

## Chapter 12 BUSINESSES AND BUSINESS REGULATIONS

### ARTICLE I. IN GENERAL

#### Sec. 12-1. Applications.

Every person required to procure a license under the provisions of this chapter, or any ordinance or law of this Municipality shall submit an application for such license to the City Chief Financial Officer or his or her designee or other officer or designee of the City whenever so specified herein, which application shall conform to the requirements of this section.

- (1) *Form of application.* Each application shall be a written statement upon forms provided by the City Chief Financial Officer.
- (2) *Contents of application.* Each application shall contain the following information:
  - a. Name and home address of the applicant, if an individual, or home address if a corporation or partnership;
  - b. Place where the proposed business is to be located;
  - c. Kind of business to be carried on;
  - d. Name and home address of the owner or president, if a corporation;
  - e. Such additional information which the City may find reasonably necessary to the fair administration of this chapter.
- (3) *Verification.* Each application shall be sworn to by the applicant, if an individual, or by a partner, if a partnership, or by an officer, if a corporation.
- (4) *Payment of fee.*
  - a. *Fee required.* Each application shall be accompanied by the amount of the fee chargeable for such license.
  - b. *Issuance of receipts.* The City Chief Financial Officer shall issue a receipt to the applicant for the amount of the fee tendered with the application for a license, provided that such receipt shall not be construed as approval of the application, nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this chapter.
- (5) *False statements.* False statements on any application for a license shall be grounds for immediate revocation of such license.
- (6) *Eligibility.* In order to receive a professional or commercial license issued by the City, each applicant must submit a sworn affidavit attesting to the affiant's immigration status. The status of applicants who swear by affidavit to be a qualified

alien or nonimmigrant under the federal Immigration and Nationality Act will also be verified through the Systematic Alien Verification of Entitlement (SAVE) Program.

**Sec. 12-2. Procedure for issuance.**

- (a) *Review.* The City Financial Officer shall be designated the Reviewing Officer for review of an application for a license. The City Chief Financial Officer or designee shall have within 48 hours of the time of the receipt of the application to either grant or deny the license. If the application is denied, the applicant shall have ten days to appeal this decision to the City Manager.
- (b) *Discretion.* The granting of a business license under the provisions of this chapter shall be deemed a privilege only, and nothing contained in this chapter shall be construed as granting any person whose business is subject to municipal regulation any legal right to engage in such business.

**Sec. 12-3. Display of license.**

It shall be the duty of any person conducting any business or activity in the City requiring one or more license(s) to keep his or her license(s) posted in a conspicuous place on the premises used for such business or activity at all times.

**Sec. 12-4. Inspections.**

- (a) *Search of premises.* Whenever inspections of the premises used for, or in connection with, the operation of a business, activity, or occupation requiring a license from the City are provided for or required by ordinance, or are reasonably necessary to secure compliance with any ordinance provision or to detect violation thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer or employee of the City who is authorized or directed to make such inspection at any reasonable time that admission is requested.
- (b) *Testing of material.* Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee of the Municipality whose business, activity, or occupation is governed by such provision to give to any authorized officer or employee of the City requesting the same sufficient samples of such material or commodity for such analysis.
- (c) *Refusal to allow inspection.* In addition to any other penalty which may be provided, the City Manager, or City Chief Financial Officer if so designated, may revoke the license of any licensed proprietor of a licensed business, activity, or occupation in the City who refuses to permit any officer or employee who is authorized to make such inspection or take such sample to make the inspection, or take an adequate sample of the said commodity, or who interferes with such officer or employee while in the performance of

his or her duty in making such inspection, provided that no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the City, stating that such inspection or sample is desired at the time it is sought to make the inspection or obtain the sample.

**Sec. 12-5. Termination and renewal of license.**

- (a) *Termination.* All annual licenses shall terminate on the last day of the calendar year of the City when no provision to the contrary is made.
- (b) *Invoice for renewal.* Each licensee shall be invoiced by November 1 for the next year's license fee and fees shall be due by December 31 each year.
- (c) *Moving or closing.* If a permitted business moves outside City limits or closes, the applicant shall notify the city in writing of this change within ten business days.

**Sec. 12-6. Revocation, suspension, etc.**

The City Manager, after affording the licensee notice of the charges and opportunity to be heard with respect to any revocation proceeding, may, if it finds this chapter to have been violated by the licensee, his or her agent, or employee, revoke such license in its entirety, suspend the same for a specified period of time, place the licensee on probation, or place other conditions thereon as the City Manager may deem necessary.

**Sec. 12-7. Change of location.**

In the absence of any provision to the contrary, the location of any licensed business, activity, or occupation may be changed, provided that ten days notice thereof is given to the City Chief Financial Officer, and provided that all building and zoning requirements are complied with.

**Sec. 12-8. Transfer of license.**

All licenses shall be personal to the licensee to whom issued and shall not be transferable unless provisions in this chapter specifically so provide.

**Sec. 12-9. Duplicate license.**

A duplicate license shall be issued by the City Chief Financial Officer to replace a previously issued license which has been lost, stolen, defaced, or destroyed without any willful conduct on the part of the licensee, upon the filing of a sworn affidavit attesting to such fact, and the payment of a fee of \$10.00 to the City Chief Financial Officer.

**Sec. 12-10. Branch offices.**

For the purposes of this chapter, each branch, establishment or location wherein a representative of the owner is employed and is authorized to transact business for such owner shall be deemed a separate place of business for which a separate license shall be required, provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch offices.

**Sec. 12-11. Due dates; late fees.**

- (a) Except for insurance companies, a late fee of one and a half (1.5) percent per month of the unpaid fee shall be assessed for payments not received by December 31 preceding the calendar year for which the business license applies. If any such fee is not paid by January 31 of the calendar year for which the business license applies, the business license shall be terminated for nonpayment of the fee. Furthermore, such licensee shall be made to pay an additional penalty of ten (10) percent of the fee amount if such fees are more than ninety (90) days delinquent
- (b) Each insurance company shall pay the requisite business license fee by June 30 of the calendar year for which the license applies. Insurance companies shall be ineligible to renew their business licenses for the following calendar year unless and until the business license fee for the previous calendar year is paid in full.

**Sec. 12-12. Penalty.**

- (a) Any person who shall conduct a business, activity, or occupation without having obtained a license therefor or paid the required occupation tax as required by this chapter, or who shall violate any other provisions of this chapter, shall, upon a finding of violation therefor, be punished by a fine not to exceed \$1,000.00 and cost, or by imprisonment not to exceed six months, or both, any and all of such penalties to be imposed in the discretion of the Judge of the Municipal Court. In addition to the foregoing penalties, any person(s) failing to timely obtain such licenses or pay such license fees or occupation taxes shall be subject to the maximum penalties, interest, and civil fines authorized by O.C.G.A. § 48-13-21 and O.C.G.A. § 48-13-26 as now written or as hereinafter amended.
- (b) In addition to all other enforcement measures authorized by state law and City ordinance, the City shall be authorized to utilize tax executions and to seek the entry of nulla bona orders pursuant to O.C.G.A. § 48-13-25 as now written or may be hereinafter amended to collect delinquent fees or taxes.

**Secs. 12-13—12-42. Reserved.**

**ARTICLE II. BUSINESSES REGULATIONS**

*DIVISION 1. RESERVED*

**Secs. 12-43—12-72. Reserved.**

*DIVISION 2. INSURANCE BUSINESSES*

**Sec. 12-73. License and fee.**

- (a) *License required.* Each person, agency, firm or company operating an insurance business within the municipal corporate limits shall be required to obtain a license from the City Chief Financial Officer in the manner specified in this chapter pursuant to O.C.G.A. § 33-8-8.
- (b) *Fee established.* In order to obtain a license, each person, agency, firm or company operating an insurance business shall pay to the City the annual license fee as provided under section 34-2.

**Secs. 12-74—12-104. Reserved.**

*DIVISION 3. RESERVED*

**Secs. 12-105—12-123. Reserved.**

*DIVISION 4. RESERVED*

**Secs. 12-124—12-146. Reserved.**

*DIVISION 5. USED CAR DEALERS*

**Sec. 12-147. License required.**

Any used car or used motor vehicle dealer, as such terms are defined in O.C.G.A. § 43-47-1, who does business within this Municipality shall be required to obtain a license from the City Chief Financial Officer in the manner specified in this chapter.

**Sec. 12-148. Fee established.**

The annual business license fee for each used car or used motor vehicle dealer doing business in the City shall be \$250.00.

