

## CHAPTER 17

### LICENSES AND BUSINESS REGULATIONS

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#### ARTICLE I. IN GENERAL

##### **SEC. 17-1100. SERVICE FEES IN ADDITION TO LICENSE FEES; IMPOSITION; AMOUNT.**

All licensees of the City of Moline, Illinois, except as otherwise specifically provided in the Moline Code of Ordinances, shall, in addition to their annual or semi-annual license fees, pay the following service fees:

- (1) In those cases where more than seven (7) days elapse after they are given notice to pay their renewal license fees in writing by the accounts and finance officer, a service fee of five dollars (\$5.00);
- (2) In those cases where a notice from the mayor has been served upon them advising them that there will be an administrative hearing to revoke their license for failure to pay fees, which has been personally served at the licensed premises, an additional service charge of ten dollars (\$10.00);
- (3) In those cases where an administrative proceeding has in fact been held and the license has in fact been revoked by written order of the mayor, an additional fee of twenty dollars (\$20.00), which fee shall cover stenographic costs and personal service of said order.

##### **SEC. 17-1101. SAME - COLLECTION.**

The accounts and finance officer shall collect the above service fees at the time the renewal license fees are paid. No license shall be renewed where any such service fees are payable, until they are paid in full together with the license fee.

##### **SEC. 17-1102. SUSPENSIONS AND REVOCATIONS - PROCEDURE.**

(a) Whenever this Code provides for licensing, registration, or penal bond, in order to engage in an occupation and no procedure is set forth for suspension or revocation thereof, or, if the procedure set forth does not specify at a minimum written notice of charges and hearing to receive evidence on charges with the right of confrontation, then the provisions of this section shall apply. In addition, if a procedure described as a minimum herein is set forth elsewhere in this Code but if no time frames are established for the conduct of said procedure, then the time periods set forth herein shall be controlling.

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(b) Whenever a person holding a license or registration from the City has filed a penal bond with the City for the purpose of engaging in an occupation within the City violates a provision of this Code relating to said person's conduct of said occupation or has been convicted of a felony or misdemeanor involving fraud or other dishonesty since the said license or registration was issued or penal bond was filed, then the issuing authority or official with whom a penal bond was filed may issue in writing administrative charges to said person setting forth in substance the nature of the offense or grounds for administrative action alleged against said person and shall provide in writing notice of hearing to be held no earlier than ten (10) days after service of same setting forth the name of the hearing officer; the date, time, and place of hearing; that the person charged may appear and confront witnesses against the person charged and present evidence in said person's own behalf but that the matter will be heard in said person's absence; and that the hearing officer may order any license or registration suspended or revoked or penal bond forfeited.

(c) Any charge and notice of hearing shall be served by mailing same, postage prepaid, by certified mail to the address of the person charged as shown on the license, registration, or penal bond or any application therefor and, in the case of a penal bond, to any surety listed thereon. Service shall be complete when the charge and notice of hearing are deposited for mailing.

(d) The issuing authority or official with whom the penal bond was filed shall conduct the hearing. The rules of evidence pertaining to actions at common law shall not govern said proceedings, and the hearing officer shall receive and consider any evidence that is relevant, reliable, and not unduly prejudicial; however, testimony shall be under oath which the hearing officer is hereby authorized to administer and shall be preserved by means of mechanical recording or video tape.

(e) The hearing officer may determine, after hearing, that the charges are unfounded; that the charges are valid but that suspension, revocation, or forfeiture is not necessary because the party charged can and has agreed to correct any offending matter within thirty (30) days, in which case the matter will be continued to allow for same; that the charges are valid and suspension, revocation, or forfeiture is necessary, but in no case shall revocation or forfeiture be the remedy if the offending matter is correctable within thirty (30) days, unless the charges determined valid constitute a pattern of non-compliance. For purpose hereof "a pattern of non-compliance" shall mean three (3) or more instances in a period of two (2) years where the person charged has had charges determined valid.

(f) Within fifteen (15) days after the close of a hearing the hearing officer shall serve the person charged and any other party entitled to notice of hearing a written decision setting forth the hearing officer's finding of facts, conclusions of law, and order. Service of the decision shall be as provided in (c) above.

(g) The decision of the hearing officer is a final decision unless within ten (10) days after service of same the party charged appeals same in writing to the mayor. If an appeal is filed, the mayor shall review the record and issue a decision in writing within thirty (30) days. It is the intent of this provision to provide an election to appeal to the mayor and not a requirement to do so.

## **ARTICLE II. SALES REGULATIONS, ITINERANT VENDORS AND TRANSIENT MERCHANTS**

### **DIVISION 1. IN GENERAL**

#### **SEC. 17-2100. PURPOSE.**

That the public interest generally, and the interest of the public and convenience and necessity requires the protection of the people from the various dangers of transient merchants or vendors or solicitors, and requires the regulation of said transient merchants, vendors, or solicitors, and to that end, the purposes of this ordinance are specifically declared to be as follows:

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- (1) To protect the people against the unlawful activities or operations of dissolute persons of criminal habits or tendencies, representing themselves as solicitors, by requiring the registration and monitoring of all such solicitors, and by regulating the business of itinerant or transient merchants or vendors through the imposition of reasonable registration fees.
- (2) To protect residents against trespassing by solicitors, itinerant or transient merchants or vendors upon the private property of such residents if they have given reasonable notice that they do not wish to be solicited by such persons or do not wish to be sold any such merchandise, wares, goods, or services.
- (3) To protect the right of persons to engage in interstate commerce by requiring all those so engaged who go door-to-door to register for the purposes heretofore stated.
- (4) To delineate specifically the information to be requested from persons required to register hereunder, standardizing registration requirements and qualifications and fixing the time frame within which registration is to be had and establishing the parameters of administrative discretion over the registration of any transient or itinerant merchants, vendors or solicitors.

### SEC. 17-2101. DEFINITIONS.

The following definitions shall apply to the interpretation of this ordinance:

- (1) **City** shall mean the City of Moline, Illinois.
- (2) **Person** shall mean an individual person, firm, corporation, partnership or association.
- (3) **Residence** shall mean every separate living unit occupied for residential purposes, by one or more persons and contained within any type of building or structure.
- (4) **Transient Merchant, Itinerant Vendor, or Solicitor** shall mean:
  - a. Any person who transports tangible personal property for retail sale into or within this City who does not maintain in the City an established office, distribution house, sales house, warehouse, service center or residence from which such business is conducted. To determine appropriate application of this ordinance, whether any office, distributions house, sales house, warehouse, service center, or residence is established or not within the meaning of this ordinance, the accounts and finance officer and any appropriate judicial entity shall first take into consideration Section 17-2214, infra. However, this act does not apply to any person who delivers tangible personal property within the City who is fulfilling an order for such property which was solicited or placed by mail or other means;
  - b. Otherwise offers for sale any tangible personal property or personal services, while not maintaining any established office, distribution house, sales house, warehouse, service center or residence within the City; or,
  - c. Accepts or attempts to accept orders for the sale of tangible personal property or services, including but not limited to advertising or subscriptions which are to be furnished in the future or where such services are to be performed in the future or where the person offering said services or tangible personal property for sale does not maintain in the City an established office, distribution house, sales house, warehouse, service center or residence within the City.

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**DIVISION 2. LICENSES**

**SEC. 17-2200. LICENSE REQUIRED.**

It shall be unlawful for any person to engage in the business of a transient merchant in the City without first obtaining a license as herein provided.

**SEC. 17-2201. DISPLAY OF LICENSE.**

Each transient merchant shall at all times while doing business in this City keep in the possession of such person, the license required by this chapter and shall, upon request, display the license as evidence of compliance with the requirements of this ordinance. This section will be satisfied by complying with the requirements of Section 17-2207, if applicable.

**SEC. 17-2202. SALES REGULATIONS.**

(a) No person shall engage in activities regulated under this ordinance on public property without first procuring special authorization and appropriate license from the accounts and finance officer.

(b) No person shall shout or use any sound device upon any of the public places of the City or upon any private premises in said City where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard from the public places, for the purpose of attracting attention to any goods, wares, merchandise or services which such person proposes to sell.

(c) No person shall engage in business as a transient merchant in defiance of any notice exhibited at a residence or business indicating that peddlers or solicitors are not welcome or invited.

(d) No person shall engage in the activities regulated under this ordinance from door to door prior to 8:00 a.m. or after 8:00 p.m. of any weekday or Saturday or at any time on a Sunday or on a State or National holiday.

(e) No transient merchant using any vehicle or conveyance of any description shall cause or permit the vehicle or conveyance to park or stand on the public streets for the purpose of selling or dispensing therefrom said transient merchant's merchandise.

(f) It shall be a violation of this article for any owner of, or person in possession or control of, any real property located within the City of Moline, to permit, encourage, or otherwise allow any transient merchant subject to regulation hereunder, to engage in business on such real property unless such transient merchant is licensed either individually or pursuant to a blanket license under Division 2 of this article. Each such transient merchant so permitted, encouraged or otherwise allowed to engage in business by such owner or person in possession or control of real estate in violation of the requirements imposed in this article shall be deemed to constitute a separate offense by such owner or person in possession or control of real estate.

**SEC. 17-2203. FIXED LOCATION TRANSIENT MERCHANTS.**

(a) No transient merchant shall engage in business at a fixed location without the written permission, by lease or otherwise, of the owner or person in control of the property. This written agreement shall be signed by the parties and shall include the dates the transient merchant shall be conducting business. This agreement shall be displayed by the transient merchant at such fixed location whenever said transient merchant is transacting business.

(b) A transient merchant doing business at a fixed location shall provide sufficient off-street parking spaces for all employees and customers.

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(c) Any display of tangible personal property shall be at least fifteen (15) feet from the curb line. All signs and advertisements used in connection with the business licensed herein shall comply with the appropriate sections of the Moline Code of Ordinances.

### **SEC. 17-2204. APPLICATION FOR LICENSE.**

An application for a transient merchant license shall give the following information:

- (1) The name or names of the persons or person having the management or supervision of applicant's business during the time such business will be transacted in the City and the local address or addresses of such person or persons while engaged in such business.
- (2) The permanent address or addresses of the persons referred to in Section 17-2204(a); whether such person will act as proprietor, agent, consignee or employee, and the credentials establishing such relationship; the name and address of the person, firm or corporation for whose account the business will be transacted, if any; and if a corporation, the state in which it is incorporated.
- (3) The social security and/or driver's license number of applicant.
- (4) The tax ID number or employer ID number of the applicant.
- (5) The place or places in the City where the applicant proposes to transact business and the length of time during which said business shall be conducted.
- (6) The place or places other than the permanent place of business of the applicant, where applicant within two (2) years preceding the date of said application conducted a transient business, stating the nature thereof and giving the post office box number and street address of any building or office in which said business was conducted.
- (7) A statement of the nature and character of the tangible personal property or service to be sold or offered for sale by the applicant in the City; whether the goods are new, damaged or rejects; whether the same are proposed to be sold from stock in possession or by sample, or at auction or by direct sale or by taking orders for future delivery; the location where the goods or property proposed to be sold are manufactured or produced and the location of goods or products at the time said application is filed.
- (8) A statement as to whether or not any person or persons in the employ of applicant's business (including any independent contractor) has been convicted of any crime, misdemeanor or of the violation of any law or ordinance relating to the same or similar business to be conducted by applicant, the nature of such offense and the punishment or penalty assessed therefor.
- (9) Whether the applicant has ever applied for a license under this ordinance, which application has been denied.
- (10) Whether the applicant has ever held a license under this ordinance, which license has been revoked.

### **SEC. 17-2205. ISSUANCE OF LICENSES.**

If the application contains a complete statement of the information required and all material required to be submitted therewith is filed with the accounts and finance office, the accounts and finance officer, subject to the provisions of Section 17-2211 shall issue the license within five (5) working days. The license issued hereunder shall be non-transferable and non-assignable. There shall be no refund of the license fee.

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**SEC. 17-2206. FEES.**

Before a license shall be issued, applicant shall pay a license fee according to the following schedule:

- (1) Blanket license:
  - a. Single event blanket license (event not to exceed seven (7) consecutive days) \$ 50.00;
  - b. Annual blanket license \$ 150.00.
  
- (2) Transient Merchant's License:
  - a. Two (2) Day (per site) \$ 25.00 plus \$10.00 each add'l employee;
  - b. Each additional day (per site) \$ 5.00;
  - c. Up to One (1) Month (per site) \$ 100.00, plus \$10.00 each add'l employee;
  - d. Up to Three (3) Month (per site) \$ 125.00, plus \$10.00 each add'l employee;
  - e. Up to Six (6) Month (per site) \$ 150.00, plus \$10.00 each add'l employee;
  - f. Seven (7) to Twelve (12) Month (per site) \$ 200.00, plus \$10.00 each add'l employee.
  
- (3) Seasonal Outdoor License:
  - a. Limited to operation of seven (7) hours per week during the period of May 15<sup>th</sup> through October 15<sup>th</sup>, both inclusive, annually \$ 75.00.
  
- (4) Duplicate License: \$ 5.00.

(Ord. No. 3046-2006; Sec. 17-2206 repealed; new Sec. 17-2206 enacted; 10/17/06; Ord. No. 3007-2008; Sec. 17-2206 repealed; new Sec. 17-2206 enacted; 02/26/08; Ord. No. 3025-2013; Sec. 17-2206(2) repealed; new Sec. 17-2206(2) enacted; 10/01/13)

**SEC. 17-2207. DUPLICATE AND INDIVIDUAL LICENSES;  
WHEN EACH REQUIRED.**

A duplicate transient merchant license may be issued to the employees of a licensed person when such employees transact business on behalf of such licensed person at multiple location(s). Such employees shall carry any duplicate license issued, which license shall be obtained at the accounts and finance office. If the business of transient merchant in this City is transacted through agents who are not employees or by consignees, or by an unincorporated firm or association, each person so conducting the business of transient merchant in this City shall be required to have a separate license.

**SEC. 17-2208. CHARITABLE AND NONPROFIT ORGANIZATIONS.**

(a) A religious, charitable, patriotic, social service, civic, or political nonprofit organization shall receive a license for activities regulated under this ordinance where its authorized representatives undertake such activities without remuneration and where the entire proceeds of the activities will go to the organization and not for private profit. The organization shall file the information required for a transient merchant license in the accounts and finance office. The accounts and finance officer or designee thereof shall issue, free of charge, a license for the requested activity. The license shall be valid for a period of one (1) year, and may be renewed on or before the expiration date.

(b) Where such organizations receive only rents or other charges for the use of their premises by transient merchants, such organizations shall require each transient merchant to possess and display its separate license required under this ordinance, unless the organization has obtained a blanket license pursuant to the provisions of Section 17-2209.

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### SEC. 17-2209. BLANKET LICENSES.

