall not be issued a permit for one (1) year from the date the revocation becomes effective. If the applicant's permit was revoked under subsection (c)(2) of this section, the applicant may not be granted another permit until the appropriate number of years required by section 11-~~4034~~(a)(7).b has elapsed.

(f) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(g) Subsection (b)(7) of this section does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, oral sexual contact or sexual contact to occur in a public place or within public view.

SECTION 11. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-110 and renumbering it as Section 11-11 pertaining to Sexually oriented businesses; hearing; judicial review and which shall read as follows:

Sec. 11-110. Sexually oriented businesses; hearing; judicial review.

(a) If the ~~Deputy City Manager for Development Services~~ or Designee determines that grounds exist for denial, suspension, or revocation of a license or permit under sections ~~11-100 through 11-118~~11-1 through 11-19 of this code, they shall notify applicant, licensee or permittee (respondent) as provided for in section 11-109, including a summary of the grounds therefor. Within ten (10) working days of receipt of such notice, the respondent shall provide to the ~~Deputy City Manager for Development Services~~ or Designee in writing a response which shall include a statement of reasons why the license or permit should not be denied, suspended, or revoked and may include a request for a hearing. If:

(1) A response is not received by the ~~Deputy City Manager for Development Services~~ or Designee in the time stated, the ~~Deputy City Manager for Development Services~~ or Designee within five (5) business days after the expiration of the time stated shall issue a final order denying, suspending or revoking the license or permit.

(2) Within five (5) working days after receipt of a response, the ~~Deputy City Manager for Development Services~~ or Designee shall transmit the Notice of Revocation, the summary of grounds and the response to the City's sales tax hearing officer who shall hear the matter as a licensing hearing officer. The hearing officer shall:

aA. Set within 20 working days after receipt of the matter a hearing.

bB. Send notification to the ~~Deputy City Manager for Development Services~~ or Designee and respondent in writing by certified mail or any other means under the Arizona Rules of Civil Procedure, Rule 4, calculated to provide adequate notice of the date, time and place of the hearing.

(3) The hearing shall be conducted in an informal manner. The respondent may be represented by counsel. The technical rules of evidence shall not apply and any evidence deemed relevant and probative may be admitted. The hearing officer shall render a written decision within ten (10) working days after completion of the hearing and shall mail a copy of the decision in the manner provided in subsection (2)b. to the ~~Deputy City Manager for Development Services~~ or Designee and to the address of the respondent on file with the City.

(db) In the event that more than forty-five (45) days elapse between receipt by the City of a request for a hearing and issuing by the hearing officer of a final decision to the respondent and city without a stipulated extension of time approved by the hearing officer, a decision in favor of the respondent shall be deemed to have been rendered.

(c) The ~~Deputy City Manager for Development Services~~ or Designee may at any time withdraw the denial or notice of revocation or suspension of permit

or license, in which case an appeal shall be deemed to be dismissed and the matter moot.

(d) When the decision to deny, suspend or revoke a license or permit becomes final, the respondent shall have the right to seek judicial review of the decision by way of special action or other available procedure in the superior court. Upon filing of such a special action, the decision of the hearing officer shall be deemed to be stayed until final disposition by the superior court. Should an appeal be taken, the respondent may request a stay in the manner provided by the Arizona Rules of Civil Appellate Procedure. If the respondent fails to file a request for judicial review within thirty (30) days after the decision to deny, suspend or revoke became final, there shall be no stay of the ~~Deputy City Manager for Development Services or Designee's~~ decision, unless provided for by the Superior Court.

SECTION 12. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-111 as Section 11-12 pertaining to Sexually oriented businesses; license transfers and which shall read as follows:

Sec. 11-~~444~~12. Sexually oriented businesses; license transfers.

A licensee shall not transfer their license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

SECTION 13. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-112 and renumbering it as Section 11-13 pertaining to Sexually oriented businesses; adult motels; additional regulations and which shall read as follows:

Sec. 11-~~442~~13. Sexually oriented businesses; adult motels; additional regulations.

(a) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in sections ~~11-100 through 11-118~~11-1 through 11-19 of this code.

(b) It shall be unlawful for a person who is in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license to rent or subrent a sleeping room to a person and, within ten (10) hours from the time the room is rented, rent or subrent the same sleeping room again.

(c) For purposes of subsection (b) of this section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

SECTION 14. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-113 and renumbering it as Section 11-14 pertaining to Sexually oriented businesses; regulations pertaining to exhibition of sexually explicit films or videos and which shall read as follows:

Sec. 11-~~443~~14. Sexually oriented businesses; regulations pertaining to exhibition of sexually explicit films or videos.

(a) A sexually oriented business other than an adult motel, that exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Each application for a license shall contain a diagram of the premises showing the location of all ~~manager's~~ managers' stations, viewing rooms, lighting fixtures, video cameras and monitors installed for monitoring purposes, and restrooms, and shall designate all portions of the premises where patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place where the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the premises to an accuracy of plus or minus six inches. The ~~Deputy City Manager for Development Services~~ may waive the foregoing for renewal applications 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.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station or viewing room may be made without an amendment to the plans on file with the city.

(4) It shall be the duty of the licensee, manager and of any employees to ensure that the sexually oriented business, other than other an adult motel to ensure that the sexually oriented business operates only from the hours of 7:00 a.m. to 1:00 a.m..

(5) It shall be the duty of the licensee, manager and of any employees present on the premises, to ensure that each viewing room is visible from a continuous main aisle and remains unobstructed by any doors, curtains, walls, display racks or other materials or enclosures at all times that any patron is present in the premises and to ensure that no patron is permitted



access to any area of the premises which has been designated in the application filed pursuant to subsection (a)(1) of this section as an area in which patrons will not be permitted. The provisions of this paragraph shall not apply to any sexually oriented business that is required or elects to comply with the provisions of subsection (a) (23) of this section.

(6) The interior premises, with the exception of any viewing rooms and the aisles contiguous to each viewing room, shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place that patrons are permitted access at an illumination of not less than one (1.0) foot candle as measured at the floor level. Each viewing room and the aisles contiguous to such viewing room shall be illuminated with lighting fixtures of sufficient intensity to provide an illumination of not less than three-fourths (.75) foot candle as measured at three (3) feet above floor level. It shall be the duty of the licensee, manager and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is open for business.

(7) It shall be the duty of the licensee, manager, and of any employees present on the premises, to ensure that no act of sexual intercourse, oral sexual contact or sexual contact, including masturbation as defined in A.R.S. §13-1401, occurs in or on the licensed premises.

(8) It shall be the duty of the licensee, manager, and of any employees present on the premises, to ensure that not more than one person is present in a viewing room designed for one person at any time. No person shall enter a viewing room that is occupied by another person, unless the sexually oriented business is licensed to have such rooms and then only those designated rooms.

(9) It shall be the duty of the licensee, manager and of any employees present on the premises, to ensure that no openings of any kind exist between viewing rooms. No person shall make or attempt to make an opening of any kind between viewing rooms.

(10) It shall be the duty of the licensee, manager or of any employee, who discovers two or more patrons in a viewing room or discovers any person making or attempting to make an opening of any kind between viewing rooms, to immediately escort such persons from the premises.

(11) It shall be the duty of the licensee, manager or of any employee, who discovers an opening of any kind between viewing rooms to immediately secure such rooms, and prevent entry into them by any patron until such time as the wall between the rooms has been repaired to remove the opening. Removal and repair of openings between viewing rooms shall be of a wall that is as structurally substantial as the original wall construction.

(12) It shall be the duty of the licensee, manager and of any employee on the premises, during each business day, to regularly inspect the walls between viewing rooms for openings of any kind.

(13) It shall be the duty of the licensee, manager and of any employee on the premises to initiate and enforce a no loitering policy in viewing rooms.

(14) It shall be the duty of the licensee to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

aA. That no loitering is permitted in viewing rooms.

bB. That the occupancy of viewing rooms, unless specifically indicated otherwise is limited to one person.

cC. That sexual intercourse, oral sexual contact and sexual contact, including masturbation on the premises is prohibited.

dD. That the making of openings between viewing rooms is prohibited.

eE. That violators will be required to leave the premises.

fF. That violations of subsections b, c and d of this subsection (14) are unlawful.

(15) It shall be the duty of the licensee to ensure that floor coverings in viewing rooms are non-porous, easily cleanable surfaces, with no rugs or carpeting.

(16) It shall be the duty of the licensee to ensure that all wall surfaces and seating in viewing rooms, or any room or area providing patron privacy are constructed of, or permanently covered by, non-porous, easily cleanable material.

(17) It shall be the duty of the licensee to ensure that premises are clean and sanitary at all times. Cleaning procedures shall include all of following:

aA. The licensee shall maintain a regular cleaning schedule, documented by appropriate logs, and shall employ sufficient personnel to assure that the establishment is clean.

bB. The licensee shall provide an employee to check all areas for garbage, trash, body fluids and excrement and to remove and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least twice each week. Prior to collection, solid waste shall be stored in a manner that prevents

access by animals or members of the public and that will not facilitate the creation of a health nuisance.

eC. Thorough cleaning of the entire interior of any room providing patron privacy shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, and windows and other surfaces.

(18) It shall be the duty of the licensee to ensure any seating within a viewing room is designed so as to accommodate one person only, unless the room is so designated on the plan submitted to the City.

(19) It shall be the duty of the licensee to provide in a conspicuous place on the premises free information relating to the prevention of sexually transmitted diseases, including HIV, Herpes, Chlamydia and such other sexually transmitted diseases as may be defined by the Arizona Department of Health Services.

(20) It shall be unlawful for the licensee, manager and or any employees present on the premises to knowingly permit an individual who is a registered sex offender subject to community notification pursuant to A.R.S. §13-3825 and prohibited as a condition of probation imposed by any court to be on the premises of the business.

(21) It shall be the duty of the licensee to post in a conspicuous place on the premises level three community notifications of sex offenders made pursuant to A.R.S. §13-3826 and issued by the Peoria Police Department.

(22) It shall be the duty of the licensee, manager and or any employees present on the premises to monitor the number of occupants in a viewing room. Monitoring shall be accomplished by one of the following methods:

aA. The licensee shall designate one or more employees to monitor the number of occupants in each viewing room by visually inspecting the interior of each viewing room on the premises at least once every thirty (30) minutes. A designated employee shall be on the premises at all times the sexually oriented business is open to the public. The licensee shall make a record of the monitoring required by this subsection by use of video cameras and video recorders. The video cameras and video recorders shall be operated continuously at all times that the premises is open for business. The licensee shall make or cause to be made a videotape of such monitoring that shall provide a constant date and time display. The licensee shall maintain and, upon request shall make available to law enforcement officers for inspection and copying the most recent ~~thirtyseveny-two (3072)~~ days~~hours~~ of videotape of the monitoring required by this subsection. Law enforcement officers may use and view videotapes of monitoring for law enforcement purposes only. The videotapes shall be returned

to the licensee within fifteen (15) business days after delivery to the law enforcement officers unless the videotapes are required as evidence. If the videotapes are required as evidence, the law enforcement officers shall make a copy of the videotapes for the licensee upon the licensee's request. If a video or video recorder is not in operation for any reason, then it shall be the duty of the licensee, manager and any designated employee to immediately secure each viewing room monitored by such equipment and prevent entry into the viewing room by any patron until such time as the equipment is repaired and fully operational; or

bB. The licensee shall designate one or more employees to monitor the number of occupants in a viewing room by use of video cameras, video recorders and monitors that provide an ability to inspect the interior of each viewing room on the premises. A designated employee shall be on the premises at all times the business is open to the public. The monitors shall be installed within a manager's station of thirty-two (32) square feet or less of floor area. The video cameras, recorders and monitors shall be operated continuously at all times that the premises is open for business. The licensee shall keep a record of the monitoring required by this subsection by making or causing to be made a videotape of such monitoring that shall provide a constant date and time display. The licensee shall maintain and, upon request, shall make available to law enforcement officers for inspection and copying the most recent ~~thirtyseventy-two (7230) days~~ hours of videotape of the required monitoring. Law enforcement officers may use and view the videotapes of monitoring for law enforcement purposes only. The videotapes shall be returned to the licensee within fifteen (15) business days after delivery to the law enforcement officers, unless the videotapes are needed as evidence. If the videotapes are needed as evidence, the law enforcement officer shall make a copy of the videotapes for the licensee upon the licensee's request. If a video camera, monitor or recorder is not in operation for any reason, then it shall be the duty of the licensee, manager and any designated employee to immediately secure each viewing room monitored by such equipment and prevent entry into the viewing room by any patron until such time as the equipment is and fully operational.

cC. The provisions of subsection (22) shall not apply to any sexually oriented business that is required or elects to comply with the provisions of subsection (23).

(23) 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 including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. A manager's station shall not exceed thirty-two (32) square feet of floor area.

If the premises has two (2) 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 paragraph must be by direct line of sight from the manager's station. It is the duty of the licensee to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is on the premises. It shall be the duty of the licensee, manager and of any employees present on the premises to ensure that the view area specified in this paragraph remains unobstructed by any doors, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises; and to ensure that no patron is permitted access to any area of the premises that has been designated in the application filed pursuant to subsection (1).

(b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

State Law Reference. A.R.S. §13-1421. Sexually Oriented Business, hours of operation.

SECTION 15. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-114 as Section 11-15 pertaining to Sexually oriented businesses; loitering and exterior lighting and monitoring requirements and which shall read as follows:

Sec. 11-11415. Sexually oriented businesses; loitering and exterior lighting and monitoring requirements.

(a) It shall be the duty of the licensee of a sexually oriented business to:

(1) Initiate and enforce a no loitering policy within the external boundaries of real property upon which the sexually oriented business is located;

(2) post conspicuous signs stating that no loitering is permitted on such property;

(3) designate one or more employees to monitor the activities of persons on property by visually inspecting such property at least once every thirty (30) minutes or inspecting such property and each room capable of being occupied by one or more persons therein by use of video cameras and monitors;

(4) provide adequate lighting of the exterior premises to provide for video inspection or video monitoring to prohibit loitering. The video cameras and monitors shall operate continuously at all times that the premises is open for business. The monitors shall be installed within a manager's station.

(b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

SECTION 16. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-115 and renumbering it as Section 11-16 pertaining to Sexually oriented businesses; Sex Clubs; abatement violations; penalties and which shall read as follows:

Sec. 11-~~445~~16. Sexually oriented businesses; Sex Clubs; abatement violations; penalties.

(a) It shall be unlawful for any person or entity to operate and maintain a sex club in the City.

(b) Operation of a Sex Club business is a public nuisance per se, which may be abated by all means authorized by law, including a civil abatement action in the Municipal Court.