**Sec. 12-149. Reserved.**

**Sec. 12-150. Restriction on issuance.**

No license under this division shall be issued to any applicant who has not been licensed by the State Board of Registration of Used Car Dealers.

**Sec. 12-151. Records.**

Each used car dealer or used motor vehicle dealer licensed under this division shall keep a record of all motor vehicles offered for sale, exchange, or disposal to the public, which record shall show the make of said motor vehicle, the year of its manufacture, its vehicle identification number (VIN), and its engine number, and which record shall always be kept available, for the City. The presence in his or her place of business of any motor vehicle on which the serial or engine number has been defaced or altered shall be immediately reported to the police.

**Sec. 12-152. Inspections.**

It shall be the duty of the City to make inspections from time to time for the purpose of seeing that the records required in this division are being kept.

**Sec. 12-153. Exceptions.**

Nothing in this division shall be deemed to apply to any individual making an isolated sale of his or her own vehicle.

**Secs. 12-154—12-175. Reserved.**

*DIVISION 6. CIRCUSES, CARNIVALS AND PUBLIC EXHIBITIONS*

**Sec. 12-176. License required.**

No person, firm or corporation shall conduct or operate a circus, carnival or public exhibition without having first obtained a license from the City Chief Financial Officer in the manner specified in this chapter.

**Sec. 12-177. Definitions.**

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

*Carnival* means and includes amusement activities, rides, merry-go-rounds, booths for the conduction of games of skill, food-dispensing facilities and sideshows.

*Circus* means a show in which feats of horsemanship, tumbling, strength, etc., are exhibited.

*Public exhibition* means and includes circuses, menageries, sideshows, and other similar itinerant amusement enterprises which are open to the public and for admission to which a fee is charged.

**Sec. 12-178. Fees established.**

- (a) The regulatory fee imposed on circuses, carnivals or public exhibitions operating within the City limits shall be as follows:

<i>Business</i>	<i>License Fee</i>
Circuses	\$300.00 per event
Carnivals	\$300.00 per event
Sideshows and Concessions	\$300.00 per event
Rides	\$300.00 per event

- (b) Any event shall not exceed 14 days without reapplying for an additional permit and paying an additional fee.

**Sec. 12-179. Conditions of issuance.**

No license under this division shall be issued until the following conditions have been met:

- (1) The operator and sponsor of the circus, carnival or public exhibition have each assumed full responsibility for maintaining order and for keeping the site clean and free of trash, papers and other debris and have placed trash containers in adequate number and in convenient locations for the use of the public;
- (2) Copies of all ride permits obtained from the Office of the Georgia Safety Fire Commissioner for the current calendar year have been supplied to the City; and
- (3) The applicant has placed on file with the City Chief Financial Officer a certificate of insurance indicating that there is in effect public liability insurance covering any

damages arising out of the use and operation of any and all devices and facilities operated in connection with such carnival or exhibition. Such insurance shall be in the minimum amount of \$1,000,000.00 for each person.

**Sec. 12-180. Inspections.**

It shall be the duty of the City to see that proper inspections and patrols are made of the premises used for the activities licensed in this division.

**Secs. 12-181—12-199. Reserved.**

*DIVISION 7. PAWNBROKERS AND SECONDHAND DEALERS*

**Sec. 12-200. Definitions.**

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

*Employee* means:

- (1) Any owner or pawnbroker who, in the performance of his or her duties or the management of the business affairs of a pawnshop, comes into contact with members of the public;
- (2) Any person working for an owner or pawnbroker; or
- (3) Any person who is employed on a part-time or full-time basis, either with or without remuneration, by a pawnshop.

*Pawn* or *pledge* means a bailment of personal property as security for any debt or engagement, redeemable upon certain terms and with the power of sale on default.

*Pawnbroker* means any person, whether an owner or not, who works in a pawnshop on a regular basis and in a managerial capacity whereby he or she has charge of the business or daily operations of the pawnshop, and whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, as security for the repayment of money lent thereon.

*Pawnshop* means any business wherein a substantial part thereof is to take or receive, by way of pledge, pawn, consignment or exchange, any goods, wares, merchandise, or any kind of personal property whatever, as security for the repayment of money lent thereon.

**Sec. 12-201. Hours of operation.**

The hours during which pawnbrokers may conduct business shall be from no earlier than 7:00 a.m. to no later than 9:00 p.m.



**Sec. 12-202. Pawn license required; supplementary to business license or occupational tax.**

All persons, before beginning the business of operating a pawnshop or similar place where money is advanced on goods or other effects, or merchandise of any kind is taken in pawn, shall first file an application with the City of Lawrenceville Finance Department for an annual pawn license to conduct such business. The issuance of said pawn license shall be a requirement in addition to any other business license or occupational tax certificate required by the City of Lawrenceville, and no business license or occupational tax certificate shall issue prior to the applicant successfully receiving a pawn license from the Lawrenceville Finance Department.

- (1) *Form of application.* The application for a pawn license shall be completed on a form prescribed by the Chief Financial Officer or his or her designee. At minimum, the application shall include the physical address at which the business is proposed to be operated, and the full name, address, phone number, date of birth, photograph and social security number of pawnbrokers and managerial employees of the business. Additionally, the permit shall list the owner of the business. In the event the business is owned by a partnership or corporation, the partners or officers and registered agent shall be listed.
- (2) *License fee; separate license required for each physical location.* The completed form must be accompanied by an application and license fee of \$500.00. In the event an owner has more than one physical business location, each location will be required to obtain a separate permit. The application fee is nonrefundable in the event the applicant, for any reason, is not issued a pawn license, other business license, or occupational tax certificate.
- (3) *Background check required.* Upon receipt of the application and fee, the City or his or her designee shall conduct a background check on the applicant. A pawn license may not be issued where the applicant has been convicted, plead guilty, or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, any felonies, or any crime involving theft or fraudulent practices within a period of ten years immediately prior to the filing of such application.
- (4) *Falsified applications.* No license shall be issued if it is found that the applicant falsified, concealed or misrepresented any material fact in the application.
- (5) *Denial of license; appeal process.* If an application for a pawn license is denied for any reason, the applicant will be notified in writing of such denial and the reason for the denial. The applicant may appeal the decision of the Finance Department to the City Manager. Such appeal shall be by written petition, filed in the Finance Department within 15 days after the final order or action of the Finance Department and, in order to defray administrative costs, must be accompanied by a filing fee of \$150.00.

- (6) *Renewal.* Owners are required to renew the license upon expiration thereof and shall be required to pay a renewal fee of \$500.00.
- (7) *Replacement license.* In the event a license is lost or destroyed, a replacement license may be issued for the unexpired term of the initial license.
- (8) *Display of license.* Operators of pawn businesses shall conspicuously display the license at all times while the business is in operation.
- (9) *License issued in error; license the property of the City.* Any pawn license issued through administrative oversight or error may be terminated and seized by the Chief Financial Officer or his or her designee. All pawn licenses remain the property of the City of Lawrenceville. Upon notice by the City, the holder of a pawn license must surrender said license.
- (10) *Suspension or revocation of license; appeal.* A license may be denied, suspended or revoked by the City for falsifying an application, violation of this section or if the applicant has otherwise become ineligible to hold a license under this section. The license holder or applicant may appeal the decision of the Chief Financial Officer to the City Manager.

**Sec. 12-203. Work permits required of employees.**

No person shall be employed by a pawnshop in any capacity until such person has obtained a work permit from the Lawrenceville Finance Department.

- (1) *Form of application; fee required.* An application for a work permit shall be made on a form prescribed by the Chief Financial Officer or his or her designee. Such application form shall include, at a minimum, the applicant's name, date of birth, and social security number. The applicant must also provide positive identification (only official government-issued pictured identification accepted, e.g., driver's license, passport, military card, or State-issued identification card) at the time of application.
- (2) *Fee for permit.* The completed permit application form must be accompanied by an application and permit fee of \$100.00. The application fee is nonrefundable.
- (3) *Background check required.* Upon receipt of the application and fee, the City or his or her designee shall conduct a background check on the applicant. A permit may not be issued where the applicant has been convicted, plead guilty, or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, any felonies, or any crime involving theft or fraudulent practices within a period of five years immediately prior to the filing of such application.
- (4) *Falsified applications.* No permit shall be issued if it is found that the applicant falsified, concealed or misrepresented any material fact in the application.