Whenever any individual transient merchant license would otherwise be required under this ordinance, a blanket annual license in lieu thereof may be requested by an owner or person in control of premises (hereinafter owner) upon which transient merchant activities are proposed to be held, subject to the following conditions:

- (1) The owner or person in control of any real property located in the City, upon which a permanent business and building is located, who conducts events regulated and required to be licensed under this ordinance, or who leases the premises to transient merchants for such regulated events, may procure a blanket annual license, and the individuals conducting the various concessions there will not be required to obtain individual licenses, under the following conditions:
  - a. The owner of such real property shall be required to submit in writing to the accounts and finance officer of the City, on forms provided by the accounts and finance officer, the locations of the premises upon which such activities are to be conducted, the names and addresses of the officers and directors or other governing body of the transient merchant, the name and address of the owner of the premises, and the name, permanent address and business address of the person in charge of managing such property. Said owner shall also sign a statement that, in the event the license is granted, said owner will comply with all the provisions of this ordinance and guarantees that the transient merchant leasing property from said owner shall also comply with all the provisions of this ordinance.
  - b. The owner shall make the provisions of this ordinance a part of any agreement for the use of the premises for any purpose to which the provisions of this ordinance are applicable.
  - c. It shall be the responsibility of the owner to prevent any person from operating or conducting business on the premises as a transient merchant who is otherwise ineligible to be licensed hereunder.
- (2) Any person conducting or sponsoring an activity described in sub-paragraph (a) of this Section 17-2209 may secure a single event blanket license for the same uses and purposes and on the same terms and conditions as the annual blanket license. No event authorized under a single event blanket license shall continue for more than seven (7) consecutive days.
- (3) No duplicate license may be issued under the provisions of this Section 17-2209 relating to blanket licenses which permits the transaction of business away from the premises covered by said blanket license, and such practice is specifically prohibited pursuant to this subsection.

### SEC. 17-2210. EXEMPTIONS.

Persons engaged in the following described activities are exempt from the duty of applying for a transient merchant license:

- (1) Persons selling at wholesale to merchants for the purpose of resale.
- (2) Persons selling or distributing newspapers.
- (3) Persons selling tangible personal property or services to business enterprises.
- (4) Persons who sell at their permanent residence in the City, works of art or craft made by such person or a member of such person's immediate family.
- (5) Persons licensed by the State of Illinois to sell real estate or insurance or licensed as a transient vendor of drugs.
- (6) Persons selling or distributing livestock feeds as defined by the laws of the State of Illinois.

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- (7) Persons selling or delivering tangible personal property or services through a permanent business licensed through the City.
- (8) Persons selling at events for which a blanket license has been obtained.
- (9) Persons selling or distributing fresh fruit or vegetables cultivated by such person.
- (10) Persons selling tangible personal property at a garage, basement or yard sale held at one of the persons' premises.
- (11) Persons conducting and selling admissions to or for theatricals, shows, rides, sports and games, concerts, circuses, carnivals or any other public amusement where no sales of other products are involved and such sales are made on the premises where the event is to be conducted.
- (12) Persons selling food and beverages at a food service establishment or from a mobile vehicle as regulated pursuant to the Health Code of the City of Moline.

### **SEC. 17-2211. DENIAL OR REVOCATION OF LICENSE AND APPEAL PROCEDURES.**

(a) Denial of License - within five (5) working days after receipt of a license application hereunder, the accounts and finance officer may deny a license to any applicant for any of the following reasons:

- (1) Applicant held a license under this ordinance that has been revoked within two (2) years of the date of the present application.
- (2) Fraud, misrepresentation or false statement contained in the application for the license.
- (3) Fraud, misrepresentation or false statement made in the course of carrying on applicant's business.
- (4) Conviction of any crime or misdemeanor involving moral turpitude or commission of a felony, whether involving moral turpitude or not.
- (5) Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- (6) Misrepresentation of the quality of merchandise or services offered for sale.

(b) Revocation of License - The accounts and finance officer may revoke any license issued under the provisions of this ordinance by sending a Notice of Revocation by certified mail to the license holder at said license holder's last known address, return receipt requested, or by personal service on the license holder or its officers for any of the following reasons:

- (1) Information showing that the license was erroneously issued initially.
- (2) For any violation of the provisions of this ordinance.
- (3) For any violation of any City or State law regulating the sales activities of the license holder.

(c) The license shall stand denied or revoked unless within five (5) days after denial or receipt of the Notice of Revocation from the accounts and finance officer the license applicant or holder files a written request for a public hearing on the account and finance officer's action. Public hearing shall be conducted before the city



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administrator on whether a license should be denied, reinstated or revoked, as the case may be. The city administrator may order the license issued or reinstated either conditionally or unconditionally, or revoke the license.

Ten (10) days notice of the time and place of the public hearing shall be given to the license holder, who shall have an opportunity to appear before the city administrator and present any evidence or arguments the license holder may have why the action taken by the accounts and finance officer should not be approved by the city administrator.

### **SEC. 17-2212. EXPIRATION OF LICENSE.**

All annual transient merchant or itinerant vendor licenses shall expire 365 days following issuance.

### **SEC. 17-2213. PENALTY.**

(a) **Penalty.** Any person violating Section 17-2200, as a first offense, shall be subject to a mandatory fine of not less than fifty dollars (\$50.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 17-2200, as a second offense, shall be subject to a mandatory fine of not less than one hundred dollars (\$100.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs. Any person violating Section 17-2200 as a third or subsequent offense, shall be subject to a mandatory fine of not less than two hundred dollars (\$200.00) plus court costs nor more than seven hundred fifty dollars (\$750.00) plus court costs.

(b) Except for violations of Section 17-2200, any person violating the provisions of this article shall be punished as prescribed in Section 1-1107 of the Moline Code of Ordinances.

(Ord. No. 2002-08-11; Sec. 7-10213 repealed; new Sec. 17-10213 enacted; 09/10/02) (Ord. No. 3100-2004; renumbered to Art. II; 12/14/04)

### **SEC. 17-2214. PRIMA FACIE EVIDENCE.**

It shall be prima facie evidence that a person is a transient merchant or itinerant vendor under this ordinance if the person does not transact business from a fixed location or if the person does not own, or lease for a term of at least twelve (12) months, the property from which the business is conducted.

### **SEC. 17-2215. WAIVER OF BOND.**

The City does not require and does hereby waive the requirement of posting a surety bond or cash deposit which may otherwise be required by law, and no such bond is required nor shall money for same be accepted.

(Ord. No. 3100-2004; Article. X, "SALES REGULATIONS, ITINERANT VENDORS AND TRANSIENT MERCHANTS," renumbered to Art. II; 12/14/04)

## **ARTICLE III. JUNK AND SECONDHAND DEALERS**

### **DIVISION 1. IN GENERAL**

### **SEC. 17-3100. REGISTER.**

Each licensee under this article shall keep a book in which shall be fairly written, at the time of purchase of any article or thing in the way of the licensee's business, an accurate account and description of the article or thing so purchased, including any markings, serial numbers or any other identifiable descriptors of the product and the name and residence of the person from whom such purchase was made, and the date. The entries in this book shall be retained for a period of six (6) months beginning with the date of each individual purchase.

(Ord. No. 3027-2005; Sec. 17-3100 repealed; new Sec. 17-3100 enacted; 04/12/05)

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**SEC. 17-3101. PARENTAL CONSENT REQUIRED TO DEAL WITH MINOR.**

It shall be unlawful for any person licensed pursuant to this article to purchase or receive property from a minor without the written consent of the minor's parent or guardian. If said property is valued under five (5) dollars, the licensee may purchase from minor at licensee's own risk; provided that Licensee must return either the property or, if the property has already been sold or removed from the premises, an amount of money equal to the purchase price for the property to parent or guardian, upon such parent or guardian's request. Property purchases shall not be artificially divided so as to avoid the limits of this Section.

(Ord. No. 3027-2005; Sec. 17-3101 repealed; new Sec. 17-3101 enacted; 04/12/05)

**DIVISION 2. LICENSES**

**SEC. 17-3200 REQUIRED.**

No person shall use, exercise or carry on the trade or business of a dealer in secondhand clothing, furniture, household goods, computer games, compact discs (CDs), digital versatile disc or digital video disc (DVDs), CD or DVD players, computers, other computer accessories or other articles, exercise or carry on the business of a keeper of a junk shop, for the purpose of and sale of junk, rags, old rope, paper or bagging, old iron, brass, tin, empty bottles, slush or lead within the City, without first being licensed by the finance director of the City.

(Ord. No. 3026-2009; Sec. 17-3200 repealed; new Sec. 17-3200 enacted; 10/13/09)

**SEC. 17-3201. TRANSFERABILITY.**

No license issued pursuant to this division shall be transferable from one premise to another or from one person to another.

(Ord. No. 3026-2009; Sec. 17-3201 repealed; new Sec. 17-3201 enacted; 10/13/09)

**SEC. 17-3202 ANNUAL FEES.**

Any person desiring a license required by this article shall pay a license fee of fifty dollars (\$50.00) annually.

(Ord. No. 3027-2005; Sec. 17-3202 repealed; new Sec. 17-3102 enacted; 04/12/05; Ord. No. 3026-2009; Sec. 17-3202 repealed; new Sec. 17-3202 enacted; 10/13/09)

**SEC. 17-3203. BOND REQUIRED OF CLASS B DEALERS.**

Each person licensed as a "junk shop or secondhand dealer," at the time of receiving said person's license, shall enter a penal bond to the City, with a sufficient surety, in the penal sum of five hundred dollars (\$500.00), conditioned for the due observance of all provisions of this Code or other City ordinances, as may be in force or passed, respecting dealers in secondhand articles, at any time during the continuance of such license, or, in lieu thereof, post a cash bond in the amount of one hundred dollars (\$100.00).

(Ord. No. 3027-2005; Sec. 17-3203 repealed; new Sec. 17-3203 enacted; 04/12/05; Ord. No. 3026-2009; Sec. 17-3203 repealed; new Sec. 17-3203 enacted; 10/13/09)

**SEC. 17-3204. REVOCATION OR SUSPENSION.**

Any license issued pursuant to this article may be revoked or suspended by the mayor for cause, after hearing upon written notice, or the bond may be forfeited, or both.

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**SEC. 17-3205. EXTENSION OF LICENSE FOR WEEKLY AUCTION SALES; FEE.**

(a) Any person licensed pursuant to this division may conduct, one (1) day a week only, on any day of the week, an auction sale of the items listed in Section 17-3200 by paying an annual license fee to the accounts and finance officer in the sum of one hundred dollars (\$100.00) as an annual license fee, which fee shall be in addition to the regular fee for a license required by this division.

(b) This section shall not conflict with any provisions of this chapter relating to auctions and auctioneers, nor supersede such provisions.

**ARTICLE IV. RESERVED**

(Ord. No. 2000-12-04; Article IV, "AUCTIONS AND AUCTIONEERS," repealed; Article IV reserved for future use; 12/05/00)

**ARTICLE V. REGULATIONS FOR SEXUALLY ORIENTED BUSINESS ACTIVITIES**

**SEC. 17-5100. RECITALS.**

The foregoing recitals are incorporated herein as the City Council's findings and determinations.

**SEC. 17-5101. SHORT TITLE.**

This article shall be known as, and may be referred to as, the "Moline Sexually Oriented Business Activities Licensing Ordinance."

**SEC. 17-5102. DEFINITIONS.**

For the purposes of this article, the following terms, phrases, and words shall have the meanings set forth herein.

(a) **Adult Booth.** Any area of an adult entertainment establishment set off from the remainder of such establishment by one or more walls or other dividers or partitions and used to show, play or otherwise demonstrate any adult materials or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

(b) **Adult Entertainment Establishment.** Any of the following commercial establishments as defined herein.

(1) **Adult Cabaret.** Any commercial establishment that as a substantial or a significant portion of its business provides any of the following:

- a. Persons who appears nude or semi-nude;
- b. Live performances that are distinguished or characterized by an emphasis on the exposure, depiction or description of specified anatomical areas or the conduct or simulation of specified sexual activities;
- c. Films, motion pictures, video or audio cassettes, slides, computer displays, or other visual representations or recordings of any kind that are distinguished or characterized by an

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emphasis on the exposure, depiction or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

- (2) **Adult Store.** Any commercial establishment that (a) contains one or more adult booths; or (b) as a substantial or significant portion of its business, offers for sale, rental, exchange or viewing any adult materials. Adult stores do not include commercial establishments which offer for sale, rental materials. Adult stores do not include commercial establishments which offer for sale, rental exchange or viewing any adult materials as a sideline or adjunct to sales, rentals, exchanges or viewing of materials other than adult materials.
- (3) **Adult Theater.** Any commercial establishment that as a substantial or significant portion of its business features or provides films, motion pictures, video or audio cassettes, slides, or other visual representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction or description of specified anatomical areas or the conduct or simulation of specified sexual activities.
- (4) **Nude Model Studio.** Any place where a person who appears semi-nude or in a state of nudity is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by any persons who pay money or any form of consideration. This definition of nude model studio does not apply to public or private junior colleges, colleges or universities licensed by the State of Illinois and offering art or modeling classes or anatomical drawing classes.
- (5) **Sexual Encounter Center.** Any business or commercial establishment that, as one of its primary business purposes, offers for any form of consideration: (a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (b) activities between female and male persons and/or persons of the same sex when one or more of the persons is in a state of nudity or is semi-nude.
  - (c) **Adult Establishment Employee.** Any individual, including any entertainer, who works in or at, or renders any services directly related to the operation of, an adult entertainment establishment; provided, however, that this definition shall not include persons delivering goods, materials (other than adult materials), food and beverages, or performing maintenance or repairs to the licensed premises.
  - (d) **Adult Establishment License.** A license issued for an adult entertainment establishment pursuant to the provisions of this article.
  - (e) **Adult Establishment Patron.** Any individual, other than an adult establishment employee, present in or at any adult entertainment establishment open for business; provided, however, that this definition shall not include persons delivering goods, materials (other than adult materials), food and beverages, or performing maintenance or repairs to the licensed premises.
  - (f) **Adult Material.** Any of the following, whether new or used:
    - (1) a. Books, magazines, periodicals, or other printed matter or digitally stored materials; or
    - b. Films, motion pictures, video or audiocassettes, slides, computer displays or other visual or audio representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.
  - (2) Instruments, novelties, devices, or paraphernalia that are designed for use in connection with specified sexual activities (except for those items used for birth control or for the prevention of sexually transmitted diseases), or that depict or describe specified anatomical areas.