(1) The City Attorney in the name of the City may petition the Municipal Court for an order permitting the City to abate violations of this Section. Persons violating this section shall be designated as the respondent. Copies of the petition shall be served on the Respondent(s) in the manner provided for civil summons under the Arizona Rules of Civil Procedure

(2) After filing a responsive pleading by the respondent, the Municipal Court shall hold a hearing and take evidence as to whether the provisions of this section are being violated.

(3) If at the conclusion of the hearing, the Municipal Court determines that a Sex Club is being operated in the City in violation of this section, an order shall be entered authorizing the city to abate the violation by closing the business. A copy of the order shall be delivered to the operator of the business and mailed to the owner of the property upon which the business is located and shall be posted upon the property where the business is located.

(c) A person who violates any provision of sections ~~11-100 through 11-418~~11-1 through 11-19 is guilty of a class one misdemeanor.

SECTION 17. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-116 and renumbering it as Section 11-17 pertaining to Sexually oriented businesses; abatement; injunction and which shall read as follows:

Sec. 11-~~416~~17. Sexually oriented businesses; abatement; injunction.

(a) — The operation of a sexually oriented business without a valid license shall constitute a violation of sections ~~11-100 through 11-118~~11-1 through 11-19 of this code shall constitute a nuisance and a person who operates or causes to be operated such business shall be:

(~~4~~a) Subject to a suit for injunctive relief as well as prosecution for criminal violations; or

(~~2~~b) In the alternative, the City Attorney may file an action in the Municipal Court in the same manner as other civil actions are filed under the Arizona Rules of Civil Procedure to abate the nuisance arising out of violation of the ordinance, as well as prosecution for criminal violations.

SECTION 18. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-117 and renumbering it as Section 11-18 pertaining to Sexually oriented businesses; applicability to existing businesses and which shall read as follows:

Sec. 11-~~117~~18. Sexually oriented businesses; applicability to existing businesses.

Except as otherwise provided in Section ~~11-113~~11-14, the provisions of sections ~~11-100 through 11-118~~11-19 shall apply to the activities of all persons and sexually oriented businesses described herein, whether such businesses or activities were established or commenced before, on or after the effective date of this section.

SECTION 19. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-118 as Section 11-19 pertaining to Sexually oriented businesses; regulations pertaining to nudity or live performances and which shall read as follows:

Sec. 11-~~118~~19. Sexually oriented businesses; regulations pertaining to nudity or live performances.

(a) A sexually oriented business that features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities shall be operated in accordance with the following requirements. It is unlawful for a licensee or employee to knowingly fail to ensure compliance with these requirements:

(1) A person shall not appear in a state of nudity or engage in a live performance that is characterized by the exposure of specified anatomical areas or by specified sexual activities except upon a stage elevated at least eighteen (18) inches above floor level. All parts of the stage in which the person appears in a state of nudity or performs, shall be a distance of at least three (3) feet from all parts of a clearly designated area where patrons may be present. The stage or designated area thereof shall be separated from the area in which patrons may be located by a barrier or railing the top

of which is at least three (3) feet above floor level. No person appearing in a state of nudity or engaging in such live performances or patron may extend any part of his or her body over or beyond the barrier or railing.

(2) An employee may not touch the breast, buttocks, or genitals of a patron nor may a patron touch the breast, buttocks, or genitals of an employee.

(3) A patron may not place any money on the person or in or on the costume of an employee.

(4) A person under the age of eighteen (18) years may not observe or appear in a state of nudity or in such live performances on the premises of a sexually oriented business.

(5) A sexually oriented business that features persons who appear in a state of nudity, live performances or nude modeling that are characterized by the exposure of specified anatomical areas or by specified sexual activities shall not require any patron to remove any article of clothing as a condition to performing such acts or to require any patron to consent to the person performing in a state of nudity, live performance or nude modeling touching the patron's breast, buttocks, or genitals prior to such performance.

(6) A sign, in a form to be prescribed by the City and summarizing the provisions of subsections (1),(2),(3),(4) and (5) of this section, shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry.

SECTION 20. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-20 pertaining to Definitions and which shall read as follows:

Sec. 11-20. Definitions.

As the following terms are used in Sections 11-21 through 11-38, unless the context otherwise requires,

(a) *Applicant:* The person applying for a license pursuant to this .

(b) *Designated agent:* The individual designated by the applicant to receive City notices pursuant to Sections 11-21 through 11-38.

(c) *Employed:* The state of being hired, engaged or authorized to provide any service on a full time, part time, or contract basis, whether the individual is denominated an employee, independent contractor or otherwise, and whether the individual is compensated.



(d) Escort: Any person who for monetary consideration in the form of a fee, commission or salary, is held out to the public as available for hire to consort with or to accompany another or others to social affairs, places of amusement or entertainment, within any place of public resort, or within any private quarters.

(e) Escort bureau: Any person who for a fee, commission, profit, payment or other monetary consideration, furnishes, refers, or offers to furnish or refer escorts, or provides, or offers to introduce, patrons to escorts.

(f) Escort bureau runner: Any person, not an escort, who for a salary, fee, hire, reward, or profit, as the agent for either an escort bureau or a patron, contacts or meets with escort patrons or escort bureaus at any location other than the established open office, as defined hereunder, whether that person is employed by the escort bureau or any business, or is self-employed.

(g) Licensee: A person who is the holder of a valid license under this ordinance. A licensee includes an agent, servant, employee or other person while acting on behalf of that licensee whenever such licensee is or would be prohibited from doing or performing an act or acts under this title.

(h) Manager: An individual authorized by the licensee to exercise overall operational control of the business, to supervise employees, or to fulfill any of the functions required of a manager by Sections 11-21 through 11-38.

(i) Offer to provide acts of sexual conduct: To offer, propose or solicit to provide sexual conduct to a patron, including all conversations, advertisements and acts that would lead a reasonably prudent person to conclude that such acts were to be provided.

(j) Open office: An office at the licensed escort bureau address from which escort business is transacted. To qualify as an open office it is required that:

(1) Business hours be established and posted and that the office be open to the public and patrons or prospective patrons during such business hours and that the office be accessible to business invitees, business license officials and law enforcement officers through a security system during all other hours that escorts are working.

(2) The office be managed by the owner or a manager of the owner having authority to bind the bureau to escort and patron contracts and adjust patron and consumer complaints.

(3) All telephone lines and numbers listed to the escort bureau, or advertised as escort bureau numbers, must be on file with the Police Department.

(4) An index of all employees and escorts be kept in the open office.

- (5) All business records be kept in the open office including records of escort calls and referrals, stating the name and address, including hotel or motel room, of the patron, the date and time of referral, name of escort sent and whether the referral resulted in an escort service and the total fee received from the patron, if any.
- (6) The business license be posted in a conspicuous place to patrons upon entry.
- (k) *Person*: Any individual, firm, partnership, corporation or association of any kind.
- (l) *Person financially interested*: For a corporation, any person who is an officer or a director or any shareholder holding more than five percent of the shares thereof; and for a noncorporate business any person who shares in any financial gain attributable to the business as a proprietor or owner or on the basis of a percentage in excess of five percent of gross or ten percent of net revenue.
- (m) *Sexual conduct*: Engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttock or female breast of a person for the purpose of arousing or gratifying sexual desire of another person.
- (n) *Sexually-oriented escort*: An escort for whom any of the following are true:
- (1) Employs an escort bureau runner as an employee, agent, or independent contractor.
  - (2) Works for, as an agent, employee or independent contractor, or is referred to a patron by, a sexually-oriented escort bureau.
  - (3) Advertises that sexual conduct will be provided, or works for as an agent, employee or independent contractor, or is referred to a patron by, an escort bureau that so advertises.
  - (4) Solicits offers to provide acts of sexual conduct.
  - (5) Accepts a solicitation or offer to provide acts of sexual conduct for a fee in addition to the fee charged by the escort bureau.
- (o) *Sexually-oriented escort bureau*: An escort bureau for which any of the following are true:
- (1) Engages in advertising to make the prospective patron believe that acts of sexual conduct or sexual stimulation will be provided.

- (2) Uses as escorts persons known to have been convicted of any offense in Chapter 32 (Prostitution) of Title 13, Arizona Revised Statutes or of the same or similar offense in another state or jurisdiction, within the previous five years.
- (3) Does not maintain an open office.
- (4) Employs as an employee, agent or independent contractor, or uses an escort bureau runner.
- (5) Advertises that sexual conduct will be provided or that escorts that provide such sexual conduct will be provided, referred, or introduced to a patron.
- (6) Solicits offers to provide acts of sexual conduct.
- (7) Employs, contracts with or provides or refers escorts who do not possess escort identification cards as required herein.
- (8) Does not deliver contracts to every patron or customer.
- (9) Employs, contracts with, or refers or provides to a patron, a sexually-oriented escort.
- (p) *Sexual stimulation*: To excite or arouse the prurient interest or to offer or solicit acts of sexual conduct as defined under "offer to provide acts of sexual conduct."

SECTION 21. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-21 pertaining to Nonprofit corporations or organization exemptions and which shall read as follows:

Sec. 11-21. Nonprofit corporation or organization exemptions.

An organization that is qualified for exemption from taxation of income under A.R.S. § 43-1201(1), (2), (4), (5), (6), (7), (10) or (11), and all professions, occupations and businesses that are licensed by the State of Arizona or any political subdivision thereof pursuant to a specific statute or ordinance, and all employees employed by a business so licensed, and that perform an escort or escort bureau function as a service merely incidental to the primary function of such organization, profession, occupation or business and that do not hold themselves out to the public as an escort or escort bureau, are exempt from licensing pursuant to Sections 11-20 through 11-38. Any employment agency licensed by the State that provides escorts as defined herein must, however, obtain a license as required by Sections 11-20 through 11-38.

SECTION 22. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-22 pertaining to Escort bureau, license required; adult cabaret exception and which shall read as follows:

Sec. 11-22. Escort bureau, license required; adult cabaret exception.

(a) It shall be unlawful for any person to work or perform services as, conduct, manage, operate, or maintain an escort bureau unless licensed pursuant to Sections 11-20 through 11-38.

(b) It shall be unlawful for any person to operate a business that has been licensed under Sections 11-20 through 11-38 while the license for that business is suspended.

(c) It shall be unlawful for any person to work or perform services as, conduct, operate, manage, or maintain a sexually-oriented escort bureau, regardless of license.

(d) It shall be unlawful to operate an escort bureau that has not been issued a separate license for each location at which the escort bureau conducts business or advertises.

(e) It shall be unlawful to knowingly employ an escort with a revoked identification card.

(f) Notwithstanding any other provision of Sections 11-20 through 11-38, any person issued a sexually-oriented business license to operate an adult cabaret pursuant to Sections 11-1 through 11-19 is exempt from the requirements of Sections 11-20 through 11-38 for those licensed activities while that license is valid and unsuspended.

SECTION 23. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-23 pertaining to Escorts; identification card issuance; revocation; appeal; information update and which shall read as follows:

Sec. 11-23. Escorts; identification card issuance; revocation; appeal; information update.

(a) An applicant for an escort identification card shall file an application with the Police Department on a form prescribed by the Police Department for that purpose and shall provide the following information:

(1) Full true name and all aliases.

(2) Current mailing address.

(3) Height, weight and color of hair and eyes.

- (4) Date of birth and written proof of age in the form of a current driver's license with photograph, or other current picture identification document issued by a governmental agency.
- (5) A statement as to whether the applicant has been convicted of any offense in Chapter 32 (Prostitution) of Title 13, Arizona Revised Statutes, or of the same or similar offense in another state or jurisdiction, within the previous five years.
- (6) Whether the applicant has an outstanding arrest warrant.
- (7) Signature of applicant.
- (8) One digital photograph of the applicant taken by the City at the time of application.
- (9) A notarized statement in a form prescribed by the City that the applicant is authorized to work for the designated licensed escort bureau.
- (b) The application shall be approved unless the applicant has:
- (1) Not reached the age of eighteen years.
  - (2) Not paid the application fee.
  - (3) Been convicted of an offense listed in Subsection (a) within the previous five years.
  - (4) Not completed the application as required by Sections 11-20 through 11-38.
  - (5) Given false or misleading information in the application or in an earlier-filed application within the previous five years.
  - (6) An outstanding arrest warrant issued on an underlying charge relating to prostitution or a similar offense, in this or any other state.
  - (7) Applied for an identification card for an escort bureau with a suspended or revoked license.
- (c) If the application is denied, the Police Department shall provide notice pursuant to Section 11-24.
- (d) The applicant may appeal a notice of denial by filing a notice of appeal pursuant to Section 11-24.

(e) An identification card shall be revoked under the following circumstances:

(1) The applicant failed to pay the application fee.

(2) The applicant gave false or misleading information in the application.

(3) The applicant has been convicted of an offense listed at Subsection (a) within the five year period prior to the date of application.

(4) The applicant has been convicted of an offense listed at Subsection (a) subsequent to the issuance of the identification card.

(5) An escort bureau license in the name of the escort has been revoked within the previous five years.

(6) The applicant is a sexually-oriented escort.

(7) The license of the escort bureau for which the identification card was issued has been revoked or terminated.

(f) If the identification card is revoked, the Police Department shall provide notice pursuant to Section 11-24.

(g) The identification card holder may appeal a notice of revocation by filing an appeal pursuant to Section 11-24.

(h) An identification card revoked pursuant to this Section shall be surrendered to the Police Department upon demand at the conclusion of the administrative case or any appeal taken.

(i) Any change in the information required to be submitted pursuant to this Section, or any conviction of an offense listed in Subsection (a) subsequent to the date of application shall be reported to the Police Department on a form prescribed by the Police Department for that purpose within ten calendar days of the change or the conviction.

SECTION 24. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-24 pertaining to Escorts; notice; appeal; hearing; judicial review and which shall read as follows:

Sec. 11-24. Escorts; notice, appeal; hearing; judicial review.

(a) If the City Manager or designee determines that grounds exist for denial, suspension, or revocation of a license or escort identification card prescribed under Sections 11-20 through 11-38, they shall notify the applicant or licensee (respondent) in writing either by hand-delivery or by certified mail to the

address as shown on the application, or otherwise more recently of record. The cause for such action shall be set forth in the notice. Service by mail shall be complete five calendar days after mailing.

(b) Within ten (10) working days of receipt of such notice, the respondent may provide to the City Manager or designee in writing a notice of appeal which shall include a statement of reasons why the license or identification card should not be denied, suspended, or revoked and may include a request for a hearing. If:

(1) An appeal is not received by the City Manager or designee in the time stated, the City Manager or designee within five (5) business days after the expiration of the time stated shall issue a final order denying, suspending, or revoking the license or identification card.