- (5) *Denial of permit; appeal process.* If an application for a work permit is denied for any reason, the applicant will be notified in writing of such denial and the reason for the denial. The applicant may appeal the decision of the Chief Financial Officer to the City Manager. Such appeal shall be by written petition, filed in the office of the City Manager or his or her designee within 15 days after the final order or action of the Finance Department and, in order to defray administrative costs, must be accompanied by a filing fee of \$100.00. In the event of a successful appeal, the full amount of the filing fee will be returned to the applicant.
- (6) *Renewal.* Permit holders are required to renew the permit upon expiration thereof and shall be required to pay a renewal fee of \$100.00.
- (7) *Replacement permit.* In the event a permit is lost or destroyed, a replacement permit may be issued for the unexpired term of the initial license upon the payment of a permit replacement fee of \$20.00.
- (8) *Permit in possession while working; inspection by Finance Department.* Permit holders must have a valid permit on their person at all times while working within a pawn establishment. The permit shall be displayed upon the request of an employee or agent of the City.
- (9) *Permits issued in error; permits the property of the City.* Any work permit issued through administrative oversight or error may be terminated and seized by the Chief Financial Officer or his or her designee. All permits remain the property of the City of Lawrenceville. Upon notice by the Lawrenceville Finance Department, the holder of a permit must surrender said permit.
- (10) *Suspension or revocation of permit; appeal.* A permit may be denied, suspended or revoked by the Chief Financial Officer or his or her designee for falsifying an application, violation of this section, or if the applicant has otherwise become ineligible to hold a permit under this section. The permit holder or applicant may appeal the decision of the Chief Financial Officer to the City Manager.

**Sec. 12-204. Records of pawn transactions; required information; method of transmittal.**

Engaging in the business of pledging, trading, pawning, exchanging, or selling used or previously owned merchandise, furniture, machinery, appliances, utensils, firearms, gold, silver, coins, precious metals, jewelry and precious stones within the City limits of Lawrenceville is hereby declared to be affected with the public interest due to the opportunity it affords for the disposal of stolen property. In the public interest, and as set forth in this division, all pawnbroker and pawnshop operators shall document all transactions as required by this division. A transaction number will be assigned to every transaction to document the transaction.

- (1) *Identification of persons pledging items.* Employees of pawnshops shall require all persons pledging, trading, pawning, exchanging, or selling property to show proper identification prior to conducting a transaction. For purposes of this section, proper identifications shall consist of a government-issued identification document such as a driver's license, State identification card, military identification card or passport.
- (2) *Required documentation of identifying data.* Employees of pawnshops shall document the name, address, telephone number, race, gender, height, weight, driver's license number, date of birth, social security number, and identifying number from the presented identification of the person pledging, trading, pawning, exchanging, or selling property along with the date and time of the transaction. This documentation shall be made at the time of the transaction.
- (3) *Photographs required.* Employees of pawnshops shall photograph all persons pledging, trading, pawning, exchanging, or selling property. Such photograph will be made with a digital camera or web camera. Such photograph shall clearly show a frontal view of the subject's face along with the pawnshop transaction number. Additionally, photographs shall be made of the items being pledged, traded, pawned, exchanged or sold. The photographs shall be appended to the record of the pawn transaction in a manner prescribed by the Chief Financial Officer or his or her designee.
- (4) *Fingerprint and signature required.* Employees of pawnshops shall obtain from all persons pledging, trading, pawning, exchanging, or selling property the fingerprint of the right hand index finger. The fingerprint shall be appended to the record of the pawn transaction in a manner prescribed by the Chief Financial Officer or his or her designee. The subject shall also sign the pawn transaction. In the event the indicated finger is missing, the next finger available on the right hand will be used and the finger used will be noted on the pawn transaction record. If the right hand is amputated, congenitally deformed, or otherwise unavailable due to medical condition, the left hand may be used and noted on the record. If neither hand is available due to medical condition, amputation or congenital deformity, that fact will be noted on the transaction record. Fingerprints and the information required in this section shall be obtained each time such person pledges, trades, pawns, exchanges, or sells any property.
- (5) *Accurate property descriptions required.* Employees of pawnshops shall document an accurate description of all items pledged, traded, pawned, exchanged or sold to the pawnshop. Such description shall include, at a minimum and to the extent possible, manufacturer, model, serial number, style, material, kind, color, design, number of stones (if jewelry), and any identifying names, marks, numbers or engravings.

- (6) *Tags required.* Each item received by a pawnshop as a pledge, trade, pawn, exchange, or purchase shall be tagged with the pawnshop transaction number. Such tag must remain attached to the item until the item is disposed of by sale, trade or other lawful means.
- (7) *Wholesale purchases excluded.* The requirements of this section shall not apply to property purchased from licensed wholesale or distributor businesses for the purpose of retail sale; however, the pawnshop employees shall maintain purchasing records for property exempted under this subsection while the property remains in inventory.
- (8) *Special requirements for new or unused goods.* Items of property that appear to be new, unused, and in their original packaging may not be accepted by a pawnbroker unless the customer can supply a copy of the original sales receipt or other proof of purchase. Pawnshops shall retain a copy of such receipt or proof of purchase on file while the item is in inventory.
- (9) *Entry of transactions for electronic transmittal.* Each pawnshop shall enter each transaction into the electronic automated reporting system as it occurs. In the event the electronic transmittal system is unavailable, pawnshops shall make records in paper form as prescribed by the Chief Financial Officer or his or her designee. Such paper forms shall include all information otherwise required. Pawnshops shall keep a supply of paper forms available at all times.
- (10) *Automated reporting system; mandatory use.* The Chief Financial Officer or his or her designee shall select and designate an automated electronic reporting system for use by pawnshops to record and transmit pawn transactions. The pawnshop will be assessed a fee for each transaction entered into the system. This fee may be assessed to the person pledging, trading, pawning, exchanging, or selling property. Said fee will be collected by the Chief Financial Officer or his or her designee, which may be a third-party administrator of the automated reporting system.

**Sec. 12-205. Retention of property; storage; police holds.**

- (a) All property received through any pawnshop transaction shall be held for at least 30 days before being disposed of by sale, transfer, shipment, or otherwise, except when property is redeemed as per a pawn transaction contract.
- (b) All property pledged, traded, pawned, exchanged or sold to the pawnshop shall be held and maintained on the premises of the licenses pawnshop that completed the transaction, or, if impractical, at such other location as may have been previously approved in writing by the Chief Financial Officer or his or her designee. No off-site locations will be approved which are outside of the City limits of Lawrenceville.
- (c) The Lawrenceville Police Department shall have the authority to place property that is the subject of a law enforcement investigation on police hold. In that event, the Police

Department shall notify the pawnshop of the need for the police hold and identify all property subject to the police hold. Such notification may be made verbally; however, written notice shall be provided within 24 hours of the verbal hold. Upon notification, it shall be the responsibility of the pawnshop to maintain the subject property until such time as the property is released from the police hold or the property is confiscated as evidence.

**Sec. 12-206. Dealing with minors.**

It shall be unlawful for any pawnbroker, his or her agents or employees, to receive in pawn, from minors, goods of any character or description. A minor, for the purpose of this division, is an individual under the age of 18 years.

**Sec. 12-207. Responsibility for enforcement.**

The Lawrenceville Finance Department shall have the responsibility for the enforcement of this division. Sworn officers of the Lawrenceville City Police Department and civilian employees designated by the Chief Financial Officer or designee shall have the authority to inspect establishments licensed under this section during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this division and State law.

**Sec. 12-208. Penalty for violation.**

Any person, firm, company, corporation or other entity who violates any provision of this division may be subject to arrest or summoned to appear in the Lawrenceville Municipal Court and, upon conviction or other finding of guilt, be punished by a fine of up to \$1,000.00- or six months imprisonment, or both.

**Secs. 12-209—12-239. Reserved.**

*DIVISION 8. TEMPORARY OUTDOOR ACTIVITY*

**Sec. 12-240. License required.**

No person, firm or corporation shall conduct or operate a temporary outdoor activity except as allowed under the provisions of this division.

**Sec. 12-241. Definitions.**

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

*Goods and merchandise* means tangible or movable personal property, other than money.

*Temporary* means for a period of not to exceed 20 consecutive days. A second permit for a temporary outdoor activity on the same property may not be applied for or renewed within six months from the date of any prior approval of a temporary outdoor activity.