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- (g) **Adult Use Commission.** The mayor of the City of Moline and the two members of the City Council having the most seniority, pursuant to Section 17-5103 of this article.
- (h) **Adult Motel.** Any hotel, motel or similar commercial establishment which:
- (1) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmission, phones, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of such adult type photographic reproductions; or
  - (2) offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
  - (3) allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than ten (10) hours.
- (i) **Moline Zoning Ordinance.** That part of the Moline Code of Ordinances referred to as the Moline Zoning Ordinance (Chapter 35), as it will be amended from time to time.
- (j) **Commercial Establishment.** Any place where admission, services, performances or products are provided for or upon payment of any form of consideration.
- (k) **Days.** Calendar days, unless otherwise specifically set forth in this article.
- (l) **Escort.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease dance or otherwise perform or appear before the other person while nude or semi-nude.
- (m) **Escort Agency.** Any person or business association furnishing, offering to furnish, or advertising to furnish escorts as one of its primary business purposes, for a fee, tip, or any other form of consideration.
- (n) **Licensed Premises.** The place or location described in an adult establishment license wherein an adult entertainment establishment is authorized to operate. No sidewalks, streets, parking areas, public rights-of-way, or grounds adjacent to any such place or location shall be included within the licensed premises.
- (o) **Effective Date.** The effective date of this article shall be deemed to be February 9, 2000.
- (p) **Licensee.** Any person or entity that has been issued an adult establishment license pursuant to the provisions of this article.
- (q) **Nude or State of Nudity.** The state of dress or undress that exposes to view (a) less than completely and opaquely covered human genitals, pubic region, anus, or female breast below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areolae is not exposed; or (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulates human male genitals in a discernibly turgid state.
- (r) **Semi-nude.** A state of dress or undress in which clothing covers no more than the human genitals, pubic region, anus, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices or by other minor accessory apparel including, without limitation, hats, gloves, and socks.

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- (s) **Specified Anatomical Areas.** Any of the following:
- (1) Less than completely and opaquely covered human genitals; pubic region; buttocks; anus; or female breast below a point immediately above the top of the areolae but not including any portion of the cleavage of a female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel providing the areolae is not exposed; or
  - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered or any device or covering that when worn, simulates human male genitals in a discernibly turgid state.
- (t) **Specified Criminal Act.** Any unlawful lewd, indecent or immoral conduct, including, without limitation, any of the lewd, indecent or immoral criminal acts specified in any of the following statutes or ordinances:
- (1) Article II of the Illinois Criminal Code (Sex Offenses).
  - (2) Section 26-4 of the Illinois Criminal Code, 720 ILCS 5/330 (Unauthorized Videotaping).
  - (3) Section 33D-1 of the Illinois Criminal Code, 720 ILCS 5/330-1 (Contributing to the Criminal Delinquency of a Juvenile).
  - (4) The Obscene Phone Call Act, 720 ILCS 135/0.01 *et seq.*
  - (5) The Wrongs to Children Act, 720 ILCS 150/0.01 *et seq.*
  - (6) The Improper Supervision of Children Act, 720 ILCS 640/0.01 *et seq.*
  - (7) The Sale of Immoral Publications to Children Act, 720 ILCS 670/0.01 *et. seq.*
  - (8) The Cannabis Control Act, 720 ILCS 550/1 *et seq.*
  - (9) The Illinois Controlled Substances Act, 720 ILCS 570/100 *et seq.*
  - (10) Chapter 22, Article VII, Division 2 of the Moline Code of Ordinances (Obscenity).
- (u) **Specified Sexual Activities.** Any of the following:
- (1) 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 without limitation, cunnilingus, fellatio, anilingus, bestiality, intercourse, oral copulation or sodomy.
  - (3) Masturbation, actual or simulated.
  - (4) Human genitals in a state of sexual stimulation, arousal, or tumescence.
  - (5) Excretory functions as part of or in connection with any of the activities set forth in subsections (1), (2), (3) or (4) of this definition of specified sexual activities.
- (v) **Straddle Dance.** The use by any person, including specifically, but without limitation, an adult establishment employee, of any part of his or her body, to touch the genitals, pubic region, buttocks, anus, or female breast of any adult establishment patron or person, or the touching of the genitals, pubic region, buttock, anus, or female breast of any person by any adult establishment patron. Conduct shall be a “straddle dance” regardless of whether the “touch” or “touching” occurs while the person is displaying or exposing any specified anatomical area. Conduct shall also be a “straddle dance” regardless of whether the “touch” or “touching” is direct or through a medium.

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Conduct commonly referred to by the slang terms “lap dance,” “table dance,” and “face dance” shall be included within this definition of “straddle dance.”

### SEC. 17-5103. ADULT USE COMMISSION.

The mayor of the City of Moline, along with the two City Council members having the most seniority, are hereby designated as the adult use commission pursuant to the terms and conditions of this article. The adult use commission shall have the following powers and duties:

- (1) To administer and rule upon the applications for, and the issuance, renewal, suspension, and revocation of, adult establishment licenses as set forth in this article;
- (2) To conduct or provide for such inspection of adult entertainment establishments as shall be necessary to determine and ensure compliance with the provisions of this article and other applicable provisions of law;
- (3) To periodically review the provisions of this article and the conduct and operation of adult entertainment establishments and adult establishment licensees, and to make such related reports and recommendations to the City Council as the adult use commission shall deem necessary;
- (4) To conduct such hearings, studies, and reports on adult entertainment establishments, and the regulations relating thereto, as the adult use commission shall deem necessary, and to conduct such hearings on the suspension or revocation of an adult establishment license as required pursuant to Section 17-5119 of this article with the mayor to preside at any such hearing;
- (5) To take such further action as the adult use commission shall deem necessary to carry out the purposes and intent of this article and to exercise such additional powers in furtherance thereof as are implied or incident to those powers and duties expressly set forth in this article.

### SEC. 17-5104. ADULT ESTABLISHMENT LICENSES GENERALLY.

(a) **Adult Establishment License Required.** An adult establishment license shall be required to establish, operate, or maintain an adult entertainment establishment within the City.

(b) **Operation Without License Prohibited.** Except as provided in subsection (f) of this section with regard to adult entertainment establishments existing prior to the effective date of this article, it shall be unlawful for any person not having a current and valid adult establishment license to establish, operate, or maintain an adult entertainment establishment within the City at any time after the effective date of this article.

(c) **Operation in Violation of License Prohibited.** It shall be unlawful for any licensee to establish, operate, or maintain an adult entertainment establishment within the City except in the manner authorized by, and in compliance with, the provisions of this article, and the licensee’s adult establishment license.

(d) **Content and Display of License.** Every adult establishment license shall be provided by the City, and shall, at a minimum, prominently state on its face the name of the licensee, the expiration date, and the address of the adult entertainment establishment. Every licensee shall cause the licensee’s adult establishment license to be framed, covered by glass, and hung at all times in plain view in a conspicuous place on the licensed premises so that it can be easily seen and read at any time by any person entering the licensed premises.

(e) **License Term.** Except as hereinafter provided, adult establishment licenses shall be operative and valid, unless first terminated, suspended, or revoked, for a term of one year commencing on January 1 of the year following the year of issuance and terminating on December 31 of that same year. Adult establishment licenses issued after January 1 of any year for operations to commence in that year shall be operative and valid, unless first terminated,

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suspended, or revoked, for a term commencing on the date of issuance and terminating on December 31 of that same year.

(f) **Existing Establishments.**

(1) **Application Generally.** An adult entertainment establishment existing or operating on or prior to the effective date (“existing establishment”) may continue to exist and operate, provided, however, that the existing establishment (1) shall submit an application for an adult establishment license not later than sixty (60) days after the effective date; (2) shall cease operations not later than two hundred forty (240) days after the effective date (the licensure date), unless it has secured an adult establishment license by the licensure date; and (3) shall comply with and continue at all times to comply with, the requirements of paragraph 2 of this subsection (f).

(2) **Required Compliance on Effective Date.** An existing entertainment establishment shall, as of the effective date, be subject to the provisions of Sections 17-5108; 17-5110(a), (b), (c), (e), (f), (g), (h), (i) and (j); and 17-5111(a), (b), and (f); 17-5112(c), (d) and (e); 17-5114; 17-5115, and 17-5116(c), (d) and (e) and shall at all times continue with said compliance.

(g) **Renewal.** An adult establishment license may be renewed only by making application as required for an initial license pursuant to Section 17-5105 of this article. Application for renewal shall be made at least thirty (30) days before the expiration of the then-current licensed term. The expiration of the license shall not be affected or extended by a renewal application that is made less than thirty (30) days before expiration.

### **SEC. 17-5105. FORM AND SUBMITTAL OF LICENSE APPLICATION.**

(a) **Required Form.** An application for an adult establishment license, or the renewal thereof, shall be made in writing to the adult use commission on a form prescribed by the adult use commission and shall be signed (1) by the applicant, if the applicant is an individual; (2) by at least one of the persons entitled to share in the profits of the organization and having unlimited personal liability for the obligations of the organization, and the right to bind all such other persons, if the applicant is a partnership (general or limited), joint venture, or any other type of organization where two or more persons share in the organization’s profits and liabilities; (3) by a duly authorized agent, if the applicant is a corporation; or (4) by the trustee, if the applicant is a land trust. The application shall be verified by oath or affidavit as to the veracity of all statements made on or in connection with the application and any attachments thereto. Each application shall specifically identify the applicant and the licensed premises for which an adult establishment license is sought. Each initial or renewal application shall be accompanied by seven (7) identical copies.

(b) **Administrative Processing Fee and Security.**

(1) **Administrative Processing Fee.** Every applicant for an adult establishment license, or for the renewal of an existing adult establishment license shall pay an administrative processing fee in the amount of five hundred dollars (\$500.00), plus one hundred dollars (\$100.00) for each individual disclosed in the application pursuant to Sections 17-5105(c)(1), (c)(2), (c)(14) and (c)(15) of this article, by certified check to the City at the time of filing such application. The administrative processing fee shall in all cases be non-refundable and shall be deposited in the General Corporate Fund of the City.

(Ord. No. 3004-2004; Sec. 17-5105 (b)(1) repealed; new Sec. 17-5105 (b)(1) enacted; 02/03/04)

(2) **Bond or Other Security.** Each adult establishment license, and any renewals thereof, shall be conditioned on the acquisition and maintenance in good standing by the applicant and licensee of a surety bond or other similar security in favor of the City in the amount of two thousand five hundred dollars (\$2,500.00) to the City. Before an adult establishment license may be issued, the applicant shall furnish such bond or security, and before an adult establishment license is renewed or reinstated following revocation or suspension, the licensee shall submit evidence that the bond or other security, in the amount required pursuant hereto, remains in full force and effect. The bond or other security,



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or part thereof, for an adult entertainment establishment, shall be forfeited automatically pursuant to Section 17-5119 of this article in order to reimburse the City for the City's cost in association with the proceedings related to any license suspension or revocation.

(c) **Required Information and Documents.** Each application shall include the following information and documents:

- (1)
  - a. Individuals: The applicant's legal name, all of the applicant's aliases, the applicant's residence and business address and social security number, written proof of the applicant's age, the citizenship and place of birth of the applicant and, if a naturalized citizen, the time and place of the applicant's naturalization;
  - b. Corporations: The applicant corporation's complete name and official business address; the legal name, all aliases, and the ages, residence and business addresses, and social security numbers of all directors, officers, and managers of the corporation, and of every person owning or controlling more than fifty percent (50%) of the voting shares of the corporation; the corporation's date and place of incorporation and the objects for which it was formed; proof that the corporation is a corporation in good standing and authorized to conduct business in the State of Illinois; and the name of the registered corporate agent and the address of the registered office for service of process;
  - c. Partnerships (general or limited), joint ventures, or any other type of organization where two or more persons share in the profits and liabilities of the organization: The applicant organization's complete name and official business address, the legal name, all aliases, and the ages, residences and business addresses and social security numbers of each partner (other than limited partners), or any other person entitled to share in the profits of the organization, whether or not any such person is also obligated to share in the liabilities of the organization;
  - d. Land trusts: The applicant land trust's complete name; the legal name, all aliases and the business address of the trustee of the land trust; the legal name, all aliases, and the ages, residence and business addresses and social security numbers of each beneficiary of the land trust and the specific interest of each such beneficiary in the land trust; and the interest, if any, that the land trust holds in the licensed premises.
- (2) If a corporation or a partnership is an interest holder that must be disclosed pursuant to Sections 17-5105(c)(1)(b) or (c)(1)(c) above, then such interest holders shall disclose the information required in said sections with respect to their interest holders.
- (3) The general character and nature of the business of the applicant.
- (4) The length of time that the applicant has been in the business of the character specified in response to Section 17-5105(c) (3) above.
- (5) The location, including street address and legal description, and telephone number, of the premises for which the adult establishment license is sought.
- (6) The specific name of the business that is to be operated under the adult establishment license.
- (7) The identity of the each fee simple owner of the licensed premises.
- (8) A diagram showing the internal and external configuration of the licensed premises, including all doors, windows, entrances, exits, the fixed structural internal features of the licensed premises, plus

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the interior rooms (identifying the use to which each such room will be put), walls, partitions, stages, performance areas, and restrooms. The diagram shall also designate the precise location in the licensed premises where the license will be posted as required by Section 17-5104(d). A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; provided, that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to its designated scale or with marked dimensions to an accuracy of plus or minus six (6) inches and sufficient to show clearly the various interior dimensions of all areas of the licensed premises and to demonstrate compliance with the provisions of this article. The requirements of this subsection shall not apply for renewal applications if the applicant adopts a diagram that was previously submitted for the license sought to be renewed and if the licensee certifies that the licensed premises has not been altered since the immediately preceding issuance of the license and that the previous diagram continues to accurately depict the exterior and interior layout of the licensed premises. The approval or use of the diagram required pursuant to this paragraph shall not be deemed to be, and shall not be interpreted or construed to constitute, any other City approval otherwise required pursuant to applicable City ordinances and regulations.