(2) Within five (5) working days after receipt of an appeal, the City Manager or designee shall transmit the notice and the appeal to the City's sales tax hearing officer, who shall hear the matter as a licensing hearing officer. The hearing officer shall:

A. Set within 20 working days after receipt of the matter a hearing.

B. Send notification to the City Manager or designee and respondent in writing by certified mail or any other means under the Arizona Rules of Civil Procedure, Rule 4, calculated to provide adequate notice of the date, time and place of the hearing.

(3) The hearing shall be conducted in an informal manner. The respondent may be represented by counsel. The technical rules of evidence shall not apply and any evidence deemed relevant and probative may be admitted. The hearing officer shall render a written decision within ten (10) working days after completion of the hearing and shall mail a copy of the decision in the manner provided in Subparagraph (a)(2)B to the City Manager or designee and to the address of the respondent on file with the City.

(c) In the event that more than forty-five (45) days elapse between receipt by the City of a request for a hearing and issuing by the hearing officer of a final decision to the respondent and City without a stipulated extension of time approved by the hearing officer, a decision in favor of the respondent shall be deemed to have been rendered.

(d) The City Manager or designee may at any time withdraw the denial or notice of revocation or suspension, in which case an appeal shall be deemed to be dismissed and the matter moot.

(e) When the decision to deny, suspend, or revoke a license or identification card becomes final, the respondent shall have the right to seek judicial

review of the decision by way of special action or other available procedure in the superior court. Upon filing of such a special action, the decision of the hearing officer shall be deemed to be stayed until final disposition by the superior court. Should an appeal be taken, the respondent may request a stay in the manner provided by the Arizona Rules of Civil Appellate Procedure. If the respondent fails to file a timely request for judicial review, there shall be no stay of the City Manager or designee's decision, unless provided for by the Superior Court.

SECTION 25. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-25 pertaining to License and identification card term; nontransferability and which shall read as follows:

11-25. License and identification card term; nontransferability.

(a) A license issued pursuant to the provisions of Sections 11-20 through 11-38 shall expire at midnight on December 31 of the year of application provided that a license approved by the Police Department on or after the fifth business day of October of any calendar year shall expire at midnight on December 31 of the following year. All licenses issued pursuant to Sections 11-20 through 11-38 are non-transferable.

(b) An escort identification card shall expire on the expiration date of the license of the escort bureau for which it was issued. The expiration date to be used shall be the expiration date of the escort bureau license on the date of application for the identification card.

(c) All identification cards issued pursuant to Sections 11-20 through 11-38 are non-transferable.

SECTION 26. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-26 pertaining to Application for escort bureau license; contents; required fees and which shall read as follows:

Sec. 11-26. Application for escort bureau license; contents; required fees.

(a) An applicant for an escort bureau license shall file an application with the Police Department accompanied by a nonrefundable application fee paid to the Finance Department described in Section 11-35.

(b) The application shall contain the following information about the applicant, any person financially interested in the activity to be licensed, any authorized local agents, the designated agent, and any manager of the business:

(1) The full legal name, business trade names or styles, business phone number, legal form of applicant, current residential phone number, and current residential or legal address.



- (2) Each residence and business address for the five-year period immediately preceding the date of filing of the application and the inclusive dates of each such address.
- (3) Written proof in the form of a current driver's license with picture, or other current picture identification document issued by a governmental agency, that the individual has reached the age of eighteen years.
- (4) Height, weight, color of eyes and hair and date of birth.
- (5) One digital photograph taken by the city at the time of application.
- (6) The business, occupation or employment history for the five-year period immediately preceding the date of the filing of the application.
- (7) Information as to whether such individual or business has ever been refused any similar license or permit or has had any similar license or permit issued to such individual or business in the City of Peoria or elsewhere revoked or suspended, and the reason or reasons therefor.
- (8) All prior criminal convictions, excepting minor traffic offenses, and warrants issued for the arrest of the applicant.
- (9) Fingerprints.
- (10) If the applicant is a person other than an individual, the applicant shall designate one of its officers, members or partners to act as its designated agent. The designated agent shall complete and sign all application forms required of an applicant under Sections 11-20 through 11-38.
- (11) A description of any service to be provided together with a declaration that the services to be provided shall not involve those of a sexually-oriented escort or escort bureau.
- (12) The name, identification card number and all other names under which the escort is providing services for the escort bureau for each person employed as an escort.
- (13) All telephone numbers that the escort bureau is using or under which the escort bureau is doing business or advertising.
- (14) All business names, trade names or fictitious names under which the escort bureau is doing business or advertising.
- (c) The Police Department shall have a reasonable period of time in which to investigate the application and background of the applicant and process the application through various City departments.

(d) The Police Department shall grant the license upon the following circumstances:

(1) The required fees have been paid.

(2) The application conforms in all respects to the provisions of Sections 11-20 through 11-38.

(3) The applicant has not recklessly or knowingly made any false or misleading material statement in the application, for a period of one year after making the false or misleading statement.

(4) That neither the applicant, if an individual, nor any person financially interested if a corporation, nor any of the partners, including limited partners, nor the holder of any profit interest, nor the manager or other person principally in charge of the operation of the existing or proposed escort bureau, nor the designated agent, nor any individual employed or contracted with to be an escort or to provide escort services has been convicted of, pleaded nolo contendere to or guilty to any felony, or to a misdemeanor involving moral turpitude, within five years prior to the issuance of the license. This Section shall be inapplicable to an individual whose civil rights have been restored in accordance with law, unless the conviction involves a criminal violation of Sections 11-20 through 11-38.

(5) The applicant has not had a license similar to the one issued pursuant to the provisions of Sections 11-20 through 11-38 issued by another authority, suspended or revoked within the five-year period immediately preceding the date of the filing of the application.

(6) The escort bureau is in compliance with all applicable laws of the City of Peoria, Maricopa and Yavapai Counties, and State.

(7) The applicant, manager, designated agent, or other person principally in charge of the operation of the business is at least eighteen years of age.

(8) The applicant has not had a license issued pursuant to Sections 11-20 through 11-38 suspended or revoked within the five-year period immediately preceding the date of filing of the application.

(9) Subject to paragraphs (10) and (11) of this Subsection (d), the applicant has not been convicted of any of the following offenses under Arizona law or any offense committed under the laws of another state which would constitute one of the following offenses described in Arizona Revised Statutes, title 13, chapters 14, 32, 35 and 35.1, as amended:

- A. Indecent exposure.
- B. Public sexual indecency; public sexual indecency to a minor.
- C. Sexual abuse.
- D. Sexual conduct with a minor.
- E. Sexual assault.
- F. Sexual assault of a spouse.
- G. Molestation of child.
- H. Continuous sexual abuse of a child.
- I. Enticement of person for purpose of prostitution.
- J. Procurement by false pretenses of person for purposes of prostitution.
- K. Procuring or placing persons in house of prostitution.
- L. Receiving earnings of prostitute.
- M. Causing spouse to become prostitute.
- N. Taking child for purpose of prostitution.
- O. Detention of persons in house of prostitution for debt.
- P. Keeping or residing in house of prostitution.
- Q. Pandering.
- R. Transporting persons for purpose of prostitution or other immoral purpose.
- S. Child prostitution.
- T. Production, publication, sale, possession and presentation of obscene items.
- U. Coercing acceptance of obscene articles or publications.
- V. Furnishing obscene or harmful items to minors.
- W. Public display of explicit sexual materials.
- X. Films, photographs or motion pictures of minors.
- Y. Obscene or indecent telephone communications to minors for commercial purposes.
- Z. Sale or distribution of materials harmful to minors through vending machines.
- AA. Commercial sexual exploitation of a minor.
- BB. Sexual exploitation of a minor.
- CC. Portraying adult as minor.
- DD. Admitting minors to public displays of sexual conduct.

EE. Attempt, solicitation, conspiracy or facilitation to commit any of the foregoing offenses.

(10) No person shall be licensed for the following periods of time if such person has been convicted of any offenses specified in paragraph (9) of this Subsection (d):

A. If there is only one (1) misdemeanor conviction, a period of two (2) years after the later of the date of conviction or the date of release from confinement imposed for such conviction.

B. If there are two (2) or more misdemeanor convictions within a five (5)-year period, a period of five (5) years after the later of the date of the last conviction or the date of release from confinement imposed for any such conviction.

C. If there is a felony conviction, a period of five (5) years after the later of the date of conviction or the date of release of confinement imposed for the conviction.

(11) The fact that a conviction specified in paragraph (9) of this Subsection (d) is being appealed shall have no effect on the disqualification of the applicant.

(e) The Police Department shall deny the license application if all of the requirements set forth in Subsection (d) of this Section have not been met. In the event of denial, the applicant shall be notified pursuant to Section 11-24. The applicant may appeal such denial pursuant to Section 11-24.

(f) The Police Department may require each applicant, any person financially interested in the activity to be licensed, any authorized local agents, the designated agent, and any manager of the business to furnish a full set of fingerprints to enable the Police Department to conduct a criminal background investigation. The Police Department shall submit the person's completed fingerprint card to the Department of Public Safety. The person shall bear the cost of obtaining the person's criminal history record information. The cost shall not exceed the actual cost of obtaining the person's criminal history record information. Criminal history records checks shall be conducted pursuant to Section 41-1750, Arizona Revised Statutes, and Public Law 92-544. The Department of Public Safety is authorized to exchange the person's submitted fingerprint card information with the Federal Bureau of Investigation for a National Criminal History Records Check.

SECTION 27. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-27 pertaining to Application; additional identification requirements and which shall read as follows:

Sec. 11-27. Application; additional identification requirements.

(a) No license or identification card shall be issued to an individual if the individual does not present any of the following documents to the Police Department indicating that the individual's presence in the United States is authorized under Federal Law:

(1) An Arizona driver license issued after 1996 or an Arizona nonoperating identification license.

(2) A driver license issued by a state that verifies lawful presence in the United States.

(3) A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.

(4) A United States certificate of birth abroad.

(5) A United States passport.

(6) A foreign passport with a United States Visa.

(7) An I-94 Form with a photograph.

(8) A United States citizenship and immigration services employment authorization document or refugee travel document.

(9) A United States certificate of naturalization.

(10) A United States certificate of citizenship.

(11) A tribal certificate of Indian blood

(12) A tribal or Bureau of Indian Affairs Affidavit of Birth.

(b) Subsection (a) does not apply to an individual, if all of the following apply:

(1) The individual is a citizen of a foreign country or, if at the time of application, the individual resides in a foreign country.

(2) The benefits that are related to the license do not require the individual to be present in the United States in order to receive those benefits.

SECTION 28. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-28 pertaining to Escorts, unlawful to work as and which shall read as follows:

Sec. 11-28. Escorts, unlawful to work as.

(a) It shall be unlawful for any person to work or perform services as an escort within the City of Peoria unless that person possesses a valid identification card issued pursuant to Sections 11-20 through 11-38 in the name of the escort and the escort bureau.

(b) It shall be unlawful for any person to work or perform services as a sexually-oriented escort, regardless of license or identification card.

(c) It shall be unlawful for any person to knowingly act as an escort for an escort bureau that has a suspended or revoked license.

SECTION 29. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-29 pertaining to Escort identification card; possession and display and which shall read as follows:

Sec. 11-29. Escort identification card; possession and display.

The identification card issued pursuant to Sections 11-20 through 11-38 must be carried on the person of any individual while that person is engaged in the activity of an escort within the City of Peoria. Such identification card shall be displayed upon the request of any Peoria Police Officer or other law enforcement or regulatory licensing official.

SECTION 30. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-30 pertaining to Escort bureau duties and which shall read as follows:

Sec. 11-30. Escort bureau duties.

(a) The escort bureau shall provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the name of the escort bureau licensee, the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.

(b) The escort bureau shall maintain an open office at the licensed location that is located within the City of Peoria. The street address of that office shall be included in all patron contracts. Private rooms or booths where the patron may meet with the escort shall not be provided at the open office or at any other location by the escort bureau.

(c) The escort bureau, in terms of licensing consequences, is responsible and liable for the acts of all its employees and subcontractors including, but not limited to, telephone receptionists and escorts who are referred by that bureau while the escort is with the patron.

(d) No escort bureau may employ an escort until the name, identification card number and all fictitious names under which that escort is known or advertised are first reported to the Police Department in and on a form prescribed by the Police Department for that purpose.

(e) No escort bureau may use, do business under or advertise a telephone number until that number has first been reported to the Police Department on a form prescribed by the Police Department for that purpose.

(f) No escort bureau may use a business name, trade name or fictitious name until that name has first been reported to the Police Department in and on a form prescribed by the Police Department for that purpose.

SECTION 31. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-31 pertaining to Advertising without a license and which shall read as follows:

Sec. 11-31. Advertising without a license.

It is unlawful to advertise or hold out to the public the availability of an escort or escort bureau without obtaining a license therefor as provided in Sections 11-20 through 11-38, whether the actual business of escorts or escort bureau is performed. The escort bureau license number must be prominently displayed in such advertisements.

SECTION 32. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-32 pertaining to Information update and which shall read as follows:

Sec. 11-32. Information update.

Any change in the information required to be submitted by Sections 11-20 through 11-38 must be received in the Office of the Police Department, in or on the form prescribed by the Police Department for this purpose, within ten calendar days of any such change.

SECTION 33. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-33 pertaining to Underage clients prohibited; exception and which shall read as follows:

Sec. 11-33. Underage clients prohibited; exception.

It shall be unlawful for a licensee to provide escort services as described in Sections 11-20 through 11-38 to individuals under eighteen years of age unless written authorization by a parent or legal guardian is issued to the escort when acting as such.

SECTION 34. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-34 pertaining to Renewal of licenses and which shall read as follows:

Sec. 11-34. Renewal of licenses.

Any license issued pursuant to the provisions of Sections 11-20 through 11-38 that has not been revoked may be renewed for a period of time not to exceed one year on written application to the Police Department made at least forty-five days, but no earlier than the fifth city business day of October, prior to the expiration date of the current valid license. The renewal application shall be on a form provided by the Police Department, shall contain all of the information required by Section 11-25, and shall include the renewal fee described in Section 11-35.

SECTION 35. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-35 pertaining to Escort Fees and which shall read as follows:

Sec. 11-35. Escort Fees.

A non-refundable application fee as listed in Chapter 27, Table 18 of this Code shall accompany each application for an escort bureau. In addition to this application fee, the applicant shall pay the Finance Department the fee established by the Director of the State Department of Public Safety for the processing of State noncriminal justice fingerprints. This fee shall be paid for each person, after the first, required to submit fingerprints pursuant to Section 11-25. Upon approval an initial license fee as listed in Chapter 27, Table 15 of this Code shall be assessed. A renewal fee as listed in Chapter 27, Table 15 of this Code shall accompany each renewal application. A fee as listed in Chapter 27, Table 15 of this Code shall accompany each request for the issuance of an escort identification card.