*Temporary outdoor activity* means for-profit activities involving the temporary outside sale of goods and merchandise in association with an existing business located on the premises as the principal use of the premises. The term "temporary outdoor activity" includes the sale of farm produce, carnivals, or sale of Christmas trees or Halloween pumpkins from property which is vacant or which contains a separate and distinct primary use, such activities continuing for a period not exceeding 20 consecutive days, except Christmas tree sales shall be allowed between November 1 and December 31 and pumpkin sales shall be permitted from September 15 and October 31. Temporary outdoor activities shall occur in non-enclosed areas.

*Temporary outdoor activity permit* means written authorization by the Director of Planning, Zoning, and Inspections, or his or her designee, for the applicant to engage in temporary outdoor activities at a specific, fixed location meeting all the requirements of this division.

#### **Sec. 12-242. Conditions of issuance.**

No license under this section shall be issued until the following conditions have been met:

- (1) Peddling goods and merchandise not customarily sold on a day-to-day basis in the business which constitutes the principal use of the premises is prohibited.
- (2) Mobile food services and the preparation of food on site shall not be permitted as temporary outdoor activities.
- (3) No display shall be erected or installed, nor shall any temporary outdoor activity take place, within 50 feet of a City, County or State right-of-way.
- (4) No temporary structure or covering shall be erected as a part of a temporary outdoor activity. Display tables may be used. Exemptions to this requirement are made for Christmas tree and Halloween pumpkin sales lots.
- (5) No operator, employee, or representative of the operator of a temporary outdoor activity shall solicit directly from the motoring public.
- (6) Temporary outdoor activities shall be permitted only on property where such activities shall not disrupt controlled vehicular ingress and egress or occupy required off-street parking spaces.
- (7) No more than one temporary outdoor activity shall be permitted simultaneously on a parcel.

- (8) Temporary outdoor activities shall be conducted on a paved surface and not on grassed or landscaped areas. Exemptions to this requirement are Christmas tree and Halloween pumpkin sales lots.
- (9) No evidence of the temporary activity shall remain on a parcel of property for more than 12 consecutive hours of any calendar day. Exemptions to this requirement are Christmas tree and Halloween pumpkin sales lots.
- (10) Charitable or nonprofit events for which sale proceeds benefit charitable organizations are not regulated by this article.

**Sec. 12-243. Inspections.**

It shall be the duty of the Police Chief or his or her designate to see that all conditions under this division are met.

**Secs. 12-244—12-264. Reserved.**

*DIVISION 9. COIN-OPERATED AMUSEMENT MACHINES AND AMUSEMENT GAME ROOMS*

**Sec. 12-265. Gambling devices prohibited.**

Gambling devices, as that term is defined in O.C.G.A. §16-12-20, are prohibited in the City, and the ownership, use, or transport thereof shall be a misdemeanor pursuant to State law, except as exempted pursuant to O.C.G.A. § 16-12-35.

**Sec. 12-266. Gambling places prohibited.**

Gambling places, as that term is defined in O.C.G.A. § 16-12-20, are prohibited in the City, and the operation thereof shall be a misdemeanor pursuant to State law.

**Sec. 12-267. Definitions.**

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

*Amusement game room* means any location, as provided in O.C.G.A. § 16-12-35(b), (c) or (d), where one or more bona fide coin-operated amusement machine(s) are operated that permit non-cash redemption, as provided in O.C.G.A. § 16-12-35(d)(1)(A), (B), (C), or a combination thereof.

*Bona fide coin-operated amusement machine* means the same as this term is defined in O.C.G.A. § 50-27-70(b)(2)(A) and any applicable regulations of the State of Georgia.

- (1) The term "coin-operated amusement machine" does not include the following:
  - a. Coin-operated washing machines or dryers;



- b. Vending machines which, for payment of money, dispense products or services;
- c. Gas and electric meters;
- d. Pay telephones;
- e. Pay toilets;
- f. Cigarette vending machines;
- g. Coin-operated vending machines;
- h. Coin-operated scales;
- i. Coin-operated gumball machines;
- j. Coin-operated parking meters;
- k. Coin-operated television sets which provide cable or network programming;
- l. Coin-operated massage beds; and
- m. Machines which are not legally permitted to be operated in Georgia.

*Location* means a business within the City that has complied with the provisions of the ordinances of the City relating to occupation taxes and/or regulatory licenses.

**Sec. 12-268. License required.**

No person, firm, corporation, or entity shall engage in the business of an owner or proprietor of an amusement game room without first having obtained a license and without first having paid the applicable occupation tax required under this article.

**Sec. 12-269. Issuance of license.**

- (a) Application for a license for operating an amusement game room within the corporate limits of the City shall be made to the Chief Financial Officer upon a form to be supplied by the Chief Financial Officer for this purpose. The license application shall include the following information:
  - (1) Name, address, and age of the applicant and the date of the application;
  - (2) Address or place where the bona fide coin-operated amusement machines are to be offered to the public for play and the other businesses operated at that place or places.
  - (3) Name and address of the owner of the machines and a copy of the owner's master license;
  - (4) Name and address of any other business owned or operated by the applicant within the corporate limits of the City;

- (5) List of any other licenses or permits from the City held by the applicant.
- (b) Upon issuing a license for an amusement game room, the City shall provide the licensee with a copy of this article. The City shall not require a fee for licensure or registration of an amusement game room. A license issued in accordance with this article shall be valid until December 31 of the year in which the license was issued. The owner or operator of an amusement game room shall be required to pay occupation taxes in accordance with chapter 34.

**Sec. 12-270. Occupation tax required.**

No person, firm, or corporation shall engage in the business of an owner or proprietor of amusement game room without first having completed the occupation tax certificate form, paid the required occupational tax, and without first having obtained the license required under this article. A copy of said certificate/license shall be prominently displayed within the business location at all times.

**Sec. 12-271. Distance.**

Every amusement game room in the City shall comply with the proximity provision for businesses licensed to sell alcohol, set out in O.C.G.A. § 3-3-21.

**Sec. 12-272. Number of bona fide coin-operated amusement machines at a location.**

No amusement game room in the City shall offer to the public more than six Class B bona fide coin-operated amusement machines, as defined in O.C.G.A. § 50-27-70, at the same location.

**Sec. 12-273. Gross receipts from bona fide coin-operated amusement machines and from business.**

Every amusement game room shall keep records available for inspection by the City that set out separately annual gross receipts for the amusement games and the other products and services sold at the location. Income from the amusement games shall not constitute more than 50 percent of the income from the location, as set forth in O.C.G.A. § 50-27-84. Compliance with this section requires both the availability of records for inspection and compliance with the 50 percent of income requirement. The licensee shall forward to the Chief Financial Officer a copy of each monthly report required in this section on a quarterly basis. Said reports for the preceding three months shall be received by the Chief Financial Officer no later than 25th day of April, July, October, and January of the following year.

**Sec. 12-274. Notice requirements.**

- (a) Every amusement game room shall post a conspicuous sign with the following or similar words:

"GEORGIA LAW PROHIBITS GIVING OR RECEIPT OF ANY MONEY FOR WINNING A GAME OR GAMES ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR FREE REPLAYS WON ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY WON ON AN AMUSEMENT MACHINE; OR AWARDING ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY OF A VALUE EXCEEDING \$5.00 FOR A SINGLE PLAY OF AN AMUSEMENT MACHINE."

- (b) Every amusement game room shall post the license issued by the City conspicuously and permanently.
- (c) The owner or possessor of any bona fide coin-operated amusement machine shall inform each business owner or operator of the acts and omissions prohibited by O.C.G.A. § 16-12-35 and by this article, and of the penalties for violation of O.C.G.A. § 16-12-35 and this article. Additionally, the owner or proprietor of each amusement game room shall inform every employee of the acts and omissions prohibited by O.C.G.A. § 16-12-35 and by this article, and of the penalties for violation of O.C.G.A. § 16-12-35 and this article.

**Sec. 12-275. Compliance with O.C.G.A. provisions relating to master licenses, location licenses, and stickers for individual machines.**

Bona fide coin-operated amusement machines may be used in an amusement game room within the City only if the machines are owned by a person who holds a valid master license in accordance with O.C.G.A. § 50-27-71, and each machine offered to the public for play has a valid permit sticker in accordance with O.C.G.A. § 50-27-78. In addition, the business owner where the machines are available for play by the public must pay a location license fee in order to obtain a valid location license in accordance with O.C.G.A. § 50-27-71(a.1) and (b). The Chief Financial Officer shall notify the Georgia Lottery Corporation of any observed violation of O.C.G.A. § 50-27-71 or 50-27-78.