- (9) The names of each governmental body from which, within five (5) years immediately prior to the date of the present application, the applicant, or any of the individuals identified in the application pursuant to Sections 17-5105(c)(1) and (c)(2) above, has received a license or other authorization to conduct or operate a business (a) substantially the same as an adult entertainment establishment, and the names and addresses of each such business; (b) requiring a federal, state, or local liquor license; or (c) requiring a federal, state or local gaming license.
- (10) The specific type or types of adult entertainment establishment that the applicant proposes to operate in the licensed premises.
- (11) A copy of each adult establishment license, liquor license and gaming license currently held by the applicant, or any of the individuals identified in the application pursuant to Section 17-5105(c)(1) above.
- (12) Whether the applicant, or any of the individuals identified in the application pursuant to Sections 17-5105(c)(1) or (c)(2) above, within five (5) years immediately preceding the date of the application, has been convicted, pleaded *nolo contendere* to, or is currently charged with committing, by indictment or information, any specified criminal act. As to each conviction, plea, or charge, the applicant or other individual shall provide the conviction or plea date if applicable, the case number, the nature of the misdemeanor or felony violation or offense, and the name and location of the court.
- (13) Whether the applicant, or any of the individuals identified in the application pursuant to Sections 17-5105(c)(1) or (c) (2) above, has had a license or other authorization to conduct or operate a business substantially the same as an adult entertainment establishment or any business requiring a liquor or gaming license, revoked or suspended, and, if so, the date and grounds for each such revocation or suspension, and the name and location of the establishment at issue.
- (14) The name and residence address or address of the individual or individuals who shall be the day-to-day on-site managers of the proposed adult entertainment establishment. If the manager is other than the applicant, the applicant shall provide, for each manager, all of the information required pursuant to Sections 17-5105(c)(1), (c)(2), (c)(9), (c) (11), (c)(12) and (c)(13) above.
- (15) For the individual or individuals executing the application pursuant to subsection 17-5105 of this article, and the individual or individuals identified pursuant to Sections 17-5105(c)(1), (c)(2), and (c)(14) above, and for each adult establishment employee, a fully executed waiver on a form prescribed by the City to obtain criminal conviction information based upon fingerprint identification pursuant to the Illinois Uniform Conviction Information Act (20 ILCS 2635/1 *et seq.*) and Section 17-5105(d) below.

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(d) **PHOTOGRAPHING AND FINGERPRINTING OF APPLICANTS.** Each application shall include the following information and documents:

- (1) Prior to filing an application for a license required by this article, the applicant and all persons required to be named in Sections 17-5105(c)(1), (c)(2) and (c)(14), along with each adult establishment employee, shall be photographed and fingerprinted by the Moline Police Department, said fingerprinting to be used in connection with obtaining the person's criminal history information from the Illinois Department of State Police pursuant to Section 17-5105(c)(15) and the Illinois Uniform Conviction Information Act (20 ILCS 2635/1 *et seq.*).
- (2) No application for license required by this article shall be considered, and no license shall be issued until such time as the photographing and fingerprinting have been completed.
- (3) If at any time after the issuance of a license pursuant to this article, or during the course of the consideration by the adult use commission of an application filed pursuant to this article, the composition of a partnership or corporation changes from that stated in Sections 17-5105(c)(1)(b) or 17-5105(c)(1)(c), or if a new manager or other adult establishment employee is employed, the applicant or licensee shall cause the new persons to be photographed and fingerprinted within five (5) days, and such fingerprints and photographs submitted to the adult use commission.
- (4) Notice of any change contemplated by Section 17-5105(d)(3) above, after the issuance of a license, shall be given in writing to the adult use commission within five (5) days of the change. Failure to give the notice shall be grounds for revoking or suspending the license.
- (5) Failure to comply with the provisions of this section shall be cause for revoking or suspending a license issued pursuant to this article, or if such a license has not yet been issued, to refuse the issuance of the license. Failure to comply with the provisions of this section shall also be cause to refuse to renew a license.

(e) **Incomplete Applications Returned.** Any application for an adult establishment license that does not include all of the information and documents required pursuant to Section 17-5105(c), as well as the administrative processing fee and bond or other security required pursuant to Sections 17-5105 (b)(1) and (b)(2) above, shall be deemed to be incomplete and shall not be acted on or processed by the City. The adult use commission shall, within five (5) days of such submittal, return the incomplete application to the applicant, along with a written explanation of the reasons why the application is incomplete.

### **SEC. 17-5106. PROCESSING OF LICENSE APPLICATION.**

(a) **Reviewing Departments.** Within three (3) days after receipt of a completed application for an adult establishment license that includes all information and documents required pursuant to Sections 17-5105(a), (c) and (d) of this article, as well as the administrative processing fee and bond or other security required pursuant to Section 17-5105(b) of this article, the adult use commission shall transmit a copy of the application to the reviewing departments.

(b) **Reviewing Departments Reports.** Each reviewing department shall, within twenty-five (25) days after transmittal of the application thereto, or within such other period of time as the City and the applicant may otherwise agree:

- (1) Review the application;
- (2) Conduct such inspections of the proposed licensed premises and the background and criminal history investigations of the applicant and any individuals identified in the application pursuant to Sections 17-5105(c)(1), (c)(2), (c)(14) and (c)(15) of this article regarding matters within their respective

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jurisdictions, as shall be reasonably necessary to verify the information set forth in the application and to determine whether the proposed adult entertainment establishment and licensed premises comply with the requirements of this article and other applicable laws, codes, ordinances, rules, and regulations; and

(3) Prepare and submit to the adult use commission a written report regarding the results and findings of such reviews, inspections and investigations, including an explanation of the specific reasons and applicable laws or regulations if the report recommends disapproving the license application.

(c) **Adult Use Commission Review.** The adult use commission shall also conduct such inspections and investigations as the adult use commission shall deem reasonably necessary to verify the information set forth in the application, and to determine whether the adult entertainment establishment and licensed premises comply with the requirements of this article and other applicable laws, codes, ordinances, rules, and regulations.

(d) **Reliance on Submitted Diagram.** In the event that the licensed premises has not yet been constructed or reconstructed to accommodate the proposed adult entertainment establishment, the adult use commission and the reviewing departments shall base their respective written reports, investigations, and inspections to the extent necessary, on the diagrams submitted pursuant to Section 17-5105(c)(8) of this article. Any adult entertainment license issued prior to the construction or reconstruction necessary to accommodate the proposed adult entertainment establishment shall contain a condition that the adult entertainment establishment shall not open for business until the licensed premises has been inspected and determined to be in substantial compliance with the diagram submitted with the application. Such inspections shall take place by the reviewing departments within one (1) week following receipt of a written request for such inspections.

(e) **Applicant Cooperation Required.** An applicant for an adult establishment license shall cooperate fully in the inspections and investigations conducted by the adult use commission and the reviewing departments. The applicant's failure or refusal (1) to give any information reasonably relevant to the investigation of the application; (2) to allow the licensed premises to be inspected; (3) to appear at any reasonable time and place for examination under oath regarding the application; or (4) to otherwise cooperate with the investigation and inspections required by this article, shall constitute an admission by the applicant that the applicant is ineligible for an adult establishment license and shall be grounds for denial of the license by the adult use commission.

(f) **Time for Issuance or Denial.** The adult use commission shall, within thirty (30) days after submittal of a properly completed application, or within such other period of time as the City and the applicant shall otherwise agree, either issue an adult establishment license pursuant to the provisions of Section 17-5107(a) of this article or deny issuance of the adult establishment license pursuant to the provisions of Section 17-5107(b) of this article. The adult use commission shall issue or deny the license within said thirty (30) day period, or such other period of time as shall have been agreed to by the City and the applicant, regardless of whether or not the adult use commission has received all of the reviewing department reports.

(g) **Decision Final.** The action taken by the adult use commission to issue or deny an adult establishment license pursuant, respectively, to Sections 17-5107(a) or 17-5107(b) of this article, shall be final and shall be subject to judicial review pursuant to the provisions of the Administrative Review Act, 735 ILCS 5/3-101 et seq.

### **SEC. 17-5107.           STANDARDS FOR ISSUANCE AND DENIAL OF LICENSE.**

(a) **Issuance.** The adult use commission shall issue an adult establishment license to an applicant, if, but only if, the adult use commission finds and determines all of the following based upon the reports, investigations, and inspections conducted by the adult use commission and reviewing departments and on any other credible information on which it is reasonable for the adult use commission to rely:

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- (1) All information and documents required by Section 17-5105 of this article for issuance of an adult establishment license have been properly provided and the material statements in the application are true and correct.
- (2) All persons identified in the application pursuant to Sections 17-5105(c)(1), (c)(2) and (c)(14) of this article are at least twenty-one (21) years of age and not under any legal disability.
- (3) No person identified in the application pursuant to Sections 17-5105(c)(1), (c)(2) and (c)(14) of this article has been convicted of, or pleaded *nolo contendere* to any specified criminal act within five (5) years immediately preceding the date of the application.
- (4) No person identified in the application pursuant to Sections 17-5105(c)(1), (c)(2) and (c)(14) of this article has been convicted of, or pleaded *nolo contendere* to, any violation of a provision of this article within five (5) years immediately preceding the date of the application.
- (5) No person identified in the application pursuant to Sections 17-5105(c)(1), (c)(2) and (c)(14) of this article is overdue on payment to the City of taxes, fees, fines, or penalties assessed against, or imposed on, any such individual in connection to any adult entertainment establishment, including without limitation, any fines owed to the City of Moline for an ordinance violation conviction through the Moline Division of the Circuit Court for the Fourteenth Judicial Circuit in and for Rock Island County.
- (6) No person identified in the application pursuant to Sections 17-5105(c)(1), (c)(2) and (c)(14) of this article is residing with, or married to, a person (1) who has been denied an adult establishment license within twelve (12) months immediately preceding the date of the application; (2) whose adult establishment license has been revoked within twelve (12) months immediately preceding the date of the application; or (3) whose adult establishment license is under suspension at the time of the application.
- (7) The adult entertainment establishment and the licensed premises, and the proposed operation of the adult entertainment establishment, comply with all then-applicable building, health, and life safety codes and regulations and have received all necessary zoning approvals required pursuant to the then-applicable provisions of the Moline Zoning Ordinance.
- (8) The applicant has confirmed in writing and under oath as part of the application that the applicant has read this article and all provisions of the Moline Zoning Ordinance applicable to adult entertainment establishments, that the applicant is familiar with their terms and conditions, and that the licensed premises and the proposed adult entertainment establishment are and shall be in compliance therewith.
- (9) The applicant owner or at least one of the day-to-day on-site managers resides within the City of Moline, Rock Island County, Illinois.

(b) **Denial.** If the adult use commission determines that the applicant has not met any one or more of the conditions set forth in section 17-5107(a) above, then the adult use commission shall deny issuance of the adult establishment license and shall give the applicant a written notification and explanation of such denial. The adult use commission's notice of denial shall be delivered in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the applicant's address as set forth in the application. The adult establishment license shall be deemed denied on the day that the notice of denial is delivered in person or three (3) days after it is placed in the U.S. mail as provided by this subsection.

(c) **License Deemed To Be Issued.** If the adult use commission does not issue or deny the adult establishment license within thirty (30) days after the properly completed application is submitted, then the adult establishment license applied for shall be deemed to have been issued.

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**SEC. 17-5108.           INSPECTIONS BY THE CITY.**

(a)     **Authority.** The adult use commission and other City representatives and departments with jurisdiction, including without limitation reviewing departments, shall periodically inspect all adult entertainment establishments as shall be necessary to determine compliance with the provisions of this article and all other applicable laws.

(b)     **Licensee Corporation.** The licensee shall permit City representatives to inspect the licensed premises and the adult entertainment establishment for the purpose of determining compliance with the provisions of this article and all other applicable laws at any time during which the licensed premises is occupied or the adult entertainment establishment is open for business.

(c)     **Interference or Refusal Illegal.** It shall be unlawful for the licensee, any adult establishment employee, or any other person to prohibit, interfere with, or refuse to allow, any lawful inspection conducted by the City pursuant to this article or any other authority.

(d)     **Suspension or Revocation.** Any such prohibition, interference or refusal as set forth in subsection (c) of this Section 17-5108(c) above shall be grounds for suspension or revocation of the adult establishment license pursuant to Section 17-5119 of this article.

(e)     **Warning Device Use Illegal.** It shall be unlawful for any person to operate any kind of warning device or system for the purpose of warning or aiding and abetting the warning of any adult establishment employee, adult establishment patron, or other person that members of the adult use commission or other City representatives or public officials are approaching or have entered the premises.

**SEC. 17-5109.           CHANGE OF INFORMATION.**

During the pendency of any application for, or during the term of, any adult establishment license, the applicant or licensee shall promptly notify the adult use commission in writing (1) of any change in any material information given by the applicant or licensee in the application for such license, specifically, but without limitation, any change in managers of the adult entertainment establishment, or any individuals identified in the application pursuant to Sections 17-5105(c)(1), (c)(2) or (c)(14) of this article; or (2) if the events constituting grounds for suspension or revocation pursuant to Section 17-5119 of this article occur.

**SEC. 17-5110.           REGULATIONS APPLICABLE TO ALL ADULT ENTERTAINMENT ESTABLISHMENTS.**

(a)     **General Compliance.** All licensed premises and adult entertainment establishments shall comply with the provisions of this article, all other applicable City ordinances, resolutions, rules, and regulations, and all other applicable Federal, state, and local laws.

(b)     **Hours of Operation.**

(1)     No adult entertainment establishment shall be open for business at any time on any City of Moline holiday, Rock Island County holiday, State of Illinois holiday or Federal holiday.

(2)     No adult cabaret, adult theater, adult motel, or sexual encounter center shall be open for business at any time after 2:00 a.m. on any Sunday.

(3)     No adult store or nude model studio shall be open for business between the hours of 12:00 a.m. and 12:00 noon on any Sunday.

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- (4) No adult entertainment establishment shall be open for business between the hours of 1:00 a.m. and 11:00 a.m. on any Monday, Tuesday, Wednesday or Thursday, or between the hours of 2:00 a.m. and 11:00 a.m. on any Friday or Saturday.
- (c) **Animals.** No adult establishment patron or adult establishment employee or other person shall permit any animal to be present at or in any adult entertainment establishment or licensed premises. This prohibition does not apply to patrol dogs accompanying police officers or to support animals such as canines and primates trained to assist and accompanying disabled persons.
- (d) **Restrooms.** Separate male and female restrooms shall be provided for and used by adult establishment employees and adult establishment patrons.
- (e) **Restricted Access.** No adult establishment patron shall be permitted at any time to enter into any of the non-public portions of any adult entertainment establishment, including without limitation, any storage areas or dressing rooms or other rooms provided for the benefit of adult establishment employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance and repairs to the licensed premises, provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.
- (f) **Specific Prohibited Acts.**
- (1) No adult establishment patron or any other person at any adult entertainment establishment, other than an adult establishment employee employed to provide adult entertainment in accordance with the regulations of this article, shall appear, be present, or perform while nude or semi-nude; provided, however, that no such adult entertainment employee shall appear, be present, or perform while nude at any adult entertainment establishment that otherwise serves alcoholic liquor pursuant to a license issued under Chapter 4 (Alcoholic Beverages) of the Moline Code of Ordinances (a "Liquor License").
- (2) No adult establishment employee or any other person at any adult entertainment establishment shall perform or conduct any specified sexual activities with or for any adult establishment patron or any other adult establishment employee or any other person. No adult establishment patron or any other person at any adult entertainment establishment shall perform or conduct any specified sexual activities with or for any adult establishment employee or any other adult establishment patron or any other person.
- (3) Straddle dances shall be prohibited at all adult entertainment establishments.
- (g) **Exterior Display.** No adult entertainment establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to specified sexual activities or specified anatomical areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located. No portion of the exterior of an adult entertainment establishment shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed pursuant to subsection (h) of this section with regard to signs. This subsection shall apply to any advertisement, display, promotional material, decoration, or sign, and to any performance or show, and to any window, door or other opening to the adult entertainment establishment.
- (h) **Signage Limitations.** All signs for adult entertainment establishments shall be flat wall signs. The maximum allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, but in no event exceeding thirty-two (32) square feet. The maximum number of signs shall be one per lot frontage. Signs otherwise permitted pursuant to this section shall contain only 1) the name of the adult entertainment establishment, and/or 2) the specific type of adult entertainment establishment conducted on the licensed premises. Temporary signage shall not be permitted in connection with any adult entertainment establishment.