SECTION 36. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-36 pertaining to Revocation of license; grounds and procedure; appeal and which shall read as follows:

Sec. 11-36. Revocation of license, grounds and procedure; appeal.

(a) Any license issued pursuant to Sections 11-20 through 11-38 shall be revoked upon any one or more of the following grounds:



- (1) The licensee, any employee, agent, or any other person connected or associated with the license as a partner, director, officer, stockholder or manager, or any "person financially interested" has violated any provision of Sections 11-20 through 11-38 in conducting an activity licensed under those Sections.
- (2) The licensee, any employee, agent or any other person connected or associated with the licensee as a partner, director, officer, stockholder or manager, or any "person financially interested" has made a material misrepresentation of fact in the application for any license required in Sections 11-20 through 11-38.
- (3) The licensee has been convicted, subsequent to the issuance of any license, of a crime that is either a felony or a misdemeanor involving moral turpitude or has offered or agreed to or rendered the service of a sexually-oriented escort.
- (4) The licensee has violated a provision of Sections 11-20 through 11-38 in conducting a licensed activity pursuant to those Sections.
- (5) The licensee is a corporation or limited liability company and is not or is no longer qualified to transact business in the State of Arizona.
- (b) To revoke a license, the Police Department shall notify the licensee pursuant to Section 11-24.
- (c) Except as otherwise provided in this Article, the license shall terminate if the licensee fails to pay any license fee owed either when due or by the end of any renewal period, or fails to submit a renewal application within the time period prescribed by Section 11-33.
- (d) Appeals from the revocation of a license may be brought pursuant to Section 11-24.
- (e) A revoked license, and all escort identification cards issued in the name of that escort bureau, shall be surrendered to the Police Department on demand at the conclusion of the administrative case or any appeal taken.

SECTION 37. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-37 pertaining to Voluntary termination of license and which shall read as follows:

Sec. 11-37. Voluntary termination of license.

- (a) No license shall be voluntarily terminated except as provided in this Section. A licensee may apply for license termination by completing an

application form provided by the Police Department for that purpose. The applicant shall indicate on the application whether the license is in use and shall keep that information current in the records of the City until the application has been approved or denied.

(b) The application shall be granted unless one or more of the following circumstances exist:

(1) The application is incomplete or has been falsified.

(2) The license is suspended.

(3) The license has been noticed for revocation, or

(4) The Police Department determines that the Peoria Police Department has witnessed one or more violations of Sections 11-20 through 11-38 that are unresolved, in which case the application shall be denied.

(c) An application filed pursuant to this Section that has not been either approved or denied within thirty calendar days after submission of the application shall be deemed approved.

(d) A decision to deny an application shall be served and appealed as provided in Section 11-24.

SECTION 38. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-38 pertaining to Applicability of regulations to existing businesses and which shall read as follows:

Sec. 11-38. Applicability of regulations to existing businesses.

The provisions of Sections 11-20 through 11-37 shall be applicable to all persons and activities described herein, including those activities that were established before the adoption of the Sections into law. All such persons and businesses shall comply fully with the provisions of those Sections no later than September 30, 2017.

SECTION 39. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Sections 11-138 and 11-139 as Reserved Sections 11-39 and 11-40 and which shall read as follows:

Sec. 11-~~138~~<sup>39</sup> through 11-~~139~~<sup>40</sup>. Reserved.

SECTION 40. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-140 as Section 11-41 pertaining to Licenses; permits, revocation; judicial review and which shall read as follows:

Sec. 11-44041. Licenses; permits, revocation; judicial review.

(a) If the Finance Director determines that grounds exist for denial, suspension, or revocation of a license or permit issued under ~~this chapter~~ Sections 11-41 through 11-146, they shall notify the applicant, licensee or permittee (respondent) as provided for in this code of the intent to revoke or revocation as provided in this code, including a summary of the grounds therefor. Within ten (10) working days of receipt of such notice, the respondent shall provide to the Finance Director or his designee in writing a response which shall include a statement of reasons why the license or permit should not be denied, suspended, or revoked or if the code provides for revocation, why the revocation of such license or permit shall be set aside and may include a request for a hearing. If:

(1) A response is not received by the Finance Director in the time stated, the Finance Director or designee within five (5) business days after the expiration of the time stated shall issue a final order denying, suspending or revoking the license or permit.

(2) Within five (5) business days after receipt of a response, the Finance Director shall transmit the Notice of Revocation, the summary of grounds and the response to the City's sales tax hearing officer or other duly appointed hearing officer who shall hear the matter as a licensing hearing officer. The hearing officer shall:

aA. Set a hearing within twenty (20) business days after receipt of the matter.

bB. Send notification to the Finance Director and respondent in writing by certified mail or any other means under the Arizona Rules of Civil Procedure, Rule 4, calculated to provide adequate notice of the date, time and place of the hearing.

(3) The hearing shall be conducted in an informal manner. The respondent may be represented by counsel. The technical rules of evidence shall not apply and any evidence deemed relevant and probative may be admitted. The hearing officer shall render a written decision within ten (10) working days after completion of the hearing and shall mail a copy of the decision in the manner provided in subsection (2)b. to the Finance Director and to the address of the respondent on file with the City.

(b) In the event that more than forty-five (45) days elapse between receipt by the City of a request for a hearing and issuing by the hearing officer of a final decision to the respondent and city without a stipulated extension of time approved by the hearing officer, a decision in favor of the respondent shall be deemed to have been rendered.

(c) The Finance Director may at any time withdraw the denial or notice of revocation or suspension of permit or license, in which case an appeal shall be deemed to be dismissed and the matter moot.

(d) When the decision to deny, suspend or revoke a license or permit becomes final, the respondent shall have the right to seek judicial review of the decision by way of special action or other available procedure in the superior court. Upon filing of such a special action, the decision of the hearing officer in those cases pertaining to a sexually-oriented business license only shall be deemed to be stayed until final disposition by the superior court.

SECTION 41. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Sections 11-141 through 11-150 as Reserved Sections 11-42 through 11-51 and which shall read as follows:

Sec. 11-~~441~~42 through 11-~~450~~51. Reserved.

SECTION 42. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-151 and renumbering it as Section 11-52 pertaining to Business Licenses; required and which shall read as follows:

Sec. 11-~~451~~52. Business Licenses; required.

A person ~~before engaging~~ who engages in any businesses, ~~callings,~~ or professions within the corporate limits of the city or who conducts a business outside the corporate limits of the city and who solicits, canvasses, advertises, or delivers products or performs services within the city limits, shall procure from the city a business license ~~for the carrying on of same~~ upon payment of the required license fee.

SECTION 43. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-152 and renumbering it as Section 11-53 pertaining to Business Licenses; exemptions and which shall read as follows:

Sec. 11-~~452~~53. Business Licenses; exemptions.

The provisions pertaining to business licenses do not apply to the following:

(a) Businesses conducted as an agency or department of the United States of America, the state, the county, or the city, in their governmental capacities.

(b) Churches, veterans, and civic service organizations occasionally engaging in a business and which such business is for a bona fide nonprofit purpose as evidenced by a valid IRS determination of 501(c) status.

(c) Any person whose property is not located in a residential zoning district as provided by section 11-~~473~~74 and disposing of for a consideration any

farm or agricultural produce, produced on property owned by the person. This subsection does not apply to section 11-~~473~~74. However, this exemption shall not exempt such persons from compliance with the provisions of the Peoria sales tax code.

(1) Farm and agricultural produce are defined as those crops, vegetables fruits and citrus that are grown and or sold for human or animal consumption.

(d) Newspaper carriers are exempt from the provisions pertaining to the sale of newspaper subscriptions.

SECTION 44. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-153 as Section 11-54 pertaining to Business licenses; separate licenses required and which shall read as follows:

Sec. 11-~~153~~54. Business licenses; separate licenses required.

A separate license shall be obtained for each branch or separate place of business and for each business transacted or carried on at the same place or location. Each license issued shall authorize the licensee to practice, transact and carry on only that business set forth on such license and only at the location or place of business described thereon.

SECTION 45. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-154 as Section 11-55 pertaining to Business license; issuance and which shall read as follows:

Sec. 11-~~154~~55. Business license; issuance.

The city's designated department shall issue an annual license certificate for the current calendar year for each prospective licensee required to pay a license fee under the provisions of this chapter upon payment of all license fees and any penalties. The license shall state the amount of the license fee, the period of time covered, the name of the licensee, and location or place of business, if any.

SECTION 46. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-155 as Section 11-56 pertaining to Business license fees and penalties and which shall read as follows:

Sec. 11-~~155~~56. Business License fees and penalties.

(1) The following license classifications and fees are hereby established:

Class A. Professions such as, but not limited to, attorneys, doctors, dentists, veterinarians and accountants shall pay an annual fee as contained in this code

- Class B. Service Businesses such as, but not limited to, laundries and dry cleaning establishments shall pay an annual fee as contained in this code.
- Class C. Businesses whose method of doing business is from or with a parked vehicle or from house to house shall pay an annual fee as contained in this code.
- Class D. Business such as, but not limited to, carnivals and circuses shall pay an annual fee as contained in this code.
- Class E. All other businesses not specifically set forth in classes A; B; C or D shall pay an annual fee as contained in this code.

(2) the license application and license fees are due within 30 days of the start of business within the city.

(3) the annual license fee renewal is due on or before January 1<sup>st</sup> of each year and delinquent if not paid by January 31<sup>st</sup>.

(4) the annual license fee is subject to a 50% penalty if the annual license fee is not paid within 30 days of beginning business within the city. The annual license fee is delinquent and subject to the 50% penalty if not paid by January 31<sup>st</sup>.

(5) the license is considered revoked if not renewed by March 31<sup>st</sup>. A new application and application fees and license fees are due April 1<sup>st</sup>.

(6) penalties can be waived in accordance with city departmental policy.

SECTION 47. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-156 as Section 11-57 pertaining to Business license; transfer of license; proration of fee and which shall read as follows:

Sec. 11-~~156~~57. Business license; transfer of license; proration of fee.

There shall be no proration of any business license fee. There shall be no transfer of the business license between owners or locations.

SECTION 48. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-157 as Section 11-58 and which shall read as follows:

Sec. 11-~~157~~58. Reserved.

SECTION 49. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-158 as Section 11-59 pertaining to Business license; display and which shall read as follows:

Sec. 11-~~158~~59. Business license; display.

Every licensee under this article shall display the license conspicuously at the applicable place of business and shall upon demand display the same to the city police or other designee of the city. If the licensee does not have a place of business within the city limits, the license shall be kept on the person conducting the licensee's business.

SECTION 50. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-159 as Section 11-60 pertaining to Business licenses; revocation and which shall read as follows:

Sec. 11-~~159~~60. Business licenses; revocation.

(a) Any business license issued under the provisions of this code may be revoked as provided in this section and the licensee shall immediately cease business conducted in this city for which the license was obtained subject to subsection (d) of this section.

(b) Any of the following shall constitute grounds for revocation of a business license:

(1) Revocation of any state, county or city license or permit that is required for the operation of the business.

(2) Conviction by a court of competent jurisdiction of the licensee or any of its owners, managers or employees and in the case of a corporation, any of its principal officers, directors and principal shareholders, of any felony or any violation of law or regulation related to the operation of the business for which the license is obtained under this chapter.

(3) Adjudication in any civil action or administrative proceeding in any jurisdiction, that the licensee or any of its owners, managers or employees, and in the case of a corporation, its principal officers, directors and principal shareholders, are responsible for any violation of any law or regulation related to the operation of the business for which the license is obtained under this chapter.

(4) The licensee is delinquent in payment of any privilege license taxes or use taxes owed to the city and has not, upon reasonable notice, made such payment together with any applicable interest and penalties.

(5) The city manager or their designee based upon reasonable information and belief finds that unlawful conduct by a minor or minors or

adults has occurred at the business and that the licensee has failed to undertake adequate measures to prevent such unlawful conduct.

(6) The city manager or their designee finds that the licensee has made a false statement on or in connection with its license application.

(c) The city manager or their designee shall notify the applicant of the city's revocation of the license and the reasons therefor. The applicant may request a hearing in accordance with the provisions of this Chapter on the revocation of the license.

SECTION 51. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-160 and renumbering it as Section 11-61 pertaining to Special Events Business License; required; revocation and which shall read as follows:

Sec. 11-~~160~~61. Special Events Business License; required; revocation.

(a) The provisions of this section shall apply to any person meeting all of the following requirements.

(1) Engages in any businesses, callings, or professions within the corporate limits of the city or who conducts a business outside the corporate limits of the city and who solicits, canvasses, advertises, or delivers products or performs services within the city limits; and

(2) Conducts such businesses callings or professions for a period of not more than seven (7) consecutive days at any one time.

The applicant shall obtain a city business license for the carrying on of same upon payment of the required application and license fees. Upon completion of the license period, a transaction privilege tax return for the entire licensing period shall be timely filed, if applicable, with the transaction privilege taxing authority administering transaction privilege tax.

Special Event Business Licenses issued pursuant to the provisions of this section may be revoked by the City upon written notice to the licensee for any violation of this chapter or any other code, rule or regulation of the City. An appeal of such revocation shall be made in the manner provided by this Chapter.

SECTION 52. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-161 as Section 11-62 pertaining to Business Licenses, Special Event Business License, Other Licenses; failure to obtain, violation; classification; civil penalties and which shall read as follows:

Sec. 11-~~161~~62. Business Licenses, Special Event Business License, Other Licenses; failure to obtain, violation; classification; civil penalties.



(a) It is unlawful for any person, entity or corporation to fail to obtain a business license, special event business license, any other license required by this chapter or a transaction privilege tax license issued by or on behalf of the City.

(b) Violation of this section shall be a class (1) misdemeanor.

(c) The City shall impose a civil penalty of an amount equal to four (4) times the applicable license fee and accrued license fee penalties that shall be charged to any applicant at the time of application for a license pursuant to this code. Such civil penalty shall not be part of any penalty imposed upon conviction of a criminal violation of this chapter. Such civil penalty may be appealed in the same manner as a license revocation under this chapter.

SECTION 53. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Sections 11-162 through 11-170 as Reserved Sections 11-63 through 11-72 and which shall read as follows:

Secs. 11-~~462~~63. through 11-~~470~~72. Reserved.

SECTION 54. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-172 as Section 11-73 pertaining to Peddlers, solicitors; signs reading "No peddlers", "no solicitors", etc. and which shall read as follows:

Sec. 11-~~472~~73. Peddlers, solicitors; signs reading "No peddlers", "no solicitors", etc.

It is unlawful for any peddler, solicitor, or canvasser in the course of his business to ring the doorbell or knock at any building whereon a sign bearing the words "no peddlers, solicitors, or canvassers" is exposed to public view.