**Sec. 12-276. Penalties for violations by owners or operators of amusement game rooms.**

- (a) In addition to penalties set out in the O.C.G.A. provisions for failure to comply with the provisions of O.C.G.A. § 16-12-35, the owner or operator of an amusement game room, after a hearing before the City Council, may be subject to the following penalties:
  - (1) *Minimum penalty.* Suspension for not less than 15 days of the owner's or operator's license for offering any amusement game at the location where the violation occurred, and suspension of other permits and licenses granted by the City for not less than 15 days.
  - (2) *Maximum penalty.* Permanent revocation of the owner's or operator's license for offering any amusement game at the location where the violation occurred, and suspension of other permits and licenses granted by the City for not more than one year.

(b) Penalties for violation of the provisions of this article or for the acts described in O.C.G. § 16-12-35 by the owner or operator of an amusement game room, after conviction in the Municipal Court are as follows:

- (1) *Minimum penalty.* Fine not less than \$100.00 for each violation.
- (2) *Maximum penalty.* Fine not to exceed \$1,000.00 for each violation.

**Sec. 12-277. Fines and penalties imposed by Judge.**

The fines listed in the penalties for violation of this article may be imposed by the Judge of the Municipal Court. Suspension or revocation of the owner's or operator's license for offering any amusement game at the location where the violation occurred, and suspension of other permits and licenses granted by the City may be imposed by the City Council after a hearing.

**Sec. 12-278. Violation of an order suspending/revoking license punishable by fine and/or imprisonment.**

Offering one or more bona fide coin-operated amusement machine games in violation of an order suspending or revoking the license for the offering of any amusement game at the location is punishable, after conviction in the Municipal Court, by a fine not to exceed \$1,000.00, imprisonment not to exceed six months, or both such fine and imprisonment.

**Sec. 12-279. Penalties for violations by those who play bona fide coin-operated machines in violation of law or ordinance.**

(a) The Municipal Court is authorized to impose the following penalties on any person convicted of receiving money as a reward for the successful play or winning of any bona fide coin-operated amusement machine from any person owning, possessing, controlling or overseeing such bona fide coin-operated amusement machine or any person employed by or acting on behalf of a person owning, possessing, controlling or overseeing a bona fide coin-operated amusement machine.

- (1) *Minimum penalty.* Fine not less than \$100.00 for each violation.
- (2) *Maximum penalty.* Fine not to exceed \$1,000.00 for each violation.

(b) The Municipal Court shall have authority to place any person sentenced under this section on probation for the payment of fines for a period of up to six months.

**Sec. 12-280. Operating regulations.**

All businesses operating as an amusement game room under this article shall be subject to the following regulations:

- (1) *Devices to be kept in plain view; gambling devices prohibited.* All machines shall, at all times, be kept and placed in plain view of and open and accessible to any person who may frequent or be in any place of business where such machines are kept or used. Nothing in this section shall be construed to authorize, permit, or license any gambling device of any nature whatsoever.
- (2) *Inspection.* The Police Department, Code Enforcement Department, or Chief Financial Officer shall inspect or cause the inspection of any place or building in which any such machines are operated or set up for operating, and shall inspect, investigate and test such machines as needed. Such building containing machines shall be fully enclosed to protect the electronic equipment required to operate such machines and shall be properly air conditioned and heated.
- (3) *Attendant required.* It shall be unlawful for any proprietor to open his business to the public unless an attendant is present. Said attendant shall be of sufficient mental and physical capacity so as to be able to provide aid to patrons if needed or desired. Said attendant shall not be less than 18 years of age.
- (4) *Loitering.* As used in this section, the term "loitering" means remaining idle in essentially one location and includes the concepts of spending time idly, loafing, or walking about aimlessly. It shall be unlawful for any person, firm, or corporation licensed to operate an amusement game room to permit loitering on or in the immediate vicinity of any machine or business premises regulated under this section in such a manner as to:
  - a. Create or cause to be created a danger of a breach of the peace;
  - b. Create or cause to be created any disturbance or annoyance to the comfort and repose of any person;
  - c. Obstruct the free passage of pedestrians or vehicles;
  - d. Obstruct, molest, or interfere with any person lawfully in a public place.
- (5) *Shirt and shoes required.* All proprietors shall require shirts and shoes to be worn at all times by any person frequenting their premises.

**Sec. 12-281. Revocation of license.**

In the event that it comes to the attention of the City that an amusement game room has created a nuisance to the surrounding community, or the operator, proprietor, or an employee of the location has violated any provision O.C.G.A. § 16-12-35 or of this article, the following procedure will be followed:

- (1) The Chief Financial Officer shall issue a notice of objection which shall include the address of the location and the specific reasons why the amusement game room in question is alleged to be a nuisance or alleged to be in violation of any provision of this article. The Chief Financial Officer will then notify the proprietor that a notice of

objection has been filed and will set a date for a hearing before the City Council. Extensions and necessary investigations will be granted and conducted at the discretion of the Chief Financial Officer.

- (2) At the time of the hearing, any resident, the operator, the proprietor, and the Chief Financial Officer or other witnesses may be heard. Thereafter, the City Council shall issue a notice of decision which will call for the dismissal of the objection, removal of the machines, or such other remedy as they deem appropriate under the circumstances that are consistent with the purpose of this article.
- (3) The decision of the City Council shall be in writing, shall state the reasons for their decision, and shall be based upon the merits of the case.
- (4) The decision of the City Council shall be binding upon the proprietor and operator of the amusement game room under consideration, subject to appeal to the Superior Court of Gwinnett County.

**Sec. 12-282. Licenses and permits nontransferable.**

- (a) Licenses required in this article are nontransferable. All businesses that have bona fide coin-operated amusement machines on the premises shall display, in plain view, the current license issued by the City.
- (b) The issued license shall not be transferred to another owner at the same site within the City. A new owner or proprietor must first obtain a new license if they are going to operate in the same or different location in the City.

**Sec. 12-283. Enforcing officer.**

The Chief Financial Officer or his designee is hereby designated as the enforcement officer and shall execute all requirements of this article.

**Secs. 12-284—12-293. Reserved.**

*DIVISION 10. HANDWRITING ANALYSTS AND FORTUNE TELLERS*

**Sec. 12-294. License required.**

It shall be unlawful for any person to practice handwriting analysis or fortune telling in the City unless that person holds a valid unexpired and unrevoked license to engage in the practice of handwriting analysis or fortune telling issued by the City.

**Sec. 12-295. Fee established.**

The annual business license fee for each handwriting analyst or fortune teller shall be \$200.00.

**Sec. 12-296. Definitions.**

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

*Fortune telling* means the prediction of the future for a fee, gift or donation.

*Handwriting analysis* means the interpretation of human experience based upon an examination of handwriting or other inscription done by hand for fee, gift or donation.

**Sec. 12-297. Application.**

Any person desiring to practice handwriting analysis or fortune telling in the City shall make application for a permit to the Finance Department on forms to be prepared and approved by the Chief Financial Officer or designee. The applicant shall meet the following requirements prior to being licensed to practice handwriting analysis or fortune telling in the City:

- (1) Be 18 years of age or more;
- (2) Not have been convicted of a crime of any grade or any ordinance violation involving the following categories of criminal conduct: larceny, embezzlement, fraudulent conveyance; perjury and/or false swearing, or subrogation or either, gambling, deceitful means, artful practices, lottery, felonies or other group I crimes, as defined in the Uniform Crime Reporting Manual, Federal Bureau of Investigation, United States Department of Justice which are reasonably related to the activities regulated in this division, within three years of the date of the application;
- (3) Allow fingerprints to be made by the City at the time of application; and
- (4) Furnish the City two photographs showing a front and side picture of the full face of the applicant, size 2½ inches by 2¾ inches.

**Sec. 12-298. Revocation and suspension of permit.**

Any person failing to comply with any provision of this division, or such other laws and regulations as may be passed by the Council for the conduct of the business of handwriting analysis or fortune telling, shall be subject to having his or her license to conduct the business revoked or suspended upon appropriate notice of hearing.

**Secs. 12-300—12-316. Reserved.**

*DIVISION 11. MASSAGE THERAPY BUSINESSES*

**Sec. 12-317. Purpose.**

- (a) The purpose of this section is to provide for local licensing and regulation of massage therapy businesses, pursuant to the authority to regulate for the general health, safety and welfare as provided in the Charter Section 1.13(41) and O.C.G.A. §§ 48-13-9(b)(17) and 43-24A-1 et seq., as amended.
- (b) A license issued pursuant to this division is a privilege, not a right.