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(i) **Noise.** No loudspeakers or sound amplification equipment audible beyond the licensed premises shall be used at any time.

(j) **Gambling and Related Devices Prohibited.** No adult entertainment establishment shall contain any video, pinball, slot, bagatelle, pigeon-hole, pool, or any other games, machines, tables or implements.

(k) **Manager's Station.** Each adult entertainment establishment shall have one or more manager's stations which shall be occupied by a manager at all times during business hours of operation. The interior of each adult entertainment establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one manager's station to every part of each area, except restrooms, of the adult entertainment establishment to which any adult establishment patron is permitted access for any purpose.

(l) **Alcohol Prohibition.** No adult entertainment establishment that serves or otherwise provides alcoholic liquor pursuant to a liquor license shall provide or allow adult establishment employees that appear, are present, or perform while nude.

(m) **Age Limitations.**

(1) No adult establishment employee or adult establishment patron at an adult booth or at a licensed premises that includes an adult booth shall be under the age of twenty-one (21).

(2) No person under the age of twenty-one (21) shall be admitted to any adult booth or any licensed premises that includes an adult booth.

(3) No person under the age of twenty-one (21) shall be allowed or permitted to remain at any adult booth or any licensed premises that includes an adult booth.

(4) No person under the age of twenty-one (21) shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or any goods or services at or from any adult entertainment establishment or any licensed premises.

(n) **Outdoor and Off-Street Parking Areas.** All outdoor and off-street parking areas of the adult entertainment establishment shall be illuminated from dusk to closing hours of operation, and any time that any adult establishment patron is present, with a light system which provides an average minimum maintained horizontal illumination of one foot candle of light on the parking surfaces and walkways.

### **SEC. 17-5111. SPECIAL REGULATIONS FOR ADULT BOOTHS.**

(a) **Prohibited Except in Adult Stores.** Adult booths shall be prohibited in all adult entertainment establishments except in adult stores.

(b) **Occupancy and Prohibited Acts.** Only one (1) adult entertainment patron or other individual shall occupy an adult booth at any one time. No adult entertainment patron or other individual occupying an adult booth shall engage in any specified sexual activities. No adult entertainment patron or any other individual shall damage or deface any portion of an adult booth.

(c) **Open Booth Requirement.** In addition to satisfying the manager's station requirements of Section 17-5110(k) of this article, all adult stores containing adult booths shall be physically arranged in such a manner that the entire interior portion of each adult booth shall be visible from the common area of the adult store. To satisfy this requirement, there shall be a permanently open and unobstructed entranceway for each adult booth and for the entranceway from the area of the adult store that provides other adult materials to the area of the adult store containing the adult booths. Each of these entranceways shall not be capable of being closed or obstructed, entirely or partially, by any door, curtain, partition, drapes, or any other obstruction whatsoever that would be capable of wholly or partially



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obscuring the area of the adult store containing the adult booths or any adult establishment patron or other individual situated in or occupying an adult booth. It shall be unlawful to install adult booths within an adult entertainment establishment for the purpose of providing secluded and/or private viewing of adult materials or live performances.

(d) **Aisle Required.** There shall be one continuous lighted main aisle alongside the adult booths provided in any adult store. Each adult establishment patron or other individual situated in a booth shall be visible at all times from the aisle.

(e) **Booth Construction Requirements.** Except for open booth entranceways and ventilation devices, the walls and partitions of each adult booth shall be constructed and maintained of solid walls or partitions without any holes or openings whatsoever, including, without limitation, "glory" holes, which are commonly found in adult booths and which allow for anonymous sexual activity to occur between persons occupying adjacent adult booths. The wall and ceiling surfaces of an adult booth shall be constructed, or permanently covered by non-porous, easily cleanable material and shall not consist of wood, plywood, composition wood or other porous material within forty-eight (48) inches of the floor. All ventilation devices in adult booths must be covered by a permanently affixed ventilation cover. Ventilation holes may only be located one foot from the top of the adult booth walls or one foot from the bottom of the adult booth walls.

(f) **Signage.** A sign consisting of letters at least one inch high shall be posted in a conspicuous place at or near the entranceway to each adult booth that states (1) that only one adult establishment patron or other individual is allowed in an adult booth at any one time; (2) that it is unlawful to engage in any specified sexual activities while in an adult booth; and (3) that it is unlawful to damage or deface any portion of an adult booth.

### SEC. 17-5112. SPECIAL REGULATIONS FOR ADULT CABARETS.

(a) **Performance Area.** The performance area of an adult cabaret shall be limited to one or more stages or platforms not less than three (3) feet in height measuring from floor level and permanently anchored to the floor (a "cabaret stage"). No adult establishment employee may appear nude or semi-nude in any part of the licensed premises open to the view of adult establishment patrons except on a cabaret stage, and no adult establishment employee may perform anywhere on the licensed premises except on a cabaret stage. Each cabaret stage shall be separated by a distance of at least six (6) feet from all areas of the premises to which adult establishment patrons have access. A continuous barrier at least three (3) feet in height and located at least six (6) feet from all points of each cabaret stage shall separate each cabaret stage from all adult establishment patron seating. No adult establishment patron shall be on or be allowed at any time on any cabaret stage.

(b) **Lighting.** Sufficient lighting shall be provided and equally distributed throughout the public areas of the adult cabaret so that all objects are plainly visible at all times. A minimum lighting level of not less than thirty (30) lux horizontal, measured at thirty (30) inches from the floor and on ten-foot centers shall be maintained at all times for all areas of the adult cabaret where adult establishment patrons are admitted.

(c) **Tippling.** No adult establishment patron shall offer, and no adult establishment employee having performed on any cabaret stage shall accept, any form of gratuity or tip offered directly or personally to the adult establishment employee by the adult establishment patron. Rather, all gratuities and tips to adult establishment employees performing on any cabaret stage shall be placed into a receptacle provided for receipt of such tips and gratuities by the adult entertainment establishment.

(d) **Notice of Rules.** A sign measuring at least two (2) feet by two (2) feet with letters at least one inch high, shall be conspicuously displayed on or adjacent to every cabaret stage, stating the following:

THIS ADULT CABARET IS REGULATED BY THE CITY OF MOLINE. ENTERTAINERS ARE:

- 1) NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.
- 2) NOT PERMITTED TO ENGAGE IN ANY TYPE OF PHYSICAL CONTACT WITH PATRONS.

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- 3) NOT PERMITTED TO ACCEPT ANY TIPS DIRECTLY OR PERSONALLY FROM PATRONS. ANY SUCH TIPS MUST BE PLACED INTO THE RECEPTACLE PROVIDED BY MANAGEMENT.

For adult cabarets with a liquor license, the following fourth rule shall also be included in the sign required by this subsection:

- 4) NOT PERMITTED TO APPEAR IN A STATE OF NUDITY.

(e) **Doors Unlocked.** Doors to areas on the premises of adult cabarets which are lawfully available for use by persons other than adult establishment employees may not be locked during the hours the adult cabaret is open for business.

(f) **Employment Duty Limitation.** Within six (6) hours after an adult establishment employee has performed adult entertainment on a cabaret stage, such employee shall not serve the adult entertainment establishment in any other capacity requiring such employee's presence in the public areas of the premises to which adult entertainment patrons have access, including without limitation, serving as a manger or a waitperson.

### **SEC. 17-5113. REGULATIONS FOR ADULT MOTELS.**

(a) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in Section 17-5102(h).

(b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have an adult entertainment license, he or she rents or sub-rents a sleeping room to a person and, within ten (10) hours from when the room is rented, he or she rents or sub-rents 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.

### **SEC. 17-5114. SPECIAL REGULATIONS FOR ADULT STORES.**

(a) **Windows.** Window areas for adult stores shall not be covered or obstructed in any way.

(b) **Signs.** No signs or other obstructions shall be placed in the windows of an adult store.

### **SEC. 17-5115. SPECIAL REGULATIONS FOR ADULT THEATERS.**

(a) **Seating.** Each adult theater shall provide seating only in individual chairs with arms or in seats separated from each other by immovable arms and not on couches, benches, or other multiple-person seating structures. The number of seats shall equal the maximum number of individuals who may occupy the adult theater.

(b) **Aisle.** Each adult theater shall have a continuous main aisle alongside the seating area in order that each person seated in the adult theater shall be visible from the aisle at all times.

(c) **Sign.** Each adult theater shall have a sign posted in a conspicuous place at or near each entranceway to the auditorium or similar area that lists the maximum number of individuals who may occupy the auditorium area, which number shall not exceed the number of seats in the auditorium area.

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### SEC. 17-5116. SPECIAL REGULATIONS FOR NUDE MODEL STUDIOS.

(a) **Modeling Area.** The modeling area of a nude model studio shall be limited to one or more platforms permanently anchored to the floor (a “modeling platform”). No adult establishment employee may appear nude or semi-nude in any part of the licensed premises open to the view of adult establishment patrons except on a modeling platform, and no adult establishment employee may model anywhere on the licensed premises except on a modeling platform. Each modeling platform shall be separated by a distance of at least eighteen (18) inches from all areas of the premises to which adult establishment patrons have access. No adult establishment patron shall be on or be allowed at any time on any modeling platform.

(b) **Lighting.** Sufficient lighting shall be provided and equally distributed throughout the public areas of the nude model studio so that all objects are plainly visible at all times. A minimum lighting level of not less than thirty (30) lux horizontal, measured at thirty (30) inches from the floor and on ten (10) foot centers shall be maintained at all times for all areas of the nude model studio where adult establishment patrons are admitted.

(c) **Tippling.** No adult establishment patron shall offer, and no adult establishment employee having modeled on any modeling platform shall accept, any form of gratuity or tip offered directly or personally to the adult establishment employee by the adult establishment patron. Rather, all gratuities and tips to adult establishment employees modeling on any modeling platform shall be placed into a receptacle provided for receipt of such tips and gratuities by the adult entertainment establishment.

(d) **Notice of Rules.** A sign measuring at least two (2) feet by two (2) feet with letters at least one (1) inch high, shall be conspicuously displayed on or adjacent to every modeling platform, stating the following:

THIS NUDE MODEL STUDIO IS REGULATED BY THE CITY OF MOLINE. ENTERTAINERS ARE:

- 1) NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.
- 2) NOT PERMITTED TO ENGAGE IN ANY TYPE OF PHYSICAL CONTACT WITH PATRONS.
- 3) NOT PERMITTED TO ACCEPT ANY TIPS DIRECTLY OR PERSONALLY FROM PATRONS. ANY SUCH TIPS MUST BE PLACED INTO THE RECEPTACLE PROVIDED BY MANAGEMENT.

For nude model studios with a liquor license, the following fourth rule shall also be included in the sign required by this subsection:

- 4) NOT PERMITTED TO APPEAR IN A STATE OF NUDITY.

(e) **Doors Unlocked.** Doors to areas on the premises of nude model studios which are lawfully available for use by persons other than adult establishment employees may not be locked during the hours the nude model studio is open for business.

(f) **Employment Duty Limitation.** Within six (6) hours after an adult establishment employee has performed adult entertainment on a modeling platform, such employee shall not serve the adult entertainment establishment in any other capacity requiring such employee’s presence in the public areas of the premises to which adult entertainment patrons have access, including without limitation, serving as a manger or a waitperson.

### SEC. 17-5117. SPECIAL REGULATIONS FOR ESCORT AGENCIES.

(a) An escort agency shall not employ any person under the age of twenty-one (21) years, and no person under the age of twenty-one (21) years shall act as an escort or agree to act as an escort.

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(b) A person commits an offense if he or she acts as an escort or agrees to act as an escort for any person under the age of twenty-one (21) years.

### **SEC. 17-5118. LICENSEE RESPONSIBILITY FOR EMPLOYEES.**

Every act or omission by an adult establishment employee constituting a violation of the provisions of this article shall be deemed to be the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the adult establishment employee. The licensee shall be subject to punishment for any such act or omission in the same manner as if the licensee committed the act or caused the omission. Accordingly, any such act or omission by any such adult establishment employee constituting a violation of the provisions of this article shall be deemed, for the purposes of determining whether the licensee's adult establishment license shall be revoked, suspended or renewed, to be the act or omission of the licensee.

### **SEC. 17-5119. LICENSE REVOCATION OR SUSPENSION.**

(a) **Grounds.** Pursuant to the procedures set forth in section 17-5119(b) below, the adult use commission may suspend for not more than thirty (30) days, or revoke, any adult establishment license if the adult use commission, based on credible and reasonably reliable information and evidence, determines that any one or more of the following have occurred:

- (1) The licensee has violated any of the provisions or requirements of this article or the adult establishment license issued pursuant thereto, or the provisions of the Moline Zoning Ordinance applicable to the licensed premises or the adult entertainment establishment.
- (2) The licensee (1) knowingly or negligently furnished false or misleading information or withheld information on any application or other document submitted to the City for the issuance or renewal of any adult establishment license; or (2) knowingly or negligently caused or suffered any other person to furnish or withhold any such information on the licensee's behalf.
- (3) The licensee has committed a felony or specified criminal act on the licensed premises.
- (4) The licensee authorizes, approves, or as a result of the licensee's negligent failure to supervise the licensed premises or the adult entertainment establishment, allows an adult establishment employee, an adult establishment patron, or any other person to (1) violate any of the provisions or requirements of this article, or of the provisions or requirements of the adult establishment license issued pursuant hereto; or (2) commit any felony or specified criminal act on the licensed premises.
- (5) The licensee, or any person identified pursuant to Sections 5105(c)(1), (c)(2) or (c)(14) of this article becomes disqualified for the issuance of an adult establishment license at any time during the term of the license at issue.

(b) **Procedure.** An adult establishment license may be suspended for not more than thirty (30) days or revoked pursuant to the terms and conditions set forth in this subsection (b).

- (1) **Notice.** Upon determining that one or more of the grounds for suspension or revocation under Section 17-5119(a) above may exist, the adult use commission shall serve a written notice on the licensee in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application. The notice shall, at a minimum, (1) state that the adult use commission has determined that the adult establishment license may be subject to suspension or revocation pursuant to Section 17-5119(a) of this article; (2) identify the specific grounds for the adult use commission's determination; and (3) set a date for hearing regarding the adult use commission's determination as to the suspension or revocation of the adult

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establishment license. The hearing date shall be no less than five (5) days after service of the adult use commission's notice unless an earlier or later date is agreed to by the licensee and the adult use commission. For purposes of calculating a hearing date under this subsection, notice shall be deemed to be given three (3) days after placing the notice in the mail as provided by this subsection when certified mail is used.