SECTION 55. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-173 and renumbering it as Section 11-74 pertaining to Street and sidewalk vendors; sales from residential zoned or undeveloped commercial and industrial property; permit required and which shall read as follows:

Sec. 11-~~473~~74. Street and sidewalk vendors; sales from residential zoned or undeveloped commercial and industrial property; permit required.

(a) It shall be unlawful for any person to sell or attempt to sell any commodity, including but not limited to agricultural produce by means of vending such commodity upon any street or sidewalk in the city without first securing a permit from the Finance Department~~department of management services~~ and paying a fee in the amount established by ordinance or resolution and complying with the provisions of this section. A permit may be renewed for successive periods of three (3) months.

(b) The following provisions shall apply to persons using vehicles for street or sidewalk vending:

- (1) It is unlawful to sell or attempt to sell any commodity by means of any outcry, sound, speaker or amplifier, or any instrument, or device, which can be heard for a distance greater than three hundred (300) feet, or when passing a hospital, church or other place of worship during the hours when services are being held, or within five hundred (500) feet of any school when school is in session.
- (2) It is unlawful to use, play or employ the use of any sound, outcry, amplifier, loud-speaker, radio, phonograph with a loud-speaker or amplifier or any other device when the vehicle such vendor is using is stopped for the purpose of making a sale, or has stopped for any other reason for more than one (1) minute. Any such device is prohibited before 9:00 a.m. on weekdays and 10:00 a.m. on Sundays, or after 8:00 p.m. on any day.

SECTION 56. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Sections 11-174 through 11-175 as Reserved Sections 11-75 through 11-76 and which shall read as follows:

Secs. 11-47475 through 11-47576. Reserved.

SECTION 57. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-176 and renumbering it as Section 11-77 pertaining to Off Track Betting; applications and which shall read as follows:

Sec. 11-47677. Off Track Betting; applications

(a) In addition to the application information required under this Chapter, applicants for licenses required by this code for race tracks or for wagering establishments shall provide the following public information:

- (1) The identity of all owners, managers and employees of the applicant's business, who will have any part in the operation, control or decision-making and/or management of the wagering establishment. In the case of a corporation, the principal officers, directors and principal shareholders shall be identified. The applicant shall furnish complete information on whether any of the identified owners, managers, employees and the corporation's principal officers, directors or principal shareholders have in the previous ten (10) years been convicted of or have been found in any civil action or administrative proceedings to have been responsible for any violation of law or regulation relating to racing, wagering or gaming in any jurisdiction and shall furnish such information on any such offenses or violations as the city may reasonably require.

The applicant shall be subject to providing criminal history information checks and fingerprinting, unless the required background information has been submitted to the Arizona Racing Commission or the Arizona Department of Racing and the identified individuals have been subject to a criminal history information check and fingerprinting by the Arizona Department of Public Safety, in connection with a racing, gaming or wagering license which pertains to the race track or wagering establishment.

(2) Information on the status of any license required by the state for the race track or wagering establishment.

(3) Whether the applicant or any of its owners, managers or employees, and in the case of a corporation, its principal officers, directors or principal shareholders, identified as required in this section, have ever applied for or had an interest in an application for any licenses or permit, in any jurisdiction, for racing, wagering or gaming which was revoked or suspended by the issuing jurisdiction. If so, information shall be provided on the license or permit, jurisdiction involved and the grounds for revocation or suspension.

(4) Whether the applicant or any of its owners, managers or employees, and in the case of a corporation, its principal officers, directors or principal shareholders identified as required in this section, have ever applied for or had an interest in an application for any license or permit in any jurisdiction for racing, wagering or gaming which was denied by the jurisdiction to which application was made, if the grounds for the denial included any of the following:

aA. Lack of good character or unsatisfactory criminal background of any person involved with the license or applicant,

bB. Misconduct, violation of regulations, or any similar grounds, if so, information shall be provided on the license or permit application and jurisdiction involved and the grounds for denial. Additional information on license denials shall be provided by the applicant upon specific request of the city manager or his designee.

(5) Information demonstrating that the proposed race track or wagering Establishment use complies with all applicable zoning, building and ~~land~~ usefire codes and regulations.

(6) Information held on the city privilege tax license held or concurrently applied for by the applicant.

SECTION 58. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-177 as Section 11-78 pertaining to Off Track Betting; transfer of ownership or location; provisional permits and which shall read as follows:

Sec. 11-47778. Off Track Betting; transfer of ownership or location; provisional permits.

(a) Except as otherwise provided in this code, licenses issued to race tracks and wagering establishments shall not be transferable upon change in ownership of the race track or wagering establishment and shall not be transferable to any location other than the location for which the license was issued. Any change in ownership or control of the business of a licensee, either directly or indirectly, is deemed a transfer of the business.

(b) Upon the change in ownership or control of a racetrack or wagering establishment or the relocation of a racetrack or wagering establishment, the applicant shall file a new license under the provisions of this code. Until a new license is issued, the current licensee remains responsible to the city for the lawful and proper operation of the racetrack or wagering establishment in accordance with the provisions of this Chapter.

SECTION 59. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-178 as Section 11-79 pertaining to Off Track Betting; license approval; time and which shall read as follows:

Sec. 11-47879. Off Track Betting; license approval; time.

(a) Applications for a License under this code shall be filed with the city clerk. Upon receipt of an application for a license under this Article, the city clerk shall post upon the premises a notice of public hearing upon the license for not less than ten (10) days prior to the public hearing.

(b) The city council shall hold a public hearing on each license applied for under this code.

(c) A license shall be approved for a period of one (1) year.

SECTION 60. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-179 as Section 11-80 pertaining to Off Track Betting; license revocation and which shall read as follows:

Sec. 11-47980. Off Track Betting; license revocation.

(a) Any racetrack or wagering establishment issued under the provisions of this code may be revoked as provided in this section.

(b) Any of the following shall constitute grounds for revocation of a race track or wagering establishment license:

(1) Revocation of any state racing, wagering or gaming license which is required for the race track or wagering establishment.

(2) Conviction by a court of competent jurisdiction of the licensee or any of its owners, managers or employees and in the case of a corporation, any of its principal officers, directors and principal shareholders, of any felony or any violation of law or regulation related to racing, wagering or gaming, in any jurisdiction.

(3) Adjudication in any civil action or administrative proceeding in any jurisdiction, that the licensee or any of its owners, managers or employees, and in the case of a corporation, its principal officers, directors and principal shareholders, are responsible for any violation of any law or regulation related to racing, wagering or gaming.

(4) The licensee is delinquent in payment of any privilege license taxes or use taxes owed to the city and has not, upon reasonable notice, made such payment together with any applicable interest and penalties.

(5) The city manager or his designee finds upon reasonable information and belief that unlawful gambling by a minor or minors has occurred at the race track or wagering establishment and that the licensee has failed to undertake adequate measures to prevent gambling by minors.

(6) The city manager or his designee finds that alcoholic beverages have been purchased or consumed by a person or person under the lawful drinking age on the premises of the race track, or in the wagering establishment and that the licensee has failed to undertake adequate measures to prevent consumption of alcoholic beverages by persons under the lawful drinking age.

(7) The city manager or his designee finds that the licensee has made a false statement on or in connection with its license application.

(c) The city manager or his designee shall notify the applicant of the city's revocation of the license and the reasons therefor. The applicant may request a hearing in accordance with the provisions of this Chapter on the revocation of the license.

SECTION 61. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-180 as Reserved Section 11-81 and which shall read as follows:

Sec. 11-~~180~~81. Reserved.

SECTION 62. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-181 as Section 11-82 pertaining to Peddlers, solicitors; license required and which shall read as follows:

Sec. 11-~~181~~82. Peddlers, solicitors; license required.

Any person operating as a solicitor, peddler, hawker, salesman or vendor of goods, wares, merchandise, newspapers, magazines or services, who goes from house to house, or to only one (1) house, in the city, shall register with the police department and obtain an identification card showing such registration.

SECTION 63. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-182 as Section 11-83 pertaining to Licenses; application; criminal history background check required and which shall read as follows:

Sec. 11-~~182~~83. Licenses; application; criminal history background check required.

(a) Each applicant for a license identified in this section that is issued by the City of Peoria shall provide to the chief of police fingerprint identification. The chief of police shall, pursuant to A.R.S. §41-1750 and Public Law 92-184, section 902, forward those fingerprints accompanied by appropriate fees to the Arizona Department of Public Safety and the Federal Bureau of Investigation for the purpose of seeking criminal history information on such applicant. Such information shall be used only for the purposes of evaluating the fitness of the applicant applying for the following types of licenses from the city of Peoria:

peddlers	auctioneers
solicitors	auction houses
massage therapist	massage facilities
teletracking	carnivals/circus
second hand/junk dealers	pawnbrokers
exhibitors	

(b) The city shall comply with any relevant state and federal, statutes, rules and regulations that may relate to the dissemination of such criminal history information obtained under this section.

(c) Applicants for registration under this code shall be required to furnish two satisfactory photographs of the applicant, one to be attached to the applicants registration card and the other to be retained by the police department.

(d) Applicants for registration under this code shall be required to furnish to the police department a complete description of the product to be sold in the city, together with information regarding sales methods to be used and references that will enable the chief of police to determine whether or not such applicant is qualified to receive a registration card as provided in this code. Investigation by the chief of police under the provisions of this code shall be completed within fifteen (15) days after the applicant has given the required information.

(e) The finance department shall collect a fee for the processing of the fingerprints, obtaining criminal history information and the registration provided for in this code in such amounts as provided by this Code.

SECTION 64. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-183 and renumbering it as Section 11-84 pertaining to Peddlers, solicitors; issuance of registration cards and which shall read as follows:

Sec. 11-~~183~~84. Peddlers, solicitors; issuance of registration cards.

Registration cards under this division shall be issued without charge to all applicants who have complied with section 11-~~182~~83, unless the chief of police discovers that any such applicant is deemed not to be a proper person to be permitted to go from house to house because of any of the following reasons, in which case, in the interest of public safety and protection, the applicant shall not be registered:

- (1) The applicant has a criminal record.
- (2) The applicant is associated with a company that has engaged in fraudulent dealings.
- (3) The proposed sales proposition includes some element of trickery, fraud or deceit.

SECTION 65. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-184 as Section 11-85 pertaining to Peddlers, solicitors; display of license and which shall read as follows:

Sec. 11-~~184~~85. Peddlers, solicitors; display of license.

It is unlawful to take part in the act of soliciting, peddling, hawking, selling or vending of goods, wares, merchandise, newspapers, magazines or services from house to house, or to only one (1) house, in the city, without having registered with the police department and without having such card in his possession. No such person shall fail to exhibit such card when a request is made for the registration card by any resident of the city.

SECTION 66. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-185 and renumbering it as Section 11-86 pertaining to Peddlers, solicitors; revocation of registration and which shall read as follows:

Sec. 11-~~185~~86. Peddlers; solicitors; revocation of registration.

Registration cards issued pursuant to the provisions of this section may be revoked by the City, upon written notice by Chief of Police or his designee to the applicant for any violation of this chapter or any other code, rule or regulation of the City or by the ~~Management Services~~Finance Director for failure to pay any tax to the city generated from such activities. An appeal of such revocation shall be made in the manner provided by this Chapter.

SECTION 67. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Sections 11-186 through 11-189 as Reserved Sections 11-87 through 11-90 and which shall read as follows:

Secs. ~~11-186~~87 through ~~11-189~~90. Reserved.

SECTION 68. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-190 and renumbering it as Section 11-91 pertaining to Filming: Definitions and which shall read as follows:

Sec. ~~11-190~~91. Filming: Definitions.

In this chapter, unless the context otherwise requires:

- (a) *Applicant*: ~~means a~~A person or company filing an Application.
- (b) *Application*: ~~means a~~An application for a Filming Permit, on a form to be provided by the City, and includes the sketch required by P.C.C. § ~~11-191~~92(a)(3) and the Certificate of Insurance required by P.C.C. § ~~11-191~~92(a)(4).
- (c) *City*: ~~means~~tThe City of Peoria, Maricopa County, Arizona.
- (d) *Film*: ~~means e~~Electronic or film recording for other than personal use or as the result of a current news event in exterior locations, within City-owned facilities, on property owned by the City or any political subdivision of this state, on any public right of way owned by the City or any political subdivision of this state.
- (e) *Film Permit*: ~~means~~tThe permit granted by the City pursuant to P.C.C. § ~~11-191~~92.
- (f) *Location*: ~~means~~tThe area included within the sketch required by P.C.C. § ~~11-191~~92(a)(3), and an area extending fifty feet (50') in all directions there from.
- (g) *Current News Event*: ~~means a~~An event that is the subject of attention by one or more video news outlets and is intended for broadcast or rebroadcast on a television station holding a license from Federal Communications Commission or a media outlet publishing a newspaper of general circulation in the City of Peoria.
- (h) *Notification of Filming*: ~~means a~~A notice on a form to be provided by the City.
- (i) *Studio*: ~~means a~~A permanent, fixed structure designed and operated for the purpose of filming.

SECTION 69. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-191 and renumbering it as Section 11-92 pertaining to



Filming: permit required; issuance; suspension or expiration and which shall read as follows:

Sec. 11-~~191~~92. Filming: permit required; issuance; suspension or expiration.

(a) Filming Permit required.

(1) It shall be unlawful for any person to Film without a valid Film Permit issued by the City.

(2) An applicant for a Film Permit shall file in person at the City an Application made on a form prescribed and provided by the City. The Application shall be signed by the Applicant. The information provided in the Application must be supplemented in writing by certified mail, return receipt requested, to the City within two (2) working days of a change of circumstances that would render the information originally submitted false or incomplete.

(3) The Application shall include a sketch or diagram showing the configuration of the Film site. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale.

(4) The Application must include a Certificate of Insurance naming the "City of Peoria, Arizona" as an "Additional Insured" having coverages in the amounts of \$1 million per occurrence and \$3 million in aggregate, covering all of the activities of the Applicant for the entire period of the Filming Permit. The City may require that the coverage amounts be increased by the Applicant if deemed necessary during the review of the Application.

(5) The information provided by an Applicant in connection with the application for a Film Permit shall be maintained by the City on a confidential basis, except that such information may be disclosed to other governmental agencies in connection with a law enforcement or public safety function.

(6) Filming within a Studio is exempt from this Section 11-~~191~~92.

(b) Issuance of Filming Permit.