**Sec. 12-318. Definitions.**

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

*Act* means the Georgia Massage Therapy Practice Act, enacted by and defined in O.C.G.A. § 43-24A-1 et seq. as amended.

*Board* means the Georgia Board of Massage Therapy, enacted by the provisions of O.C.G.A. § 43-24A-4.

*For hire* means a reasonable expectation that the person to whom the massage is provided, or some third person on his or her behalf, will pay money, give other consideration, or provide any gratuity therefore.

*Licensed massage therapist* means a person who holds a valid, current, unrevoked, and unsuspended State license in the practice of massage therapy issued by the Board pursuant to the Act.

*Massage therapy* means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the body in which the primary intent is to enhance or restore health and well-being. The term "massage therapy" includes complementary methods, including, without limitation, the external application of water, superficial heat, superficial cold, lubricants, salt scrubs, or other topical preparations and the use of commercially available electromechanical devices which do not require the use of transcutaneous electrodes, and which mimic or enhance the actions possible by the hands. The term "massage therapy" also includes determining whether massage therapy is appropriate or contraindicated, or whether referral to another health care provider is appropriate. The term "massage therapy" does not include the use of ultrasound, fluidotherapy, laser, and other methods of deep thermal modalities (O.C.G.A. § 43-24A-3).

*Massage therapy business* means a business with a location in the City at which any person engages in or offers massage therapy, regardless of the name of the business or the words used to describe the business through signage or advertisement or in filings with the Secretary of State. Massage therapy businesses are subject to regulation by a local government, pursuant to O.C.G.A. §§ 43-24A-22(a) and 48-13-9(b)(17), as amended.



*Massage therapist, masseuse, masseur, massage practitioner, or person practicing massage* means a person who performs or engages in the practice of massage.

*Provisional permit* means a permit issued pursuant to Chapter 24A of Title 43 of the O.C.G.A. allowing the holder to practice massage therapy in this state.

*Sexual or genital area* means the genitals, pubic area, anus, perineum of any person, or the vulva or breast of a female.

*State license* means a license to practice massage therapy issued by the Board, pursuant to the Act.

### **Sec. 12-319. Requirements and application.**

(a) *Requirements.*

- (1) *State license.* No person other than a licensed massage therapist or the holder of a valid state provisional permit shall perform or offer to perform massage in a massage therapy business within the City.
- (2) *Conditions of issuance.* No license shall be issued to any massage therapy business within the City under this division unless every person who performs or offers to perform massage on its premises is a licensed massage therapist or holder of a valid state provisional permit, and it shall be unlawful to operate as a massage therapy business unless all such persons are and remain licensed massage therapists or provisional permit holders. The City license of a massage therapy business that fails to meet this requirement is subject to revocation.
- (3) *City license.* No person shall operate a massage therapy business without a valid, current, unrevoked, and unsuspended license from the City, pursuant to this division.
- (4) *Conviction of a crime.* No license under this division shall be issued or renewed to any person who himself or herself or who has a co-owner, partner or manager who has been convicted or shall have entered a plea of nolo contendere for any felony within ten years, or two misdemeanors within five years, other than traffic violations, immediately prior to the filing of the application. The term "conviction" includes an adjudication of guilty or plea of guilty or nolo contendere or the forfeiture of a bond in part or in whole when charged with a crime. Licenses granted to persons who fail to meet this requirement at any time shall be subject to revocation.
- (5) *Age of licensee.* No person under the age of 18 years shall be issued a license to operate a massage therapy business.
- (6) *Personal residency; agent.* All applicants for licenses under this division and all actual owners of massage therapy businesses for which licenses are sought shall be bona fide residents of the City or Gwinnett County at the time of the filing of the

applications and shall remain bona fide residents of the City or Gwinnett County during all times that the licenses and renewals thereof are in effect, or shall name one or more residents in the City or Gwinnett County as the agent or representative of the licensee, who shall be responsible for any matter relating to such license and who, at all such times, shall be a bona fide resident of the City or Gwinnett County and shall be granted the express authority to accept service of process on behalf of the business. If any such person shall cease to be a resident of the City or Gwinnett County, another person shall immediately be appointed, in writing, in his or her place, and written notice shall be given the City Chief Financial Officer, stating the name and address of the new agent.

- (7) *Corporate residency; agent.* All applications for licenses under this division by a corporation or other business entity shall name in the application one or more residents in the City or Gwinnett County as the agent and representative of the corporation to receive all communications, notices, services of process, or other papers or documents on behalf of the corporation in connection with any matter arising out of or connected with the issuance, holding, suspension, revocation, or other action with respect to any license issued pursuant to this division. The application shall give the mailing address of the person, and the mailing to any such person at such address of any notice required to be given under this chapter or any other law shall be sufficient notice to the corporation. If any such person shall cease to be a resident of the City or Gwinnett County, another person shall immediately be appointed, in writing, in his or her place, and written notice shall be given the City Chief Financial Officer, stating the name and address of the new agent.
- (8) *Annual regulatory license fee and occupational tax certificate required.* An annual regulatory license fee and payment of the applicable annual occupational tax shall be required for each person, firm, corporation or other entity operating a massage therapy business. The annual regulatory license fee shall be \$300.00 per massage therapy business and shall be in addition to occupation taxes.

(b) *Application for license.*

- (1) To operate a massage therapy business within the boundaries of the City, the applicant must first make application to the City on a form provided by the City Chief Financial Officer or his or her designee and submit to a criminal background check of the applicant along with any co-owners, partners and non-massage therapists who will act as a manager at the business. The applicant, after having fully and truthfully completed such form and paying the prescribed fees, and having received a license, shall maintain and operate such business pursuant to the ordinances of the City and the laws of the State.
- (2) As part of the massage therapy business license process with the City, each applicant shall provide a true and correct copy or original of the State license or state provisional permit for each and every massage therapist and state provisional

permit holder, performing or anticipated to perform massage at its location, for inspection and copying. The applicant shall also supply for each licensed massage therapist or state provisional permit holder two forms of photo identification. Failure of any massage therapy business to provide State licenses or state provisional permits of its employees that will be performing massage shall automatically result in the denial of the issuance of a City license to the applicant.

- (3) After the City license has been issued, the licensee shall, in person, furnish to the City Chief Financial Officer a true and correct copy or original of the State license or state provisional permit and two form of photo identification for each new massage therapist or state provisional permit holder at the licensee's massage therapy business prior to such person's commencing to perform or offering to perform massage at such massage therapy business. When any massage therapist or state provisional permit holder discontinues performing massage at a massage therapy business, the licensee shall make the departure known in writing to the City Chief Financial Officer within 30 days of such departure.
- (4) Each applicant for a license shall make his or her affidavit before the City Chief Financial Officer, on a form provided by the Chief Financial Officer, upon oath, swearing or affirming that all persons practicing massage on the premises of his or her massage therapy business are licensed massage therapists or holders of state provisional permits and that all requirements of this division for a license have been met.
- (5) Each application under this division shall include, but shall not be limited to, the following information:
  - a. A list of services to be provided.
  - b. The location, mailing address and all telephone numbers where the business is to be conducted.
  - c. The name and residence of each applicant and any agent as required by this division.
  - d. Proof that the applicant is at least 18 years of age.
  - e. Copy of two forms of photo identification for each applicant, such as driver's license or official identification card.
  - f. The name and a copy of the State license or state provisional permit of each massage therapist and provisional permit holder that will be employed by the applicant.
  - g. Copy of two forms of photo identification for each massage therapist and state provisional permit holder that will be employed by the applicant.

- h. A list of any and all criminal convictions of the applicant other than misdemeanor traffic violations, including the dates of conviction, description of the offense and the court where the conviction was received.
- i. Authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicants for the permit.
- j. Any other State-required affidavits or forms, including local benefit receipt affidavits.
- k. Applicants must be at least 18 years of age, employ one (which may include himself or herself) or more massage therapists licensed or state provisional permit holders in accordance with subsection (a) of this section, and if a corporation, is an officer of the corporation which is organized and authorized to do business pursuant to the laws of the State. The applicant, in order to operate a massage therapy business, must be the owner of the premises wherein the business will be conducted or the holder of a lease thereon for the period to be covered by the license.
- l. A set of fingerprints taken by the City or other approved location for each employee that is not a licensed massage therapist or state provisional permit holder employed by the applicant.
- m. A set of fingerprints taken by the City or other approved location for each owner, partner, and manager of each massage therapy business.