- (2) **Hearing and Appeal.** The hearing shall be conducted by the adult use commission and presided over by the mayor. The hearing shall be recorded by a certified court reporter; however, no transcription of such record shall be made unless requested in writing by an interested party who shall also order a copy of said transcription for all other interested parties and one official transcript for filing with a reviewing court, if judicial review is sought. At the hearing, the licensee may present and submit evidence to refute the grounds cited by the adult use commission for suspending or revoking the license and the City and any other persons may submit evidence to sustain such grounds. The administrative record compiled on the adult entertainment establishment pursuant to Section 17-5120 of this article shall be made part of the hearing record. Within three (3) days after the close of the hearing, the adult use commission shall, having considered the record made at the hearing, render a decision in writing, setting forth the reasons for the decision. The actions taken by the adult use commission shall be final and shall be subject to judicial review pursuant to the provisions of the "Administrative Review Act," 735 ILCS 5/3-101 *et. seq.* A request for judicial review properly and timely taken shall stay the imposition of any administrative punishment rendered by the adult use commission.
- (3) **Notice and Effective Date of Suspension or Revocation.** The adult use commission's written decision shall be posted at the office of the adult use commission and shall be served on the licensee in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application. Any suspension or revocation shall take effect on the day that the adult use commission's written decision is delivered in person or three (3) days after it is placed in the U.S. mail as provided in this subsection.
- (4) **Surrender of License and Security.** Upon the suspension or revocation of an adult establishment license pursuant to this article, (1) the adult use commission shall take custody of the suspended or revoked license, and (2) such part or all of the bond or other security submitted for the adult entertainment establishment pursuant to Section 17-5105(b)(2) of this article shall be forfeited as the adult use commission shall deem necessary to reimburse the City for the costs associated with the proceedings related to the suspension or revocation at issue. Such bond or other security shall be replenished to equal the amount required pursuant to Section 17-5105(b)(2) of this article, prior to the issuance of any new adult establishment license for the licensed premises or for the reinstatement of any suspended license.

### **SEC. 17-5120. ADMINISTRATIVE RECORD.**

The adult use commission shall cause to be kept in the adult use commission's office an accurate record of every adult establishment license application received and acted on, together with all relevant information and materials pertaining to such application, any adult establishment license issued pursuant thereto, and any adult entertainment establishment operated pursuant to such adult establishment license.

### **SEC. 17-5121. RECORD KEEPING BY LICENSEE.**

The licensee of every adult entertainment establishment shall maintain a register of all of its adult establishment employees. For each such employee, the register shall include the following information:

- (1) Legal name;
- (2) Any and all aliases;

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- (3) Date of birth;
- (4) Gender;
- (5) Social Security Number;
- (6) Date of commencement of employment;
- (7) Date of employment termination if applicable; and
- (8) Specific job or employment duties.

The register shall be maintained for all current adult establishment employees and all adult establishment employees employed at any time during the preceding thirty-six (36) months. The licensee shall make the register of its adult establishment employees available for inspection by the City immediately upon demand at all reasonable times.

### **SEC. 17-5122. PENALTY.**

Any person who commits an offense, violates, neglects, refuses to comply with, or assists or participates in any way in the violation of, any of the provisions or the requirements of this article, or any of the provisions or requirements of any adult establishment license, shall be fined not less than one hundred dollars (\$100.00) and not more than seven hundred fifty dollars (\$750.00) for each such violation. Each day such violation continues shall constitute a separate offense. The adult use commission shall give written notice to any such person of any such violation and the fine imposed by serving a citation in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application.

### **SEC. 17-5123. NUISANCE DECLARED.**

An adult entertainment establishment established, operated, or maintained in violation of any of the provisions or requirements of this article or of any adult establishment license shall be, and the same is, declared to be unlawful and a public nuisance. The City may, in addition to, or in lieu of any other remedy set forth in this article, in accordance with Chapter 21 of the Moline Code of Ordinances, commence an action to enjoin, remove, or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from establishing, operating, or maintaining an adult entertainment establishment contrary to the provisions of this article.

### **SEC. 17-5124. COMPUTATION OF TIME.**

Unless otherwise specifically set forth in this article, the time within which any act required by this article is to be done shall be computed by excluding the first day and including the last day, unless the last day is Saturday, Sunday, or a federal or State of Illinois holiday, in which case it shall also be excluded.

### **SEC. 17-5125. SEVERABILITY.**

In the event that any provision of this article, or any part thereof, or any application thereof to any person or circumstance, is found otherwise invalid or ineffective by any court of competent jurisdiction on its face or as applied, such holding shall not affect the validity of any of the remaining provisions or any application thereof to any person, or circumstance, or of said provision, as applied to any other person or circumstance. It is hereby declared to be the legislative intent of the City that this article would have been adopted had such unconstitutional, invalid or ineffective provision not been included herein.

### **SEC. 17-5126. CONFLICTING PROVISIONS.**

In the event that any provision of this article, or any part thereof, or any application thereof to any person or circumstance, is found to conflict with any other provisions of any other federal, state or local law, rule, statute, ordinance or regulation, then the most restrictive provisions shall apply.

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(Ord. No. 2000-02-04; new Article XI "REGULATIONS FOR SEXUALLY ORIENTED BUSINESS ACTIVITIES" enacted; 02/08/00). (Ord. No. 3100-2004; Article V, "MASSAGE ESTABLISHMENTS AND PERSONNEL," repealed in its entirety; Article XI, "REGULATIONS FOR SEXUALLY ORIENTED BUSINESS ACTIVITIES," renumbered to Article V; 12/14/04)

### ARTICLE VI. PAWNBROKERS.

#### SEC. 17-6100. DEFINED.

Any person who loans money on deposit or pledge of personal property or other valuable thing, or who deals in the purchasing of personal property or other valuable thing on condition of selling the property back again at a stipulated price, is hereby defined and declared to be a "pawnbroker."

#### SEC. 17-6101. LICENSE REQUIRED.

No person shall exercise or carry on the business of a pawnbroker within the City without being duly licensed as provided in this article.

#### SEC. 17-6102. ANNUAL LICENSE FEE.

The annual fee for a license required by this article shall be one hundred fifty dollars (\$150.00) payable on May 1 of each year; however, beginning May 1, 1993, said fee shall be three hundred fifty dollars (\$350.00) and beginning May 1, 1994, said fee shall be five hundred fifty dollars (\$550.00).

#### SEC. 17-6103. BOND.

Each person licensed pursuant to this article shall, at the time of receiving the license, enter into a joint and several bond to the City, with two (2) sufficient sureties, in the penal sum of two thousand dollars (\$2,000.00), conditioned for the due observance of all provisions of this Code and other ordinances of the City as may be passed or enforced respecting pawnbrokers, at any time during the continuance of the license. In lieu of the bond required by this section, the licensee may post a two hundred dollar (\$200.00) cash bond.

#### SEC. 17-6104. REVOCATION OF LICENSE.

(a) It shall be the duty of the chief of police to report to the accounts and finance officer any failure of any person licensed pursuant to this article to comply with any of the provisions of this article, and the accounts and finance officer may revoke the license of such person.

(b) The accounts and finance officer may for cause revoke or suspend the license issued pursuant to this article, or forfeit the bond, or both.

#### SEC. 17-6105. REGISTER.

Each pawnbroker shall maintain in the English language a book or register in which an accurate account and description shall be made of every transaction at the time of the transaction. Said register shall be on forms provided by the Moline Police Department and shall contain the date of pawn, time of pawn, amount pawned for, complete description of the article pawned (including serial numbers where applicable), the name and address of the person pledging or pawning each article, complete description and thumbprint of the person pledging or pawning each article, and rate of interest to be charged on the loan or pawn. No entry made in such register shall be erased, obliterated, or defaced.

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**SEC. 17-6106. MEMORANDUM OF TRANSACTION.**

Each pawnbroker shall, at the time of each pledge or deposit, deliver to the person pawning or pledging any goods, article or thing, a memorandum or note, signed by the pawnbroker, which memorandum shall contain the substance of the entry required to be made in the business register; and no charge shall be made or received by any pawnbroker or keeper of a pawnbroker's office for any such entry, memorandum or note.

**SEC. 17-6107. INSPECTION.**

The register required by this article, as well as each article or thing of value pawned or pledged, shall, at all reasonable times, be open to inspection by the accounts and finance officer or any member of the police force.

In addition to being subject to inspection as provided above, each pawnbroker, on or before noon of Friday of each week, shall cause to be delivered to the chief of police, or designee thereof, of the Moline Police Department a copy of the register for the prior week's (Friday through Thursday, inclusive) transactions. Should any pawnbroker fail to submit such register, the chief of police shall report such failure to the accounts and finance officer; and the accounts and finance officer shall suspend the license granted hereunder for thirty (30) days or until submission, whichever is sooner. If the failure has not been corrected at the end of thirty (30) days, the accounts and finance officer shall issue a show cause order to the licensee ordering said licensee's appearance to show cause why the license should not be revoked. After hearing on said show cause order, the accounts and finance officer may revoke, reinstate, or extend suspension of the license granted hereunder as is warranted by the facts deduced at the hearing.

**SEC. 17-6108. BUYING CERTAIN ARTICLES PROHIBITED.**

No pawnbroker shall, under any pretense whatever, purchase or buy any secondhand furniture, metals or clothes, or any other article or thing whatever offered to the pawnbroker as a pawn or pledge.

**SEC. 17-6109. TRANSACTIONS WITH MINORS.**

No person licensed pursuant to this article shall take or receive in pawn or pledge for money loaned, any property, bonds, notes, securities or other article of value, or valuable thing, from any minor, or the ownership of which is in or which is claimed by any minor, or which may be in the possession or control of any minor.

**SEC. 17-6110. TRANSACTIONS WITH INTOXICATED PERSONS OR THIEVES.**

No person licensed pursuant to this article shall take any article from any person intoxicated, nor from any person known to be a notorious thief, or to have been convicted of larceny or burglary.

**SEC. 17-6111. EMPLOYMENT OF PERSONS UNDER SIXTEEN.**

No person licensed pursuant to this article shall employ any person under the age of sixteen (16) years to take pledges in pawn.

**ARTICLE VII. MOTOR VEHICLE TOWING SERVICES**

**SEC. 17-7100. DEFINITIONS.**

(a) Except as otherwise noted, all terms used herein are used as defined in the Illinois Vehicle Code, Chapter 625, Illinois Compiled Statutes.



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- (b) The term "law" means the Illinois Commercial Relocation of Trespassing Vehicles Law, as amended.

### **SEC. 17-7101. OWNERSHIP AND MANAGEMENT.**

(a) A relocator must, within thirty (30) days, notify the office of the chief of police or designee thereof of any change in the names and telephone numbers of officers and managers of this company.

(b) A relocator must, within forty-eight (48) hours, notify the office of the chief of police or designee thereof of any change in locations and telephone numbers of the places where the relocator's company transacts business.

### **SEC. 17-7102. PROHIBITED FINANCIAL TRANSACTIONS.**

(a) Any payment of any kind to a property owner, lessee, or property manager for permission to tow any vehicle is prohibited.

(b) Any payment of any kind or for any purposes to any peace officer or law enforcement official is prohibited.

### **SEC. 17-7103. PREMISES FROM AND CIRCUMSTANCES UNDER WHICH UNAUTHORIZED VEHICLES MAY OR MAY NOT BE TOWED.**

(a) No motor vehicle may be towed by a relocator from any public street or way, public alley or other public property except pursuant to explicit authorization from a peace officer, law enforcement officer, owner of said vehicle or duly authorized driver of said vehicle.

(b) No motor vehicle may be towed by a relocator if it is parked in the space in which it is authorized to park.

(c) Before a relocator may remove an unauthorized vehicle from private property, a request must first be obtained from the owner, authorized agent thereof or the lessee of the private property to remove the specific vehicle in question, unless the relocator has been given authorization to remove all unauthorized vehicles from said private property.

(d) When any owner, authorized agent or lessee of private property gives authorization to a relocator to remove all unauthorized vehicles from a private parking area, signs shall be posted pursuant to Section 17-7110.

(e) No vehicle may be towed by any person from private property if the owner or other person entitled to possession of the vehicle is present, or arrives at the scene prior to the vehicle's removal from such private property, exhibits the ignition key of said vehicle, and offers to remove such vehicle voluntarily prior to the time such person attempting to tow actually removes such vehicle from the private property in question, provided that such owner or such other person so removes such vehicle immediately, however, the owner must pay half of the towing fee. If the owner refuses to pay half the towing fee, the relocator may proceed to tow the vehicle.

### **SEC. 17-7104. RELEASE OF MOTOR VEHICLES FROM CUSTODY OF RELOCATORS.**

(a) Prior to release of towed motor vehicles, the relocator shall permit the owner or authorized agent thereof of the vehicle towed to inspect the interior and exterior of said vehicle and its content.

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(b) The owner or authorized agent of the owner of the towed vehicle shall be identified by a valid driver's license or valid driver's license for the state of issuance of the license plates of the vehicle towed, and an ignition key which operates the vehicle towed; or in the instance of rented vehicles, identification may be accomplished by presentation of a rental contract and the driver's license of the renting party named in the rental contract.

(c) Should the relocater claim fees and charges for towing, it shall base the fees and charges on rates as stated in Section 17-7113.

(d) The relocater shall accept any of the following methods of payment for such fees and charges:

- (1) United States currency;
- (2) Regularly recognized traveler's checks;
- (3) Money order;
- (4) Cashier's or certified checks; or
- (5) Authorized bank credit card.

(e) The relocater may accept any regularly recognized personal check or similar means of payment for fees and charges.

### **SEC. 17-7105. NOTIFICATION TO LAW ENFORCEMENT AGENCIES.**

Whenever an unauthorized vehicle is towed from private property, the relocater, or agent or employee thereof, shall notify the Moline Police Department. Such notification shall be by telephone no later than one-half (1/2) hour after the tow is made and shall include the name of the relocater, an accurate description of the vehicle and the location to which it was towed.

### **SEC. 17-7106. SECURITY REQUIREMENTS.**

(a) Relocaters shall comply with the requirements of 625 ILCS 5/18a-301 concerning security to meet liability coverages provided therein through bonds or insurance.

(b) In the event any relocater's license has been suspended by reason of failure to meet these requirements and should said relocater thereafter file a bond or insurance policy or certificates in lieu thereof with the City of Moline within twenty (20) days after the suspension, the chief of police or designee thereof is authorized and hereby directed to reinstate the license of such relocater and shall by notice to such relocater certify such reinstatement. Upon good cause shown, the City of Moline may reinstate any license which has been in suspension for more than twenty (20) days.