(1) Upon receipt of the Application and payment of the Application Fee, the ~~Communications and Public Affairs Department~~ Office of Communications of the City shall approve, approve with conditions, or deny the issuance of a Filming Permit within five (5) days after receipt. Upon payment of a Filming Permit Expedited Review fee (in addition to the foregoing submissions and fee), the ~~Communications and Public Affairs Department~~ Office of Communications of the City will exercise its commercially reasonable best efforts to approve, approve with conditions,

or deny the issuance of a Filming Permit as quickly as possible, with the goal of reaching a determination within two (2) days after receipt. If the City fails to approve, approve with conditions, or deny the issuance of a permanent permit within ten (10) days after receipt of an Application and payment of the Application Fee, the Filming Permit shall be deemed to have been approved. The City shall approve or conditionally approve the issuance of a Filming Permit unless one or more of the following is found to be true:

(A) The Applicant has failed to provide information required by the Application or has falsely answered a question or request for information in the Application.

(B) The Application is incomplete, the sketch is unclear or is not provided, or the Certificate of Insurance does not conform to the requirements of this Chapter.

(C) The Application Fee has not been paid.

(D) The right to use the Location has not been established by the Applicant at the time of the Application.

(E) Filming at the Location will cause a nuisance that cannot be mitigated by conditions to the Application.

(2) The Filming Permit shall state on its face the name of the Applicant, the number of the permit issued to that Applicant and the expiration date.

(3) The Applicant shall keep the Filming Permit at the Location and shall produce such Filming Permit for inspection upon request by a law enforcement officer or an authorized City official.

(c) Expiration.

(1) Each Filming Permit shall expire on the date stated on the Filming Permit and may be renewed by making application as provided in Subsection (a).

(2) The renewal Application shall contain the information required to be submitted with an original Application, provided that a renewal Application need not contain information that has been provided in a previous Application and has not changed since the date of the most recent Application.

(3) Application for renewal of a Filming Permit should be made at least two (2) days before the expiration date, and when made fewer than two (2) days before the expiration date, the expiration of the Filming Permit will not be affected.

(d) Suspension.

(1) Upon a reasonable belief that any of the following items have occurred, the City shall issue a Notice and Order suspending a Filming Permit for a period not to exceed thirty (30) days.

(A) The Applicant or an agent of the Applicant has violated and is not in compliance with this Section 11-~~19192~~92, the Peoria City Code, or the Arizona Revised Statutes.

(B) The Applicant or an agent of the Applicant refused to allow an inspection of the Location required pursuant to this Section 11-~~19192~~92;

(C) The Applicant or any Agent of the Applicant is Filming in a way or in a location other than as stated on the Application.

(2) The Notice and Order shall become effective twenty-four (24) hours after issuance, unless the Applicant shall have filed a request for hearing with the ~~Communications and Public Affairs Director~~Director of the Office of Communication. No Filming may occur pending the hearing, which must be held within two (2) business days after the request for hearing.

(e) When the decision to deny, suspend or revoke a license or permit becomes final, the applicant shall have the right to seek judicial review of the decision by way of special action or other available procedure in the superior court. Upon filing of such a special action, the decision of the hearing officer shall be deemed to be stayed until final disposition by the superior court. Should an appeal be taken, the applicant may request a stay in the manner provided by the Arizona Rules of Civil Appellate Procedure. If the applicant fails to file a request for judicial review within thirty (30) days after the decision to deny, suspend or revoke became final, there shall be no stay of the ~~Communication and Public Affairs Director's~~Office of Communication Director's decision, unless provided for by the Superior Court.

(f) Notification of Filming. Upon review by the City of the Filming Permit, the City may require Applicant to distribute a Notification of Filming to residents and businesses within one thousand three hundred twenty feet (1320') of the Location no later than two (2) days prior to the Applicant's or Applicant's agents arrival at the Location. Notice may be given by posting the Notification of Filming in locations readily accessible by the public within the area.

(g) Treatment of the Location. The Applicant must restore the Location to the condition of the Location prior to Applicant's use of the Location. Applicant must remove all litter generated in the course of Applicant's use of the Location, whether generated by Applicant, Applicant's agents, or others, every day prior to departure of the Applicant or Applicant's agents.

(h) Days and Times. Unless otherwise indicated on the Filming Permit, Applicant may Film only between the hours of 6 a.m. and 10 p.m. Monday through Sunday for a maximum of ten (10) consecutive days.

SECTION 70. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-192 and renumbering it as Section 11-93 pertaining to Filming: fees and which shall read as follows:

Sec. 11-~~192~~93. Filming: fees

(a) The nonrefundable application fee for a Filming Permit is set in Chapter ~~272~~ of this Code.

(b) The nonrefundable fee for expedited review of a Filming Permit is set in Chapter ~~27~~ of this Code.

(c) Other fees and costs may be associated with the provision of City services or the use of City facilities, which fees and costs will be set by the respective departments of the City, or by this Code. Such services or uses will require the execution of an agreement between the City and the Applicant of the provision of such services or uses.

SECTION 71. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-193 and renumbering it as Section 11-94 pertaining to Filming: violations; penalties and which shall read as follows:

Sec. 11-~~193~~94. Filming: violations; penalties.

(a) —A person who violates any provision of Sections 11-~~193~~92 through 11-93 is guilty of a class one misdemeanor.

SECTION 72. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Sections 11-194 through 11-219 as Reserved Sections 11-95 through 11-120 and which shall read as follows:

Secs. 11-~~194~~95 through 11-~~219~~120. Reserved.

SECTION 73. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-220 and renumbering it as Section 11-121 pertaining to Secondhand sales; definitions and which shall read as follows:

Sec. 11-~~220~~121. Secondhand sales; definitions.

(a) Applicant: ~~means~~ ~~the~~ ~~person~~ ~~owning~~, ~~operating~~, ~~and/or~~ ~~conducting~~ the business to be licensed, including all persons financially interested in the business, the manager(s) or other individuals(s) principally in charge of the operation of the business, any authorized local agent(s) and the responsible managing officer designated pursuant to this Chapter.

(b) *Auctioneer*: ~~means a~~Any person who shall operate an auction house or who as a principal or agent, shall offer any article for sale by public outcry and where such items offered are sold immediately to the highest bidder.

(c) *Auction House*: ~~means a~~Any establishment in which is carried on the business of auctioning articles for sale by public outcry and where such items offered for auction are sold immediately to the highest bidder.

(d) *Business records*: ~~means r~~Records of any purchase, trade, barter or other transaction involving the receipt of scrap metals, made in the ordinary course of business at or near the time of the purchase, trade, barter or transaction including receipts, scrap metal transport manifests and books or similar records as prescribed by this Chapter, but do not include correspondence, tax returns or financial statements.

(e) *Ferrous metals*: ~~means t~~Those metals that will attract a magnet.

(f) *Firearm*: ~~means a~~Any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosive, except that it does not include a firearm in permanently inoperable condition.

(g) *Nonferrous metals*: ~~means t~~Those metals that will not normally attract a magnet, including copper, brass and aluminum.

(h) *Pawnshop*: ~~means a~~Any establishment in that is carried on the business of pawn brokerage, or the business of loaning money, receiving as security for payment thereof pawns or pledges of property, or the business of purchasing personal property and reselling or agreeing to resell, trade or exchange such articles to vendors, their personal representatives, or their assignees at a price agreed upon at or before the time of such purchase whether such business be the principal or sole business so carried on or be merely incidental to, or in connection with, or a branch or a department of some other business.

(j) *Secondhand dealer/Antique dealer*: ~~means a~~Any person, other than a person who exclusively deals in secondhand books, magazines, handbills, and/or posters, engaged in conducting, managing or carrying on the business of buying, selling, trading or exchanging, or otherwise dealing in second hand goods, wares, merchandises, or articles, whether such business be the principal or sole business so carried on, managed, or conducted or be merely incidental to in connection with, or a branch or a department of some other business. This term shall not be construed to include trade-ins, dealers or auctioneers in articles of property, the transfer of title to which is required by the laws of the state to be evidenced by written instrument and recorded in an appropriate office of state or county government.

(k) Trade-in: means ~~the~~ acceptance, sale or disposal of used automobile tires or automobile batteries or farm implement parts or farm machinery parts or road equipment parts or mining equipment parts or automobiles parts taken in part payment for new or reconditioned automobile tires or automobile batteries or farm implement parts or farm machinery parts or road equipment parts or mining equipment parts or automobile parts. Dealers exchanging articles in the course of service or construction work shall not be deemed to constitute the doing of any business defined under this term.

SECTION 74. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-221 and renumbering it as Section 11-122 pertaining to Secondhand sales; license required; violation; classification; civil penalties and which shall read as follows:

Sec. 11-~~221~~122. Secondhand sales; license required; violation; classification; civil penalties.

It shall be unlawful for any person to operate within the City any of the secondhand sales businesses as listed and defined in this Chapter without possessing a valid license for each location as provided in this Chapter. A person who deals exclusively in secondhand books, magazines, posters, handbills, records, or cassette tapes is not required to obtain such a license.

(~~b~~a) It shall be unlawful for any person to operate a secondhand sales business while the license for that business has been suspended or revoked.

(~~e~~b) Violation of this section shall be a class one (1) misdemeanor.

(~~d~~c) Separate from any criminal penalty imposed for violation of this section, a civil penalty of three times the license fee shall be charged for any individual applying for a license having engaged in operation of a secondhand sales business in the City prior to obtaining a license.

SECTION 75. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-222 as Section 11-123 pertaining to Secondhand Sales; display of license; duration; renewal; transfer; fees and which shall read as follows:

Sec. 11-~~222~~123. Secondhand Sales; display of license; duration; renewal; transfer; fees.

(a) All licenses issued under the provisions of this Chapter shall be displayed in a conspicuous place visible to the public.

(b) All licenses unless specifically excepted, shall be issued for a period of one year running from the first day of January through December 31 of each year, when they may be renewed. If an initial license is issued after January 1, then the license shall be good until the December 31, following a

January 1 in which the license was in effect. Licenses issued under this chapter are not transferable.

(c) Upon application for a license, a person shall pay a fee in the amount provided by Chapter 2 of this Code.

SECTION 76. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-223 and renumbering it as Section 11-124 pertaining to Secondhand sales; Application-Forms; fees and which shall read as follows:

Sec. 11-~~223~~124. Secondhand Sales; Applications-Forms; fees.

(a) On a form provided by the City, an applicant for a license listed and defined in this Chapter shall submit the following information to the City.

- (1) The full legal name, and all other names by which known.
- (2) Current residence address and telephone number.
- (3) The name(s) under which the prospective licensee will be doing business.
- (4) Valid proof of age.
- (5) Information as to whether the applicant has ever been refused any similar license or permit has had any similar license or permit issued to such person in Peoria or elsewhere revoked or suspended and the reason therefore.
- (6) All prior criminal convictions, excluding those for traffic offenses.
- (7) Fingerprints.
- (8) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation, and the names, residence address and dates of birth of each of its current officers and directors, and each stockholder holding more than five percent of the stock in the corporation. If the applicant is a partnership, the applicant shall set forth the names, residence addresses and dates of birth of each of the general partners. If one or more of the general partners in a partnership is a corporation, the provisions of this subsection pertaining to corporations shall apply. The corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer.

(b) The City shall have a reasonable period of time in which to investigate the application and background of the applicant and process the application through other City departments as necessary.

(c) The City shall grant the license if all of the following are met:

(1) The required fees have been paid.

(2) The application conforms in all respects to the provisions of this chapter.

(3) The applicant has not made a material misrepresentation of fact in the application.

(4) That neither the applicant, if an individual, nor any person financially interested if a business consisting of more than one individual, nor any of the general partners if a partnership, nor the manager or other individual principally in charge of the operation of the business, has been convicted of, pleaded nolo contendere to, or guilty to, any felony or to a misdemeanor involving moral turpitude, within five years prior to the issuance of the license. This subsection shall be inapplicable to an individual whose civil rights have been restored in accordance with law, unless the conviction involves a criminal violation of this chapter.

(5) The applicant has not violated of the provisions of the chapter within the five-year period immediately preceding the date of the filing of the application.

(6) The applicant has not had a license similar to the one issued pursuant to the provisions of this Chapter issued by another authority suspended or revoked within the five-year period immediately preceding the date of the filing of this application.

(7) The applicant is in compliance with all laws of the City, county and state.

(8) The applicant is at least eighteen years of age.

(d) Every application filed pursuant to this chapter shall be reviewed and approved by the Police, ~~Community Development~~Planning and Community Development, and Finance Departments.

(e) The City shall review the criminal history record information, including conviction and non-conviction data, of license applicants for the purpose of evaluating the fitness of prospective licensees. Such information shall be used only for the purpose of such evaluation



(f) The Finance Department shall deny the application if any of the requirements of subsection 9(c) of this section have not been met. In the event of denial the applicant shall be notified by mail of the denial and the reasons therefore. The applicant may appeal such denial pursuant to the provisions of this Chapter.

SECTION 77. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-224 as Section 11-125 pertaining to Secondhand Sales License; suspension; revocation and which shall read as follows:

Sec. 11-~~224~~125. Secondhand Sales License; suspension; revocation.

(a) Any license issued under the provisions of this Chapter may be suspended by the City for a prescribed period of time, not to exceed ninety days in the event of a failure on the part of the licensee to comply with the provisions of this Chapter.

(b) Any license issued under the provisions of this Chapter may be revoked by the City in the event of refusal on the part of a licensee to comply with the provisions of this Chapter. No license revoked shall be reissued with out the payment of a full license fee and application.

SECTION 78. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-225 and renumbering it as Section 11-126 pertaining to Secondhand sales; special requirements; auction houses and secondhand dealers and which shall read as follows:

Sec. 11-~~225~~126. Secondhand Sales; special requirements—auction houses and secondhand dealers.

(a) Every person, except organizations that are deemed not for profit under the laws of this state or any other state, engaged in the business of second hand sales shall make out at the time of the transaction a true, complete and legible report of all goods or articles with a fair market value in excess of \$25.00 received on deposit or consignment, trade or exchange, or by purchase. The report shall be made upon forms furnished by the City and shall be delivered by to the City within twenty-four hours after receipt of the property concerned. Delivery of the report to the City is accomplished when the report is delivered in person or when the report is deposited in the United States mail addressed to the Police ~~Finance~~ Department of the City. The reporting party shall retain on the premises of the business for six months from the date of the transaction his copy of the report. Each report shall contain for each item received:

- (1) An accurate description of the property—including brand name and serial number, if any. The word “scrap” shall not constitute a description under the subsection.
- (2) The amount paid for the property, or amount allowed in trade.

- (3) The date and time when the property was received.
- (4) A statement in 10 point bold type, signed by the person from whom the property was received, which reads as follows:

All information in this complete and accurate. I am the owner of goods described in this report that I pledged, sold, or consigned or I am authorized to enter into this pawn, sale or consignment transaction on behalf of the owner of the goods described in this report. I understand that I will be guilty of a Class 1 misdemeanor if the information in this report is not complete and accurate or I am not the owner of the goods pledged, sold or consigned or I am not authorized to enter into the pawn, sale or consignment transaction on behalf of the owner of such goods.