**Sec. 12-320. Distance regulation.**

- (a) Following the adoption of the ordinance from which this division is derived, there shall be no more than three massage therapy businesses per 10,000 persons living within the City limits based on the most current United States Census and calculated on a pro-rata basis. Further, there shall be a 150-foot buffer from any massage therapy business to any residentially zoned property from the front door of the structure where massage therapy business occurs to the nearest parcel boundary line of any residentially zoned property as measured by a straight line on the ground.
- (b) No application for a massage therapy business license shall be granted unless the business is permitted in the zoning district where operation of the business is proposed.
- (c) Upon application for a massage therapy business license, the applicant will provide to the City a survey showing the distances to each residentially zoned property within a 150-foot radius of the massage business.
- (d) The City Council recognizes that upon the adoption and effective date of the ordinance from which this division is derived, there appear to be active massage therapy businesses with physical facilities in existence in the City limits. Without waiving any

illegality of such physically existing structures based on zoning or other laws and without de facto or specifically granting any "grandfathered," "vested," or "legal non-conforming" (as those terms are defined in State Zoning Law) status by virtue of adoption of this purely regulatory section, it is the intention of the City Council to allow the continued operation of the existing massage therapy businesses, provided that the same otherwise comply with all other applicable laws and regulations of the City and State.

- (e) Any licensed massage therapy businesses legally operating prior to the adoption of the ordinance from which this division is derived shall be exempt from the distance and population cap regulations of this division until the licensee of such massage therapy business or a new licensee to whom the license is legally transferred as provided for by section 12-331 no longer holds a valid massage therapy business license from the City of Lawrenceville.

**Sec. 12-321. License renewal.**

Licenses for massage therapy businesses shall be renewed on a calendar year basis, provided that the licensees continue to meet the requirements set out in this division and the requirements of the Act.

**Sec. 12-322. Registry.**

A registry shall be kept of all persons practicing massage on the premises of such massage therapy business, which shall be available for inspection by an authorized agent of the City, including, but not limited to, the City Chief Financial Officer, the authorized designee of the City Chief Financial Officer and City Police Officers. The registry required by this section shall be made available for inspection during normal hours of business and must provide the following information:

- (1) Legal name and any other names the massage therapist or state provisional permit holder has been or is known as or by;
- (2) Current address, including street and city;
- (3) State or country of birth;
- (4) Date of birth;
- (5) Number and expiration date of State license or state provisional permit;
- (6) Position with the massage therapy business or business entity; and
- (7) Two copies of photo identification for the massage therapist and state provisional permit holders.

**Sec. 12-323. Posting licenses and rates.**

- (a) Each massage therapy business shall post a legible copy of its license obtained pursuant to this division, along with copies of the State license of each massage therapist and provisional permit holder operating on the premises of such massage therapy business, in a conspicuous place in the licensee's place of business and shall keep such licenses there at all times.
- (b) Price rates for all massage therapy services shall be prominently posted in the reception area or other conspicuous location available for all prospective customers. No service shall be allowed or permitted that is not prominently posted with its fees in such location.

**Sec. 12-324. Record of patrons receiving services.**

Each massage therapy business shall maintain a list of patrons who received massage therapy services at the business. The list shall include the patron's name, address, telephone number and time and date of service. Entries required under this section shall be maintained for one year.

**Sec. 12-325. Escort service and adult entertainment prohibited.**

No massage therapy business shall act as an escort or dating service or conduct any adult establishment as that term is defined in section 12-401.

**Sec. 12-326. Alcoholic beverages prohibited.**

No alcoholic beverages shall be sold, served, given, dispensed, provided, consumed, or caused or allowed to be sold, served, given, dispensed, provided, consumed by or to any person on the premises of a massage therapy business or kept thereon. The term "alcoholic beverages" means and includes all types and kinds of alcohol, as defined in chapter 4.

**Sec. 12-327. Hours of operation; inspection; right of entry.**

- (a) Massage therapy businesses shall be open for business only between the hours of 6:00 a.m. and 10:00 p.m., inclusive.
- (b) Any business holding a license issued under this division shall, at any time that the premises are open for business, be open to inspection by a duly authorized agent of the City Chief Financial Officer. It shall be unlawful for any person holding a massage therapy business license or an employee of such licensee to refuse such inspection officer immediate access to the premises or to hinder such officer in any manner; such refusal or hindrance on the part of any license holder or employee shall be grounds for the immediate revocation or suspension of a massage therapy license.

- (c) As a condition of maintaining a massage therapy business license issued under this division, at any time that the premises are open for business the massage therapy business will require massage therapists and state provisional permit holders in their employment to submit to reasonable verification efforts by authorized City Officials to confirm the identity of the massage therapist and to confirm State licensure. Verification methods may include, but are not limited to, a review of photo identification and/or fingerprinting of the massage therapists or provisional permit holders.
  - (1) The refusal of any massage therapist or provisional permit holder to submit to reasonable verification efforts as provided in this section shall be cause for suspension or revocation of the massage therapy business license but shall not result in any citation or adverse consequence for the massage therapist or provisional permit holder.
  - (2) The scope of any investigation performed under this subsection should be limited to verification of the identity and State licensure of a massage therapist or provisional permit holder and should only take place in common areas open to the public during normal business hours.

**Sec. 12-328. Name; place of business; sale, transfer, or change of location.**

No person or business entity granted a location license pursuant to this division shall operate the business under a name not specified in the license nor conduct business at any location or place not specified in the license. No license shall be transferable except as provided for in Section 12-331. Upon the sale or relocation of a massage therapy business, the license thereof shall be null and void.

**Sec. 12-329. Restrictions on presence of minors.**

It shall be unlawful for any person operating a massage therapy business to permit persons under 18 years of age to enter any area or room where massage therapy is performed unless such minor is accompanied by a parent, legal guardian or other adult with lawful custody or control of the minor or has a written prescription from a physician, surgeon, osteopath, or podiatrist who has a valid current license, issued pursuant to State law.

**Sec. 12-330. Operating requirements.**

- (a) *Clean and sanitary condition.* Every portion of the premises of, and all equipment and supplies of, the massage therapy business shall be kept clean and shall be operated in a sanitary condition.
- (b) *Attire of employees.* It shall be the responsibility of the massage therapy business, licensed under this division to ensure that any employees involved in any way with massage therapy services or who will be present during massage therapy services are dressed in clean, opaque attire that does not expose to view any sexual or genital areas

and covers all areas from the top of the breast line to an area no higher than four inches above the knee line.

- (c) *Laundry.* All sheets and towels provided to patrons in massage facilities shall be clean and laundered after each use and stored in a sanitary manner.
- (d) *Locked doors.* It shall be prohibited for any massage facility business to lock main entrance doors to the business or any doors to rooms where massage therapy is being performed while the business is open.
- (e) *Unlawful to massage sexual areas.* It is unlawful for any person in a massage establishment to place his or her hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage a sexual or genital area, as defined by this division, of any person or to act in a manner intended to arouse, appeal to or gratify the lust or passions of sexual desires.
- (f) *Conduct on premises.* All persons holding a massage therapy business license shall at all times be responsible for the conduct of business on the licensed premises, and for any act or conduct of any massage therapist utilizing the facility which constitutes a violation of the provisions in this division. Any violation of City, State or federal laws committed on the licensed premises by any such holder of a massage therapy business license or employee of the facility that affects the eligibility or suitability of such person to hold a license, may be grounds for suspension or revocation of the City license.

**Sec. 12-331. Restriction upon transfers.**

- (a) Licenses issued under this division shall not be transferable except as otherwise provided for in this section.
- (b) In case of the death of any person owning a license, or any interest greater than ten percent therein, the license may, with the approval of the City and subject to the terms of this division, be transferred to the administrator, executor or personal representative of the deceased person, or the lawful heirs of the deceased person, if such heirs make application and meet all of the other qualifications contained in this section. The license of such deceased person shall be held by the administrator, executor or personal representative of such deceased person only for the time necessary to complete execution of his or her estate and dispose of the license or his or her interest therein, but in no event to exceed eight months. In the event of the bankruptcy or in the event that any applicant shall have a receiver appointed by any court of competent jurisdiction, such license shall be transferable to such receiver or trustee in bankruptcy for such period of time as may be granted by the City for the proper liquidation of such assets and stock and goods.
- (c) Nothing in this section, however, shall prohibit one or more of the partners in a partnership holding a license to withdraw from the partnership and to assign his or her interest in such partnership to one or more of the partners who were partners at the time



of the issuance of the license. Such a withdrawal shall not, however, serve to bring any new ownership into the partnership, unless all provisions of this division are fully complied with, and then only upon the approval of the City. This section shall not prohibit transfer of stock to persons who held more than ten percent of any class of stock in the corporate owner at the time of issuance of the license.