(c) In the event any relocater's license shall be in suspension for thirty (30) days by reason of failure to have satisfactory security on file, the chief of police or designee thereof will institute a proceeding against such relocater to show cause why the suspension should not be permanent and the relocater's license revoked.

### **SEC. 17-7107. INVESTIGATIONS, HEARINGS AND PROCEEDINGS.**

The rules governing investigations, hearings and proceedings pursuant to the authority vested in the chief of police or designee thereof by this article shall be the same as contained in the Rules of Practice of the Illinois Commerce Commission, as amended, with the exception of Rule XII.

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### **SEC. 17-7108. LICENSE; REVOCATION OR SUSPENSION.**

(a) Basis for revocation or suspension of a relocator license. The chief of police or designee thereof may revoke or suspend a relocator license for any one or more of the following reasons:

- (1) If the holder thereof has obtained said license by fraud or misrepresentation; or
- (2) If the holder has committed substantial or repeated violations of this article.

(b) The procedure provided in the Illinois Commerce Commission's Rules of Practice, with the exception of Rule XII, concerning complaints, hearings, etc. shall govern all proceedings wherein a relocator license may be suspended or revoked.

### **SEC. 17-7109. VEHICLE IDENTIFICATION.**

(a) The vehicles of a relocator shall be identified in a color or colors vividly contrasting to the color of the unit, and the relocator's name, address and telephone number, using letters and figures not less than two (2) inches in height.

(b) The above requirement shall be waived where the vehicle has painted or otherwise firmly affixed to it a seal or trademark which clearly identifies the relocator.

### **SEC. 17-7110. CONSTRUCTION, ERECTION, PLACEMENT, DESIGN AND ILLUMINATION OF SIGNS.**

(a) When any owner, authorized agent or lessee of private property gives authorization to a relocator to remove all unauthorized vehicles from a private parking area, the notice:

- (1) Must be prominently placed at each driveway access or curb cut allowing vehicular access to the property within five (5) feet from the public right-of-way line. If there are no curbs or access barriers, the sign must be posted not less than one (1) sign each one hundred (100) feet of lot frontage.
- (2) Must indicate clearly, in not less than two-inch high letters on a contrasting background, with either the letters or contrasting background being light reflectorized that unauthorized vehicles will be towed at the owner's expense.
- (3) Must also provide the name and current telephone number of the towing service towing or removing the vehicle.
- (4) Must also provide a general statement indicating who is allowed to park in the area. Said statement may use classes of persons as well as individuals.
- (5) Must also provide the exact fee, if any, charged by the relocator to recover the vehicle and the acceptable methods of payment of such fee.
- (6) The sign structure containing the required notices must be permanently installed with the bottom of the sign not less than four (4) feet above ground level, and must be continuously maintained on the property for not less than twenty-four (24) hours prior to the towing or removing of any vehicle.

(b) In cases where said sign(s) are absent or are not clearly visible for whatever reason, at the time the vehicle is parked without authorization, towing shall not be permitted.

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(c) Subsections (a) and (b) above shall not apply to driveways of parking areas which serve three (3) cars or fewer.

### **SEC. 17-7111. APPLICATIONS FOR RELOCATOR'S LICENSES.**

(a) Licenses for relocators shall be required and the method of application for the relocator's licenses shall be in conformity with forms provided in the accounts and finance office. The relocator's license fee shall be five hundred dollars (\$500.00) per year due May 1.

(b) With regard to criminal records, should any relocator or employee(s), officers or manager thereof be convicted of a criminal offense, such information shall be reported to the chief of police or designee thereof within thirty (30) days.

(Ord. No. 2003-05-01; Sec. 17-7111 (a) repealed; new Sec. 17-7111 (a) enacted; 5/06/03)

(Ord. No. 3019-2008; Sec. 17-7111 repealed; new Sec. 17-7111 enacted; 03/04/08)

(Ord. No. 3033-2009; Sec. 17-7111(a) repealed; new Sec. 17-7111(a) enacted; 10/27/09)

(Ord. No. 3030-2017; Sec. 17-7111(a) repealed; new Sec. 17-7111(a) enacted; 10/17/17)

### **SEC. 17-7112. APPLICATION FOR RENEWAL OF RELOCATOR'S LICENSES.**

The method of application for renewal of relocator's licenses shall be in conformity with that supplied by the accounts and finance office.

### **SEC. 17-7113. POSTING OF RATES AND CHARGES.**

Any towing service that tows or removes vehicles and proposes to require the owner, operator, or person in control of the vehicle to pay the costs of towing and storage prior to redemption of the vehicle must file and keep on record with the accounts and finance office of the City a complete copy of the current rates to be charged for such services, and post at the storage site an identical rate schedule and any written contracts with property owners, lessors, or persons in control of property which authorize them to remove vehicles as provided in this article. In no event shall such rates be greater than the rate or rates established in accordance with 625 ILCS 5/18a-200(3). In no event shall such rate be increased or altered to reflect any charge for services or materials rendered in addition to those authorized by said statute.

### **SEC. 17-7114. ILLEGAL PARKING.**

(a) It shall be unlawful for a vehicle owner or operator to park a vehicle in an off-street parking place where signs are posted pursuant to Section 17-7110 of this article and where the owner has not received permission to park in that space.

(b) The penalty for conviction of this section is twenty-five dollars (\$25.00).

### **SEC. 17-7115. POST TOW HEARING.**

(a) Any vehicular owner or operator whose vehicle is towed pursuant to this article may, within thirty (30) days of the towing, in lieu of paying the relocator for storage and towing, post a bond equal to the storage and towing fees with the accounts and finance office. Upon posting said bond, the relocator shall release the vehicle towed.

(b) Within ninety-six (96) hours of the posting of the bond, the chief of police or designee thereof shall preside over an administrative hearing at which time the vehicle owner or operator may plead facts indicating by a preponderance of the evidence that:

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- (1) The signs required in Section 17-7110 were not posted or were not readable at the time the owner left the vehicle; or
- (2) The vehicle was mistakenly towed, i.e., the owner or operator had the permission of the property owner to park.
- (c) Notice of said hearing shall be given to the property owner and relocater as well as to the vehicle owner or operator.
- (d) If the chief of police or designee thereof determines that the vehicle owner or operator has met the burden of proof, then the chief of police or designee thereof shall order the bond to be returned to the vehicle owner or operator.
- (e) If the chief of police or designee thereof determines that the vehicle owner or operator has not met the burden of proof, then the chief of police or designee thereof shall order the bond to be sent to the towing company.

**SEC. 17-7116. SEVERABILITY.**

It is the intention of the City Council of the City of Moline, Illinois, that the several provisions of this Article VII on commercial relocation of vehicles are separable. If any court of competent jurisdiction shall adjudge any provision of this article to be invalid, such judgment shall not affect any other provisions of this article not specifically included in such judgment order.

**ARTICLE VIIA. RESERVED**

(Ord. No. 2000-12-06; Article VIIA, "USED VEHICLE LICENSE," repealed; Article VIIA reserved for future use; 12/05/00)

**ARTICLE VIII. BURGLAR, HOLD-UP AND FIRE ALARM SYSTEMS AND USERS.**

**SEC. 17-8100. TITLE.**

The short title of this article shall be the "Alarm Licensing Ordinance."

**SEC. 17-8101. PURPOSE.**

The purpose of this article is to provide minimum standards and regulations applicable to burglary, hold-up and fire alarm systems, and alarm users; require permits and establish fees therefor; and provide for punishment of violation of provisions as defined in this article.

**SEC. 17-8102. DEFINITIONS.**

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning ascribed thereto:

- (1) **Alarm agent** means any person who is employed by an alarm business either directly or indirectly whose duties include any of the following: Selling, maintaining, leasing, servicing, repairing, altering, replacing, moving or installing on or in any building, structure or facility any alarm system. However, it shall not mean a person who engages from a fixed location in the manufacture or sale of an alarm system and who neither visits the location where the alarm system is to be installed nor designs the scheme for physical location and installation of the alarm system in a specific location.

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- (2) **Alarm business** means the business by any individual, partnership or corporation or other entity of selling, leasing, maintaining, inspecting, servicing, repairing, moving or installing any alarm system, answering service, central or modified central station system or direct alarm system in or on any building, structure or facility. However, it does not mean the business by persons engaged from a fixed location solely in the manufacture or sale of alarm system components and who do not install, alter, maintain, service, or plan the alarm systems for a specific location.
- (3) **Alarm system** means any mechanical or electrical device which is designed or used for the detection of an unauthorized entry into a building, structure or facility or for alerting others of the commission of an unlawful act within a building, structure or facility or for detecting and signaling the presence of smoke, heat or fire on a protected premises or any combination thereof; and which emits a sound and transmits a signal or message when actuated to which police or fire services are expected to respond. In this article the term "alarm system" shall include the terms audible alarm, automatic dialing device, burglar alarm system, and fire alarm system.
- (4) **Answering service** means a telephone answering business providing among its services receiving, on a continuous basis through trained employees, emergency signals from alarm systems and thereafter immediately relaying the message by live voice to the communications center of the Moline Emergency Center.
- (5) **Appellant** means a person who perfects an appeal pursuant to this article.
- (6) **Applicant** means a person, firm or corporation, who or which, files an application for a new or renewal license or permit as provided in this article.
- (7) **Audible alarm** means a device designed for the detection of unauthorized entry on premises which generates an audible sound on the premises when it is actuated. This audible alarm may or may not be combined with a method of transmitting a signal to a remote point. However, "audible alarm" shall not include audible alarms affixed to motor vehicles.
- (8) **Automatic dialing device** means an alarm system which automatically sends, over regular telephone lines by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of an emergency situation that the alarm system is designed to detect.
- (9) **Burglar alarm system** means a method of detecting and signaling the presence, entry or attempted entry of an intruder into or onto protected premises.
- (10) **Central station system** means a system or group of systems usually operated from its customers by a person in which the operation of protected circuits and devices are transmitted to, recorded in, maintained and supervised from a central station having trained operators and guards in attendance at all times and whose operators and guards have the duty to take appropriate action upon receipt of a signal or message including the relaying of messages by signal channel circuit to the communications center of the Moline Emergency Center.
- (11) **False alarm** means the intentional or unintentional activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner or lessee of the alarm system or of said owner's or lessee's employees or agents which necessitates response by the Moline Police Department or Fire Department when an attempted or actual burglary or holdup or fire does not exist. Such terminology does not include, however, alarms caused by tornadoes, earthquakes or other violent conditions.
- (12) **Fire alarm system** means a method of detecting and signaling the presence of smoke, heat or fire on a protected premises.

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- (13) **Modified central station** means an office to which remote alarm and supervisory signaling devices are connected where operators supervise the circuits and relay the messages by a signal channel circuit to the communications center of the Moline Emergency Center.
- (14) **Protected premises** means that part of a building, structure or facility to which protection is afforded by an alarm system.
- (15) **Primary trunk line** means a telephone line leading into the communications center of the Moline Emergency Center that is for the purpose of handling emergency calls on a person-to-person basis and which line is identified by a specific listing among the emergency numbers in a telephone directory issued by the telephone company serving the City of Moline.
- (16) **Signal channel circuit** means a telephone service that only provides a two-way telephone service from one location to another location. In the Moline Emergency Center it will be used to report emergency signals from an answering service, a central station or from a modified central station to the Moline Emergency Center on a person-to-person basis.
- (17) **Subscriber** means a person who buys and/or leases or otherwise obtains an alarm signaling system and thereafter contracts with or hires an alarm business to monitor and/or service the alarm device.

(Ord. No. 96-1-2; §17-8102 (11) deleted; remaining subsections renumbered; 01/02/96)

### **SEC. 17-8103. STANDARDS AND REGULATIONS AUTHORIZED.**

(a) The police and fire chiefs may prescribe reasonable minimum standards and regulations for the construction and maintenance of all alarm systems. Said standards shall require use of Underwriter's Laboratory or Factory Mutual approved equipment and shall follow industry standards and accepted practice.

(b) The respective chief shall require inspection and approval of all alarm systems installed within the City, and all devices shall meet or exceed such standards or regulations before permits may be issued pursuant to this article.

(c) Every subscriber or other person maintaining an alarm system shall provide the respective chief with the names and telephone numbers of the person or persons to be notified to render repairs or service and secure the premises during any hour of the day or night that the alarm system is activated. It is the responsibility of such subscriber or person to assure that the names and telephone numbers recorded with the respective chiefs are kept current.

### **SEC. 17-8104. AUDIBLE ALARM REQUIREMENTS.**

All alarm systems that emit an audible signal that may be heard by persons outside the protected building, structure, or facility shall conform to the following requirements:

- (1) No person shall install an audible alarm system which creates a sound similar to that of an emergency vehicle siren or a civil defense warning system.
- (2) No person shall install an audible alarm system which does not automatically discontinue emitting an audible sound within one-half (1/2) hour after it is activated.
- (3) With respect to systems in existence prior to the adoption of this article, the owner thereof shall have ninety (90) days from the effective date of this article to effect the necessary modifications to comply with the foregoing requirements, except that, in cases where a specified alarm causes recurring

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difficulty, the respective chief may require that the modifications shall be made within five (5) days or the permit may be revoked.

**SEC. 17-8105.           AUTOMATIC DIALING DEVICES.**

No alarm system using an automatic dialing device will be allowed to send a prerecorded voice message or coded signal over a primary trunkline or direct line into the communications center of the Moline Emergency Center.

**SEC. 17-8106.           AUTOMATIC DIALING DEVICE,  
INTERMEDIARY SERVICES.**

(a)     Persons owning or leasing an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:

- (1)     A central station;
- (2)     A modified central station; or
- (3)     A licensed answering service.

(b)     The relaying of messages by intermediate services to the Moline Emergency Center shall be over a signal channel circuit on a person-to-person basis.

(c)     The respective chief may limit the number of "signal channel circuits" that come into the communications center of the Moline Emergency Center.

**SEC. 17-8107.           RADIO ALARMS.**

Within thirty (30) days from the effective date of this article, all alarm system equipment designed to transmit a message on the emergency base radio frequency shall be disconnected by the owner thereof at the owner's expense.

**SEC. 17-8108.           EXEMPTION.**

This article is not applicable to City-owned and operated equipment used over the emergency radio frequency.

**SEC. 17-8109.           ALARM SYSTEM PERMIT REQUIRED.**

No person shall possess or use an alarm system without first applying for and receiving an alarm permit therefor in accordance with the provisions of this article.

Applications for all permits under this article shall be on a form prescribed by the fire or police chief who may request such information as is necessary to evaluate and act upon the permit application. Applications shall be accompanied by a nonrefundable application/permit fee of fifty dollars (\$50.00) and shall be paid to the accounts and finance officer.