- (5) The printed name, address and age of such person. Before accepting the property, the reporting party shall require the person who is delivering the property to identify himself with a valid motor vehicle operator's license, valid motor vehicle non-operating identification license, valid armed forces identification card or other valid photo identification, including the serial or identification number of such valid document sufficient to verify the information required by the subsection.
- (6) A description of such person, consisting of height, weight, race, complexion and hair color.

(b) An auction house or secondhand dealer shall retain any property obtained in a reportable transaction at its place of business, or other storage location approved by the City for a period of ten calendar days after making out and delivering to the City the report required under subsection (a) above. Any article held in custody pursuant to this subsection shall not be altered or transformed in any way but shall be held in the same condition in which it was delivered to the reporting party.

(c) Subsections (a) and (b) of this section shall not apply to transactions falling within any one or more of the following categories.

- (1) Purchases by a secondhand dealer or auction house from a business with a fixed business location of either business inventory or business equipment, provided that the licensee acquires at, or has previously acquired by, the time of the transaction, all of the following:
  - (i) The name and address of the business.
  - (ii) The state and local transaction privilege tax license number of the business, if applicable.

- (iii) A copy of the invoice or other document showing the business' bona fide purchase of or right to possess the article sold, or a representative of the business with apparent authority to act in behalf of the business for purposes of this subsection has completed and signed the report required in subsection 9(a) of this section in all its particulars, notwithstanding the amount of the transaction.
- (2) Purchases of household items by a secondhand dealer or auction house from a place of residence, provided that all of the following apply:
  - (i) The purchase is made by the licensee by check or other negotiable instrument made payable to the seller, or the purchase is made in cash and the licensee has obtained a receipt for that cash payment from the seller bearing the seller's name and address, verified to be accurate by the licensee from the identification of the type listed in subsection (a)5 of this section.
  - (ii) The seller has produced for the licensee's inspection documentary evidence that would establish to the satisfaction of a reasonable person that the seller is either the lawful occupant of the premises or has the legal right to sell the items being offered for sale. The licensee shall record from the documentary evidence produced a description of the document, including the name or nature of the document, and, to the extent available, its date, the individual's name and address thereon, and any account number appearing thereon.
  - (iii) Notwithstanding the \$25.00 rule of subsection (a), the licensee records the serial numbers and descriptions of all items bearing serial numbers.
- (d) Every person engaged in the business of secondhand sales shall record the description of every article sold for an amount of One Hundred Dollars (\$100) or more. He shall also record the name and address of the purchaser of such articles. This record shall be held by the secondhand dealer for at least thirty days after the sale. This record shall be held by the secondhand dealer for at least thirty days after the sale.
- (e) Each auction house and secondhand dealer shall maintain a copy of this code section on the premises at all times and shall make it available upon request to any employee or customer of that action house or secondhand dealer and to local law enforcement.

(f) The business premises of any auction house or secondhand dealer, along with their transaction record and stock of goods and articles shall be open to reasonable inspection by any peace officer of this state when the business premises are lawfully occupied and during regular business hours.

(g) Any person violating any of the provisions of this section, shall be strictly liable. No culpable mental state is required.

(h) Notwithstanding any other provisions of this section, the license of any auction house or secondhand dealer, may be suspended for a period not to exceed one year upon a showing that the operator or any employee of such establishment has been convicted of violating any of the provisions of Chapter 11 of the Peoria City Code or Sections 13-1802 and 13-2307, Arizona Revised Statutes, in the conduct of business of such establishment. The conviction of any employee under A.R.S. §13-1802 for an act of theft committed against that employee's own auction house or secondhand dealer shall not be the basis for suspension under the subsection.

(i) No person engaged in the business of auction house or secondhand dealer shall knowingly permit a person whose license is under suspension under subsection (h) above to be employee in any capacity of such establishment.

(j) The reporting requirements of subsection (a) of this section on goods and articles received on deposit or consignment, trade or exchange, or by purchase shall not apply to organization qualified under Section 501(c) of the United States Internal Revenue Code.

SECTION 79. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-226 and renumbering it as Section 11-127 pertaining to Pawnbrokers; special requirements and which shall read as follows:

Sec. 11-~~226~~127. Pawnbrokers; special requirements.

(a) Every person, except non-profit organization, engaged in the business of pawnbroker shall make out at the time of the transaction a true, complete and legible report of all goods or articles with a fair market value in excess of \$25.00 received on deposit or consignment, in pawn, pledge, trade or exchange or by purchase. The report shall be made upon forms furnished by the City and shall be delivered to the City within twenty-four hours after receipt of the property concerned. Delivery of the report to the City is accomplished when the report is delivered in person to the Finance Department or when the report is deposited in the United States mail addressed to the Police ~~Finance~~ Department of the City. The reporting party shall retain on the premises of the business for six months from the date of the transaction his copy of the report. Each report shall contain for each item received:

(1) An accurate description of the property—including brand name and serial number, if any. The word "scrap" shall not constitute a

description under the subsection.

- (2) The amount paid for the property, or amount allowed in trade.
- (3) The date and time when the property was received.
- (4) A statement in 10 point bold type, signed by the person from whom the property was received, which reads as follows:

All information in this complete and accurate. I am the owner of goods described in this report that I pledged, sold, or consigned or I am authorized to enter into this pawn, sale or consignment transaction on behalf of the owner of the goods described in this report. I understand that I will be guilty of a Class 1 misdemeanor if the information in this report is not complete and accurate or I am not the owner of the goods pledged, sold or consigned or I am not authorized to enter into the pawn, sale or consignment transaction on behalf of the owner of such goods.

- (5) The printed name, address and age of such person. Before accepting the property, the reporting party shall require the person who is delivering the property to identify himself with a valid motor vehicle operator's license, valid motor vehicle non-operating identification license, valid armed forces identification card or other valid photo identification, including the serial or identification number of such valid document sufficient to verify the information required by the subsection.
- (6) A description of such person, consisting of height, weight, race, complexion and hair color.
- (7) The printed name, address and age of such person. Before accepting the property, the reporting party shall require the person who is delivering the property to identify himself with a valid motor vehicle operator's license, valid motor vehicle non-operating identification license, valid armed forces identification card or other valid photo identification, including the serial or identification number of such valid document sufficient to verify the information required by the subsection.
- (8) A description of such person, consisting of height, weight, race, complexion and hair color.

(b) A pawnbroker shall retain any property obtained by purchase in its original form for ten calendar days after the original transaction date at the pawnbroker's place of business or other storage location approved by the City. This subsection shall not apply to redemption of pawned or pledged articles.

(c) Every person engaged in the business of pawnbroker shall conspicuously place a sign within the business premises in a place where it is likely to be read by patrons, which shall read as follows:

**NOTICE**

**All transactions involving property with a fair market value over \$25.00 are reported to local law enforcement.**

This sign should be composed of block, capital letters printed in black on white paper at a minimum weight of one hundred ten pound index. The lettering shall consume a space at least six inches by nine inches. The letters comprising the word "Notice" shall be at least one-half of a vertical inch. The City shall prepare the signs required by this subsection and make them available at no charge to all pawnbrokers.

(d) The business premises of any auction house, secondhand dealer or pawnbroker, along with their transaction record and stock of goods and articles shall be open to reasonable inspection by any peace officer of this state when the business premises are lawfully occupied and during regular business hours.

(e) Any person violating any of the provisions of this section, shall be strictly liable. No culpable mental state is required.

(f) Notwithstanding any other provisions of this section, the license of any pawnbroker, may be suspended for a period not to exceed one year upon a showing that the operator or any employee of such establishment has been convicted of violating any of the provisions of Chapter 11 of the Peoria City Code or Sections 13-1802 and 13-2307, Arizona Revised Statutes, in the conduct of business of such establishment. The conviction of any employee under A.R.S. §13-1802 for an act of theft committed against that employee's own pawnbroker shall not be the basis for suspension under the subsection.

(g) No person engaged in the business of pawnbroker shall knowingly permit a person whose license is under suspension under subsection (f) above to be employee in any capacity of such establishment.

(h) The reporting requirements of subsection (a) of this section on goods and articles received on deposit or consignment, trade or exchange, or by purchase shall not apply to organization qualified under Section 501(c) of the United States Internal Revenue Code.

SECTION 80. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-227 and renumbering it as Section 11-128 pertaining to Scrap Metal Dealers; special requirements and which shall read as follows:

Sec. 11-~~227~~128. Scrap Metal Dealers; special requirements.

(a) Every scrap metal dealer shall keep on the business premises a book or other similar record legibly printed or written in ink in the English language of each transaction exceeding \$25.00 dollars involving the receipt of scrap metal shall include the following information.

- (1) An identifying description and weight of the specific metal received.
- (2) The date, time and place of the transaction.
- (3) The seller's name, address, physical description including gender, height, weight, race, eye and hair color, date of birth, signature and a driver's license number or a photo copy of a valid government issued photo identification card.
- (4) The dollar amount paid.
- (5) The number and state of issuance of the license on the vehicle used to deliver the material.
- (6) The peddler license number of the transaction privilege tax number.

(b) The record required by subsection (a) of this section and the entries therein shall be retained in a book or similar record at the business premises one year after making the final entry of any transaction and shall be retained either at the business premises or any other reasonable available location for an additional year.

(c) A scrap metal dealer shall not purchase materials for which a record is required to be kept by subsection (a) of this section in a series of purchases under \$25.00 dollars for purposes of avoiding the requirements of subsection (a) of this section.

(d) Within twenty-four hours of receipt of scrap metals, except from an industrial account or a scrap metal dealer, for which a record is required to be kept by subsection (a) of this section, a scrap metal dealer shall deliver to the Police department a record of the receipt of the scrap metals. The record shall indicate the following information.

- (1) The date, time and place of receipt of the scrap metal.
- (2) An identifying description of the specific scrap metal received including the weight and amount paid or other consideration given.
- (3) A description of the party delivering the metal to the scrap metal dealer including the party's gender, height, weight, race, hair and eye color, address, date of birth and driver's license number and state of issuance of license.

- (4) The number or letters and state/country of issuance of the license on the vehicle used to deliver the scrap metal.
- (5) The peddler license number if the scrap metal is received from a peddler.
- (e) A scrap metal dealer shall hold in its custody in the same size, shape and condition in which the nonferrous scrap metal was received on its business premises any nonferrous scrap metal received in a reportable transaction for ten days after filing the report prescribed by subsection (d) of this section. This subsection does not apply to transactions with industrial accounts, other scrap metal dealers, a holder of a peddler license furnishing evidence of the license including the license number and a scrap metal transport manifest, purchases by scrap metal dealers of used beverage containers or ferrous scrap metals and scrap metal authorized for release by a peace officer of that jurisdiction.
- (f) No culpable mental state need be shown in order to take civil enforcement action a scrap metal dealer licensee as provided in this code, provided that any civil enforcement action taken as a result of the destruction of any record required to be kept pursuant to this section shall require a showing that the action was taken knowingly.
- (g) A scrap metal dealer shall maintain a copy of this code section on the premises at all times and shall make it available upon request to any employee or customer of that scrap metal dealer and to local law enforcement.
- (h) A scrap metal dealer's business premises, business records relating to scrap metal transactions, including a book or similar record prescribed by this section and the business inventory, shall be open during regular business hours for reasonable inspection by a peace officer. Before an inspection shall take place, a peace officer shall first identify himself and the purpose for the inspection to the scrap metal dealer, dealer's manager or other responsible person and comply with all reasonable and customary safety requirements of that scrap metal dealer for the business premises inspected. The scrap metal dealer may require the peace officer to sign an inspection log that will include his name, serial or badge number, time, date and purpose of the inspection.
- (i) A scrap metal dealer who fails in any respect to keep a book or similar record prescribed by this section or to set out in a book or similar record any matter under this section or who refuses, upon demand of any peace officer of this state, to exhibit a book or similar record, business record, receipt or transaction record, or who knowingly destroys a book or similar record within two years after making the final entry of any transaction or who otherwise fails to comply with this chapter is guilty of a class one misdemeanor.
- (j) Notwithstanding any other provisions of this section, the license of any scrap metal dealer may be suspended for a period of not to exceed one year upon a showing that the operator or any employee of such establishment has been



convicted of violating any of the provisions of Chapter 11 of the Peoria City Code, or any of the provisions of Sections 13-1802, 13-2307, 28-323, 38,326, 445-1642, 44-1643 or 44-1644, Arizona Revised Statutes, in the conduct of business of such establishment. The conviction of an employee under A.R.S. Section 13-1802 for an act of theft committed against that employee's own scrap metal dealer shall not be the basis for suspension under this subsection.

(k) No person engaged in the business of scrap metal dealer shall knowingly permit a person whose license is under suspension under subsection (j) above to be employee in any capacity of such establishment.

(l) The reporting requirements of subsection (a) of this section for any article received by a scrap metal dealer in trade, exchange or by purchase, shall not apply to organization qualified under Section 501(c) of the United States Internal Revenue Code.

SECTION 81. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-228 and renumbering it as Section 11-129 pertaining to Secondhand Sales; police officer hold on property and which shall read as follows:

~~11-228~~129. Secondhand Sales; police officer hold on property.

(a) Whenever any peace officer has probable cause to believe that property in the possession of a pawnbroker, secondhand dealer, scrap metal dealer or auction house is stolen, the peace officer may place a hold on the property for a period not to exceed ninety (90) days. The hold shall be effective immediately upon oral or written notice. If the hold is placed orally, it shall be followed by a written notice mailed to the pawnbroker, secondhand dealer, scrap metal dealer or auction house within two (2) days, excluding weekends and City and Federal holidays on which the United States Mail is closed. The written notice of hold shall accurately describe the property, providing the item's brand name and serial number, if applicable. If no written notice is issued after the second day the hold is terminated. During the hold period, the pawnbroker, secondhand dealer, scrap metal dealer or auction house shall not release or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by the Chief of Police or his designee of the law enforcement agency of which the peace officer placing the hold on the property is a member. At the time of receipt of the written hold, the pawnbroker, secondhand dealer, scrap metal dealer or auction house shall tag and mark the item placed on hold, name of law enforcement agency placing the hold and law enforcement report number. A pawnbroker, secondhand dealer, scrap metal dealer or auction house shall not be subject to civil liability for compliance with this section. If a pawnbroker, secondhand dealer, scrap metal dealer or auction house believes that a hold has been wrongfully imposed, an appeal of such hold may be filed in the manner provided for disposition of claims of allegedly stolen property provided in this chapter.

(b) Whenever property that is in the possession of a pawnbroker, secondhand dealer, scrap metal dealer, or auction house is subject to a hold and

the property is required by a peace officer in a criminal investigation, the pawnbroker, secondhand dealer, scrap metal dealer, or auction house upon reasonable notice, shall produce the property at reasonable times and places or may deliver the property to any peace officer upon request of any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member.

(c) Whenever property that is in the possession of a pawnbroker, secondhand dealer, scrap metal dealer or auction house is subject to a hold and the property is no longer required for the purpose of criminal investigation, the law enforcement agency that placed the hold on the property shall undertake the following:

(1) With respect to the property being held, if the law enforcement agency no longer has probable cause to believe that the property on hold is stolen, the hold shall be released and returned to the pawnbroker, secondhand dealer, scrap metal dealer or auction house as soon as practicable, but in no event more than twenty (20) days thereafter.

(2) If the law enforcement agency has knowledge that property has been reported stolen, the law enforcement agency shall give written notification to the person who reported the stolen property the name and address of the pawnbroker, secondhand dealer, scrap metal dealer or auction house holding the property and issue a written order releasing the law enforcement hold on the property in favor of the person reporting the property stolen. The written order releasing the hold shall advise the person that the law neither requires nor prohibits payment of a fee or any other condition in return for surrender of the property. A copy of the written order with the address of the claimant deleted shall be mailed to the pawnbroker, secondhand dealer, scrap metal dealer or auction house who is in possession of the property. The person who reported the stolen property shall present a police order releasing the hold to the pawnbroker, secondhand dealer, scrap metal dealer or auction house prior to the person receiving the item.

(3) Notwithstanding the foregoing, if the alleged owner does not choose to assist in the prosecution of an identified alleged thief, the alleged owner shall pay the pawnbroker, secondhand dealer, scrap metal dealer or auction house the "out of pocket" expenses paid in the acquisition of the allegedly stolen property in return for surrender of the property. The order releasing the hold shall indicate whether the alleged owner is assisting in the prosecution of the identified alleged thief.

(4) If no action is taken to recover the property by the person who reported the property stolen with sixty (60) days after the date that the order releasing the hold was mailed, or if the property was not placed on hold, sixty days after a law enforcement officer advised the pawnbroker, secondhand dealer, scrap metal dealer or auction house that the property may be stolen property, the pawnbroker, secondhand dealer, scrap metal

dealer, or auction house in possession of the property may treat the property as regularly acquired in the due course of business.

(5) If a pledger seeks to redeem property that is subject to a hold, the pawnbroker, secondhand dealer, scrap metal dealer or auction house shall advise the pledge of the law enforcement agency that placed the hold on the property and provide the pledger with a copy of the written notice placing the hold on the property. If the property is not required to be held pursuant to a criminal prosecution, the hold shall be released.

(d) Whenever any property is taken from a pawnbroker, secondhand dealer, scrap metal dealer, or auction house by a peace officer that is alleged to be stolen property, the peace officer shall give the pawnbroker, secondhand dealer, scrap metal dealer or auction house a receipt for the property which shall contain an accurate description of the property, including brand name and serial number, if any the reason for seizure, and the names of the pawnbroker, secondhand dealer, scrap metal dealer or auction house, and the officer.

SECTION 82. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-229 as Section 11-130 pertaining to Secondhand Sales; business succession and liability and which shall read as follows:

Sec. 11-~~229~~130. Secondhand Sales; business succession and liability.

The provisions of the City of Peoria code relating to business succession and liability shall be applicable to all application fees licenses, and license fees imposed under this Chapter.

SECTION 83. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-230 and renumbering it as Section 11-131 pertaining to Stolen Property; disposition of and which shall read as follows:

Sec. 11-~~230~~131. Stolen Property; disposition of.

(a) Sections 11-~~230~~ 131 through 11-138 shall apply to property that has come into possession of the City by means of seizure by the Police Department or some other law enforcement agency and the following apply:

- (1) The City has reason to believe that the property has been stolen.
- (2) No Arizona court has before it a case against a suspect alleged to have stolen the property.
- (3) Two or more persons are known or believe to have made, or can reasonably be anticipated to make a claim for possession of the Property.
- (4) The City of Peoria makes no claim to possession of the property.

- (5) The property will not be required to be retained for use as evidence in any legal proceeding other than the hearing provided under this Chapter.

SECTION 84. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-231 and renumbering it as Section 11-132 pertaining to Stolen Property; hearing officer and which shall read as follows:

Sec. 11-~~231~~132. Stolen Property; hearing officer.

All petitions filed pursuant to Sections 11-~~230~~ 131 through 11-138 shall be assigned to a hearing officer appointed by the City Council. The City may use its designated hearing officers appointed for any other matters to hear matters pursuant to this section.

SECTION 85. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-232 and renumbering it as Section 11-133 pertaining to Stolen Property; initiation of petition and which shall read as follows:

Sec. 11-~~232~~133. Stolen Property; initiation of petition.

The City shall file a petition with the Hearing Officer that sets forth the following:

(a) The factual basis for the action under section 11-~~230~~-131 of this code.

(b) The name and address of each person claiming or anticipated to claim an interest in the Property.

(c) An accurate description of the property, any identifying marks or serial numbers, the police identification number(s), if any, the location where seized and the person from whom seized.

SECTION 86. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-233 and renumbering it as Section 11-134 pertaining to Stolen Property; service of the petition; notice of hearing and which shall read as follows:

Sec. 11-~~233~~134. Stolen Property; service of the Petition; notice of hearing.

(a) The petition shall be served upon all persons claiming or anticipated to claim an interest in the property and if different from the person from whom the property was obtained if a seizure has been made. A copy of sections 11-~~230~~131 through 11-138 shall be included with each petition. Service shall be made by first class mail, postage prepaid, return receipt requested or by any other means reasonably calculated to provide notice at the last known address of each individual on file with the Police Department.

(b) There shall be served with the petition a Notice of Hearing setting forth the date, time and place for conduct of the hearing to determine the right of possession of the property. The hearing shall be within sixty (60) days of the date of filing the petition.

(c) Service shall be complete upon receipt and proof of service shall be filed with the hearing officer.

SECTION 87. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-234 as Section 11-135 pertaining to Stolen Property; claimant's rights; disclaimers and which shall read as follows:

Sec. 11-~~234~~135. Stolen Property; claimant's rights; disclaimers.

(a) All persons claiming an interest in the property shall be known as a respondent.

(b) A respondent or any other person claiming any ownership interest of any kind, or possessory right to the property shall have the right to appear at the hearing and to present any and all evidence in support of their claim to the property.

(c) Failure of any person to appear at such hearing shall constitute a waiver of any claim to the property by such person as against the City of Peoria and shall authorize the Hearing Officer to enter a ruling consistent therewith.

(d) Any party may file with the Hearing Officer a disclaimer waiving any further interest in the property. Upon such filing, the Hearing Officer shall enter a ruling consistent therewith.

SECTION 88. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-235 and renumbering it as Section 11-136 pertaining to Stolen Property; conduct of hearing; judicial review and which shall read as follows:

Sec. 11-~~235~~136. Stolen Property; conduct of hearing; judicial review.

(a) The hearing shall be conducted informally and the technical rules of evidence shall not apply, provided that the decision of the Hearing Officer shall in all cases be based upon substantial and reliable evidence. All parties shall have the right to be represented by counsel, to present evidence and testimony in support of their position and to cross-examine adverse witnesses. All witnesses shall be placed under oath before testifying.

(b) The Hearing Officer shall generally apply the Arizona Rules of Civil Procedure, except that no discovery shall be permitted, unless authorized by the Hearing Officer.

(c) Any party participating in the Hearing who is aggrieved by the decision of the Hearing Officer may seek judicial review by a special action proceeding in Superior Court.

(d) Nothing in Sections 11-~~230~~ 131 through shall prevent any person from filing an action in a court of appropriate jurisdiction to establish ownership to the property.

SECTION 89. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-236 and renumbering it as Section 11-137 pertaining to Stolen Property; release of seized property and which shall read as follows:

Sec. 11-~~236~~137. Stolen Property; release of seized property.

(a) Any person prevailing in a hearing or uncontested proceeding convened pursuant to Sections 11-~~230~~ 131 of this Code shall be entitled to receive the property described in the petition after producing a copy of the decision in their favor and appropriate identification to the property's custodian.

(b) No property may be released pursuant to this section until the expiration of twenty (20) calendar days from the date of the Hearing Officer's decision.

SECTION 90. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-237 and renumbering it as Section 11-138 pertaining to Stolen Property; release of unseized property and which shall read as follows:

Sec. 11-~~237~~138. Stolen Property; released of unseized property.

(a) Any peace office of this state may seize the property from the regulated business in possession of the property upon the Hearing Officer's order that a respondent other than the regulated business has the greater claim to possession of the property

(b) A receipt identifying the property, the law enforcement agency involved in the seizure, and the date of the seizure shall be given to any regulated business from whom the property is seized pursuant to this section.

(c) The property, upon its seizure by the Police Department pursuant to this section, will be given to the respondent prevailing at the hearing unless the property is required to be retained by the Police Department for use in any legal proceeding. At the expiration of any such legal proceeding the property shall then be given to the prevailing respondent.

(d) No Property seized by the City pursuant to this section may be given to the prevailing respondent until the expiration of twenty (20) calendar days after the issuance of the Hearing Officer's decision.

(e) The respondent prevailing at the hearing may be required to sign a receipt for any property returned to him pursuant to this section.

(f) Notwithstanding any other provision of this chapter, a regulated business may not dispose of any property that has been made the subject of a decision by the Hearing Officer pursuant to Sections 11-~~230~~131 through 11-~~237~~138, except as ordered by a court, the Hearing Officer or a peace officer.

SECTION 91. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-238 and renumbering it as Section 11-139 pertaining to Pawnbroker Transaction Fee; definitions and which shall read as follows:

Sec. 11-~~238~~139. Pawnbroker Transaction Fee; definitions.

For Sections 11-~~238~~139 through 11-~~242~~143, unless the context otherwise requires, the following terms shall have the meanings given in Section 44-1621, Arizona Revised Statutes: loan, pawn ticket, pawn transaction, pawnbroker, pawnshop, pledged goods, pledgor, and redeem or redemption.

SECTION 92. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-239 as Section 11-140 pertaining to Pawnbroker Transaction Fee; imposition and which shall read as follows:

Sec. 11-~~239~~140. Pawnbroker Transaction Fee; imposition.

(a) A pawnbroker shall pay to the city a fee in the amount provided in Chapter 2 of this code for each report required to be prepared pursuant to Section 44-1625(A), Arizona Revised Statutes.

(b) The fee shall be due on the last business day of the month following the month in which the report required by Section 44-1625(A), Arizona Revised Statutes, was required to be prepared.

SECTION 93. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 11-240 as Section 11-141 pertaining to Pawnbroker Transaction Fee; reporting and payment of fee and which shall read as follows:

Sec. 11-~~240~~141. Pawnbroker Transaction Fees; reporting and payment of fee.

The fee payable and paid as required by this code shall be reported on a form prescribed by the City and shall be considered as filed only when the accuracy of the form has been attested to, by signature on the form, by the pawnbroker, or its authorized agent and has been received by the City.

SECTION 94. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-241 and renumbering it as Section 11-142 pertaining to

Pawnbroker Transaction Fees; violations and penalties and which shall read as follows:

Sec. 11-~~241~~142. Pawnbroker Transaction Fees; violations and penalties.

(a) The remedy provided in this section is exclusive.

(b) Any pawnbroker who fails to comply with any provisions of Sections 11-~~238~~139 through 11-~~242~~143 is subject to a civil sanction of not more than two thousand, five hundred dollars (\$2,500.00) per violation.

SECTION 95. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-242 and renumbering it as Section 11-143 pertaining to Pawnbroker Transaction Fees; jurisdiction of court and which shall read as follows:

Sec. 11-~~242~~143. Pawnbroker Transaction Fees; jurisdiction of court;

(a) Jurisdiction of all proceedings to enforce the provisions of Sections 11-~~238~~139 through 11-~~242~~143 shall be in the Municipal Court of the City of Peoria.

(b) Civil actions to enforce the provisions of Sections 11-~~238~~139 through 11-~~242~~143 may be adjudicated by a Municipal Judge or a Civil Traffic Hearing Officer.

(c) Any civil action to enforce a civil sanction imposed pursuant to this code shall be commenced and summons issued in accordance with Chapter 45 of this code.

SECTION 96. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 3-1 as Section 11-144 pertaining to Alcoholic beverages; business succession and liability and which shall read as follows:

Sec. 3-~~411~~-144. Alcoholic beverages; business succession and liability.

The provisions of the City of Peoria Sales Tax Code relating to business succession and liability shall be applicable to all application fees, license and license fees imposed under this Code.

SECTION 97. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 3-2 as Reserved Section 11-145 and which shall read as follows:

Sec. 3-~~211~~-145. Reserved.

SECTION 98. Chapter 11 of the Peoria City Code (1992) is amended by renumbering Section 3-3 as Section 11-146 pertaining to Alcoholic beverages;



temporary or permanent extension of licensed premises and which shall read as follows:

Sec. ~~3-311-146.~~ 311-146. Alcoholic beverages; temporary or permanent extension of licensed premises.

(a) The City may consider the following factors in reviewing an application for a temporary or permanent extension of licensed premises:


- (1) Criminal history of the applicant.
- (2) Nature of the event.
- (3) Security measures taken by the applicant.
- (4) Type of alcohol that will be sold at the event.
- (5) How the alcohol will be served.
- (6) Whether the promoter of the event has obtained special events or temporary use licenses in the City of Peoria within the last three years that have ~~created~~ culminated in neighborhood disturbances.
- (7) Potential for ~~problems~~ unmitigated disturbances within ~~in~~ the neighborhood of the proposed event in terms of noise, hours or operation, and ~~time of day~~ day of the week.
- (8) Length of the event.
- (9) Restroom facilities available to the participants.
- (10) ~~Whether the zoning and land use requirements are proper.~~ Compliance with applicable zoning and permitting requirements.
- (11) Anticipated number of attendees
- (12) The nature of the sound application systems.

(b) The city manager or his designee is authorized to approve or disapprove a temporary or permanent extension of licensed premises in accordance with the provisions of subsection (a). The city manager as she or he deems appropriate shall report to the city council on the special event licenses issued under this section.

SECTION 99. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 100. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria,  
Arizona, this 13<sup>th</sup> day of June, 2017.

  
\_\_\_\_\_  
Cathy Carlat, Mayor

  
\_\_\_\_\_  
Date Signed

ATTEST:

  
\_\_\_\_\_  
Rhonda Geriminsky, City Clerk



APPROVED AS TO FORM:

  
\_\_\_\_\_  
Stephen Burg,

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