(Ord. No. 96-1-2; §17-8109 (b) deleted; 01/02/96; Ord. No. 3026-2008; Sec. 17-8109 repealed; new Sec. 17-8109 enacted; 03/25/08)

**SEC. 17-8110.           RESERVED.**

(Ord. No. 3026-2008; Sec. 17-8110 repealed; new Sec. 17-8110 enacted, "ALARM AGENT LICENSE REQUIRED;" 03/26/08)  
Ord. No. 3037-2008; Sec. 17-8110 repealed & reserved for future use; 06/03/08)



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### **SEC. 17-8111. NOTICE OF APPLICATION/INFORMATION CHANGE.**

Whenever any change occurs relating to the written information requested by this article, the applicant, licensee or permittee shall give written notice thereof to the respective chief and the accounts and finance officer within fifteen (15) days after such change or at any hearing conducted before the notice has been given.

### **SEC. 17-8112. RESERVED.**

(Ord. No. 3026-2008; Sec. 17-8112 repealed; new Sec. 17-8112 enacted, "ALARM AGENT RECORDS;" 03/25/08)

(Ord. No. 3037-2008; Sec. 17-8112, "ALARM AGENT RECORDS," repealed and returned to that which existed immediately prior to the enactment of Ord. No. 3026-2008 on 03/25/08, which was and shall read as follows: "RESERVED;" 06/03/08)

### **SEC. 17-8113. PERMIT RENEWAL.**

Alarm system permits need not be renewed. Any modifications of or additions to an alarm system shall require a new permit and may require an inspection as determined by the respective chief.

### **SEC. 17-8114. ISSUANCE OF PERMITS AND LICENSES.**

The accounts and finance officer, upon receipt of written approval of the respective chief and upon receipt of application fee and license or permit fee, shall issue or renew permits or licenses.

### **SEC. 17-8115. APPLICATION; INVESTIGATION AND DENIAL.**

**Alarm systems.** The permit shall be denied by the respective chief if the alarm system does not comply with the standards and regulations adopted pursuant to this article. The permit shall be issued to the person owning, using or possessing the alarm system. If the permit is denied, the reasons for denial shall be set forth in writing and provided to the applicant. The notice of denial shall inform the applicant that said applicant may appeal the denial and set forth procedure for appeal.

(Ord. No. 96-1-2; §17-8115 repealed; new subsection enacted; 01/02/96)

### **SEC. 17-8116. SUSPENSION OR REVOCATION; GROUNDS.**

The following shall constitute grounds for suspension and/or revocation of a license or permit:

- (1) The violation of any of the provisions of this article; or
- (2) Where an alarm system is knowingly activated by a subscriber, employee or agent thereof in situation where no burglary or robbery is actually in progress; or
- (3) Where the permittee, said permittee's employee or agent has knowingly made any false, misleading or fraudulent statement of material fact in the application for a permit or in any report or record required to be filed with any City agency; or
- (4) Where the permittee has had a similar type permit previously revoked for good cause within the past year, unless the applicant can show a material change in circumstances since the date of revocation; or

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- (5) Where an alarm system actuates an excessive false alarm and thereby constitutes a public nuisance, the owner will be subject to a service charge for each false alarm. Regardless of the status of an alarm permit, the City of Moline emergency services will always respond as promptly and effectively as possible to any and all alarm actuations.
- a. False alarms occurring within the two (2) week period immediately following the installation date of an alarm system will not be considered excessive and shall be exempt from the false alarm service charge.
  - b. False alarms determined to have been caused by acts of nature will not be considered excessive and shall be exempt from the false alarm service charge.
  - c. Said service charges are hereby established to be as follows:
    1. With valid permit:
      - i. Each police false alarm will be charged \$60.00.
      - ii. Fire false alarm fee for each new alarm system will be no charge for the first two alarms; thereafter fee will be \$175.00.
    2. When no permit has been obtained or while a permit is under revocation, the fee shall be twice the fees established in subsection (c)(1) above.
  - d. This service charge will not exempt the licensee or permittee from the violation penalty adopted pursuant to this article.

(Ord. No. 2000-07-04; Sec. 17-8116 repealed; new Sec. 17-8116 enacted; 07/18/00)  
(Ord. No. 2002-06-14; Sec. 17-8116 repealed; new Sec. 17-8116 enacted; 06/25/02)  
(Ord. No. 3071-2004; Sec. 17-8116 repealed; new Sec. 17-8116 enacted; 09/14/04)  
(Ord. No. 3014-2006; Sec. 17-8116(b) repealed; new Sec. 17-8116(b) enacted; 04/04/06)  
(Ord. No. 3010-2008; Sec. 17-8116(5)(b) repealed; new Sec. 17-8116(5)(b) enacted; 02/26/08)  
(Ord. No. 3031-2017; Sec. 17-8116(5) repealed; new Sec. 17-8116(5) enacted; 10/17/17)

### **SEC. 17-8117. SUSPENSION OR REVOCATION; PROCEDURE.**

The respective chief, in the case of suspension, shall serve the licensee or permittee with a written order of suspension which shall state the reasons for such suspension. The order shall be effective immediately if personally served, or forty-eight (48) hours after the same has been deposited in the course of transmission in the United States Postal Service. Immediately upon such an order becoming effective, the licensee or permittee shall discontinue the use of any alarm system requiring a permit under this article and cease all operations conducted under the authority of any license or permit issued pursuant to this article.

### **SEC. 17-8118. REVOCATION.**

- (a) The suspension shall become a revocation fifteen (15) days after the order of suspension becomes effective unless the licensee or permittee files an appeal of the order of suspension in the manner set forth in this article.
- (b) Where an appeal is filed, the order of suspension shall be stayed, pending a final determination of the appeal. The suspension shall become a revocation if the decision of the city administrator upholds the suspension, unless said decision is overruled by the City Council. The suspension shall be dissolved immediately if the decision of the city administrator reverses the suspension.

### **SEC. 17-8119. SURRENDER OF LICENSE/PERMIT.**

If any license or permit is revoked pursuant to this article, the licensee or permittee shall surrender the license or permit to the accounts and finance officer.

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### **SEC. 17-8120. APPEAL PROCEDURE.**

Any person aggrieved by the decision of the respective chief with reference to the denial of an application for a license or a permit or renewal thereof shall have the right of appeal. An appeal must be perfected within fifteen (15) days after notice of the decision of denial or order of suspension by filing with the city administrator a letter of appeal, briefly stating therein the basis for the appeal.

Failure to file a letter of appeal within the said fifteen (15) days shall constitute a waiver of appellant's right to review; but the city administrator, in the administrator's discretion, may, nevertheless, grant such a review. If the city administrator affirms the decision of the respective chief, the appealing party may have a hearing before the City Council on said matter. If the city administrator does not approve the decision of the chief, said administrator shall transmit this decision to the said chief, who will comply with same.

### **SEC. 17-8121. REINSTATEMENT OF ALARM PRIVILEGE.**

Whenever an alarm system, for which suspension, revocation or renewal denial is in effect, has been repaired so as to be able to function properly and reliably and the respective chief has received from an alarm business or agent in good standing written certification that repairs have been made to the alarm, that it is functioning properly, and that a reasonable maintenance schedule has been established, said chief may reinstate the alarm permit.

### **SEC. 17-8122. RESPONSIBILITY FOR ALARM RESPONSE.**

Every person who has, on premises under said person's control or ownership, an alarm system, audible or silent, shall, upon notification that the alarm system is giving a signal, proceed immediately to the premises and render all necessary service. Provided, however, that the owner or person in control of the premises may enter into an agreement with an alarm business to respond in said owner or person's stead.

### **SEC. 17-8123. LIABILITY OF CITY LIMITED.**

The City shall take every reasonable precaution to assure that alarm signals received by the City are given appropriate attention and are acted upon with dispatch. Nevertheless, the City shall not be liable for any defects in operation of any alarm devices or signal lines system, for any failure or neglect to respond appropriately upon receipt of an alarm from such a source, nor for the failure or neglect of any person with a permit issued pursuant to this article, in connection with the installation and operation of equipment, the transmission of alarm signals, or the delaying of such signals. In the event the City finds it necessary to disconnect a defective automatic protective device or signaling device, the City shall incur no liability by such action.

### **SEC. 17-8124. VIOLATION; PENALTY.**

Any person, firm, or corporation violating any of the provisions of this article shall be subject to a fine not less than twenty-five dollars (\$25.00) nor more than seven hundred fifty dollars (\$750.00).

## ARTICLE IX. RAFFLES

### **SEC. 17-9100. TITLE.**

The short title of this article shall be the "Raffle Ordinance."

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### SEC. 17-9101. DEFINITIONS.

For the purpose of this article, unless otherwise distinctly expressed, the following words and phrases shall have the meanings set out herein:

- (1) **Rock Island County Model Raffle Ordinance** means an ordinance in substantially the same form, and containing the same provisions and limitations as is set forth in this subject ordinance to be enacted by any municipality located within Rock Island County, Illinois, and intended to regulate the conduct of raffles within the jurisdiction of the respective municipality.
- (2) **Net proceeds** means the gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle.
- (3) **Raffle** means a form of lottery, as defined in Section 28-2(b) of the "Criminal Code of 1961" conducted by an organization licensed under this act, in which:
  - a. The player pays or agrees to pay something of value for a chance, represented and differentiated by a number or by a combination of numbers or by some other medium, one (1) or more of which chances is to be designated the winning chance;
  - b. The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.
- (4) **Nonprofit, charitable, educational, religious, fraternal, veterans, labor, and political committee** shall have the same meaning ascribed to them as in 230 ILCS 15/2.

### SEC. 17-9102. LICENSE REQUIRED.

(a) It shall be unlawful for any person, firm or corporation to conduct raffle chances in the City without having first obtained a license therefor pursuant to this article or in violation of the terms of such license.

(b) Any person, firm or corporation who is in immediate possession of a valid license issued to the person, firm or corporation by another municipality or political subdivision located in Rock Island County, Illinois, which municipality or political subdivision has enacted the Rock Island County Model Raffle Ordinance, shall be exempt from the requirements of this section to have obtained a license from the City.

(c) Licenses shall be issued only to bona fide religious, charitable, labor, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of five (5) years immediately before making application for a license and which have had during that entire five-year period, a bona fide membership engaged in carrying out their objectives.

### SEC. 17-9103. APPLICATIONS.

(a) Applications for raffle licenses shall be made to the finance director no later than thirty (30) days prior to the commencement of sales or advertisement of sale of raffle chances.

(b) The application for license must specify the area or areas within the City in which raffle chances will be sold or issued, the time of determination of winning chances and the locations at which the winning chances will be determined.

(c) The application for license must contain a sworn statement attesting to the not-for-profit character of the prospective license organization, and shall be signed by the presiding officer and secretary of the organization.

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(d) The application for license must state the residence of the applicant and all addresses of offices within the licensing municipality and, if the raffle drawing is to be conducted within the licensing municipality, the address of the location of the drawing.

(e) A license authorizes the licensee to conduct raffles as defined in the ordinance. A raffle license shall be valid for one (1) raffle only. Additional raffles shall require a raffle license and corresponding application and fee.

(f) A fee of twenty-five dollars (\$25.00) shall be charged for the making of application and the issuance of a raffle license. No fee shall be collected when the aggregate value of prizes to be awarded in a single raffle is less than two hundred fifty dollars (\$250.00).

(g) Prior to approval, any application which indicates that the sale of raffle chances would be in an area outside the corporate limits of the City, or which indicates that the location or locations of determining winning chances is outside the corporate limits of the City, shall be referred to the licensing authority of such jurisdiction for comment as to zoning status, licensed status of location, and compliance with licensing regulations.

(h) The Finance Director shall act on a license application within thirty (30) days from the date of application and shall notify all jurisdictions affected thereby of said action.

(Ord. No. 3008-2008; Sec. 17-1103 repealed; new Sec. 17-1103 enacted; 02/26/08)

### **SEC. 17-9104. RESTRICTIONS ON LICENSES.**

No such licenses shall be issued to:

- (1) Any person who has been convicted of a felony;
- (2) Any person who is or has been a professional gambler or gambling promoter;
- (3) Any firm or corporation in which a person defined in subsection (1) or (2) above, has a proprietary, equitable or credit interest or in which such a person is active or employed;
- (4) Any organization in which a person defined in subsection (1) or (2) above is an officer, director or employee, whether compensated or not;
- (5) Any organization in which a person defined in subsection (1) or (2) above is to participate in the management or operation of a raffle as defined in this act.

### **SEC. 17-9105. CONDUCT OF RAFFLES.**

The conducting of raffles licensed under this article is subject to the following restrictions:

- (1) The entire net proceeds of any raffle must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game;
- (2) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle;
- (3) No person may receive any remuneration or profit for participating in the management or operation of the raffle; however, this shall not prohibit the payment of rent or fee for use of facilities to hold a raffle if said rent or fee is not dependent upon the raffle proceeds and is binding upon the parties at the time made;

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- (4) Raffle chances may be sold or issued only within the area specified on the license and winning chances may be determined only at those locations specified on the license;
- (5) No person under the age of eighteen (18) years may participate in the conducting of raffles or chances. A person under the age of eighteen (18) years may be within the area where winning chances are being determined only when accompanied by said person's parent or guardian.

### **SEC. 17-9106. RAFFLES; MANAGER; BOND.**

All operations of and the conduct of raffles shall be under the supervision of a single raffle manager designated by the organization. The manager shall give a fidelity bond in the sum of an amount determined by the licensing authority in favor of the organization conditioned upon said manager's honesty in the performance of said manager's duties. Terms of the bond shall provide that notice shall be given in writing to the licensing authority not less than thirty (30) days prior to its cancellation. The City Council may waive this bond requirement upon the request of the organization, by directing the accounts and finance officer to include a waiver provision in the license issued to an organization under this article, provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

### **SEC. 17-9107. RECORDS.**

(a) Each organization licensed to conduct raffles and chances shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount, and date of payment.

(b) Gross receipts from the operation of raffle programs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same nonprofit organization pursuant to license therefor, issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles. The person who accounts for gross receipts, expenses and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the organization.

(c) Each organization licensed to conduct raffles shall report monthly to its membership, and to the licensing local unit or government, its receipts, expenses and net proceeds from raffles and the distribution of net proceeds itemized as required in this section.

(d) Records required by this section shall be preserved for three (3) years, and the organizations shall make available their records relating to the operation of raffles for public inspection at reasonable times and places.

### **SEC. 17-9108. VIOLATION.**

Violation of any provision of this article shall subject the person, firm, or organization to a fine in a sum not less than twenty-five dollars (\$25.00) nor more than seven hundred fifty dollars (\$750.00).

(Ord. No. 98-2-6; §17-9108 repealed; new §17-9108 enacted; 02/03/98)