- (d) A licensee may take in partners or additional stockholders where it is determined that additional capital furnished is to be used exclusively for additional inventory or expanding the facilities of the business or for building new facilities and where it appears that the licensee himself or herself will directly receive none of the additional capital investment. Under this section, an additional partner or new stockholder must be approved by the City. This subsection only applies to corporations when the new stockholder obtains ten percent or more of the common stock or financial interest in the business entity.
- (e) Should a transfer of the license be approved, there shall be no prorated return of any license fee and the new licensee shall meet all requirements for a new license to be issued under this division, except payment of license fees.
- (f) Except as provided in this section, any change in the ownership of any entity owning a licensed establishment shall be cause for immediate suspension of any license issued under this division pending a revocation hearing as provided for under this chapter.

**Sec. 12-332. Revocation, suspensions, violations and penalties.**

- (a) *Revocation and suspension.* Upon notice, the City may, for good cause, revoke or suspend or place on probation the license of any massage therapy business:
  - (1) That commits or allows any violations of the provisions of this division;
  - (2) That allows any massage therapist, working on the massage therapy business's premises, to commit or offer to commit a sexual crime under O.C.G.A. Title 16, Chapter 6;
  - (3) That allows any person to perform or offer massage on the premises who is not a licensed massage therapist or the holder of a state provisional permit;
  - (4) Where the applicant for the massage therapy business's City license gave false information on the application, in his or her affidavit, or in the massage therapy business's registry as required in this division, or fails to update information related to the license to the City as required by this division; or
  - (5) Where the licensee fails at any time to meet the requirements for licensure under this section.
- (b) *Violation; penalty.* In addition to revocation or suspension of the massage therapy business license, any person who violates any provision of this division may, upon conviction, be punished in accordance with section 1-8. Each day during which said

offenses occur shall constitute a separate offense, as shall each separate act constitute a violation.

**Sec. 12-333. Notice of intent to deny, revoke or suspend license.**

- (a) Whenever, in the opinion of the City Chief Financial Officer, there is cause to deny an initial application or renewal, or to revoke or suspend the license of a massage therapy business, a written notice of intention to revoke or suspend shall be furnished to the holder thereof. Such written notice shall list the grounds upon which revocation or suspension is sought and shall set forth the licensee's appeal rights.
- (b) For the purpose of this section, notice shall be deemed delivered when personally served or when served by registered or certified mail, return receipt requested, within three days after the date of deposit in the U.S. mail.

**Sec. 12-334. Appeal hearings.**

- (a) No license shall be denied, suspended or revoked without the opportunity for a hearing as provided in this section.
- (b) The City Chief Financial Officer or his or her designee shall provide written notice of the decision to deny, revoke or suspend a massage therapy business license. Any applicant or licensee adversely affected by the decision of the City Chief Financial Officer may have a review thereof by appeal to the City Manager or his or her designated hearing officer.
- (c) Appeals shall be made by written petition filed in the City Finance Department within 15 days of the final decision or action of the City Chief Financial Officer.
- (d) In order to defray administrative costs, all appeals under this section must be accompanied by a filing fee of \$500.00.
- (e) A hearing shall be conducted before the City Manager or his or her designated hearing officer on each properly filed appeal within 30 days of the filing of the appeal with the City Finance Department, unless a continuance is agreed upon by the appellant and the City Chief Financial Officer.
- (f) The appellant at such a hearing shall have the right to be represented by an attorney at the expense of the appellant, and to present evidence and cross examine witnesses. All testimony shall be sworn.
- (g) The City Chief Financial Officer shall bear the burden of proof by a preponderance of the evidence standard. The determination and findings by the City Chief Financial Officer shall not be set aside unless the City Manager or his or her designated hearing officer finds them to be:
  - (1) Contrary to law or ordinance;
  - (2) Unsupported by substantial evidence on the record as a whole; or

- (3) Unreasonable.
- (h) The written findings of the City Manager or his or her designated hearing officer shall be forwarded to the City Chief Financial Officer after conclusion of the hearing, and it shall be the duty of the City Clerk to notify the appellant of the decision.
- (i) The findings and decision of the City Manager or his or her designated hearing officer shall be final unless appealed within 30 days of the date of said findings by certiorari to the Superior Court of the County.

**Sec. 12-335. Exemptions.**

- (a) The requirements of this division shall have no application to or effect upon the following persons acting within the scope of their professions:
  - (1) Medical doctors and osteopaths, chiropractors, physical and occupational therapists, podiatrists, acupuncturists, registered or licensed practical nurses.
  - (2) Cosmetologists duly licensed to practice in this State pursuant to State law, except that this exemption shall apply solely to massaging the head, neck, face, scalp, hair, hands or feet of the patron.
  - (3) Employees of duly licensed nursing and convalescent homes and hospitals;
  - (4) Athletic directors or trainers who are affiliated with an accredited educational institution or a bona fide sports team and whose work is limited to athletic team members.
- (b) Massage therapy businesses providing client home services shall not be subject to the provisions of this division relating to the physical locations where massage therapy shall be performed, but shall comply with section 12-330(e), section 12-327(a), and section 12-325.
- (c) Requirements for licensure under the Act shall not apply to persons excluded from State licensure pursuant to O.C.G.A. § 43-24A-19, acting within the scope of their professions.

**Secs. 12-336—12-358. Reserved.**

*DIVISION 12. RESERVED*

**Secs. 12-379—12-399. Reserved.**

*DIVISION 13. ADULT ENTERTAINMENT*

**Sec. 12-400. Purpose.**

- (a) *Purpose.* It is the purpose of this article to regulate adult establishments in order to promote the health, safety, and general welfare of the citizens of the city, and to

establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult establishments within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

- (b) *Findings and rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the city council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and

*Trop, Inc. v. City of Brookhaven*, 296 Ga. 85 (2014); *Oasis Goodtime Emporium I, Inc. v. City of Doraville*, 773 S.E.2d 728 (Ga. 2015); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *Artistic Entertainment, Inc. v. City of Warner Robins*, 331 F.3d 1196 (11th Cir. 2003); *Artistic Entertainment, Inc. v. City of Warner Robins*, 223 F.3d 1306 (11th Cir. 2000); *Williams v. Pryor*, 240 F.3d 944 (11th Cir. 2001); *Williams v. A.G. of Alabama*, 378 F.3d 1232 (11th Cir. 2004); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Gary v. City of Warner Robins*, 311 F.3d 1334 (11th Cir. 2002); *Ward v. County of Orange*, 217 F.3d 1350 (11th Cir. 2002); *Boss Capital, Inc. v. City of Casselberry*, 187 F.3d 1251 (11th Cir. 1999); *David Vincent, Inc. v. Broward County*, 200 F.3d 1325 (11th Cir. 2000); *Sammy's of Mobile, Ltd. v. City of Mobile*, 140 F.3d 993 (11th Cir. 1998); *Lady J Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *This That And The Other Gift and Tobacco, Inc. v. Cobb County*, 285 F.3d 1319 (11th Cir. 2002); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Grand Faloon Tavern, Inc. v. Wicker*, 670 F.2d 943 (11th Cir. 1982); *International Food & Beverage Systems v. Ft. Lauderdale*, 794 F.2d 1520 (11th Cir. 1986); *5634 E. Hillsborough Ave., Inc. v. Hillsborough County*, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4276370 (11th Cir. Sept. 18, 2008) (per curiam); *Fairfax MK, Inc. v. City of Clarkston*, 274 Ga. 520 (2001); *Morrison v. State*, 272 Ga. 129 (2000); *Goldrush II v. City of Marietta*, 267 Ga. 683 (1997); *Flippen Alliance for Community Empowerment, Inc. v. Brannan*, 601 S.E.2d 106 (Ga. Ct. App. 2004); *Oasis Goodtime Emporium I, Inc. v. DeKalb County*, 272 Ga. 887 (2000); *Chamblee Visuals, LLC v. City of Chamblee*, 270

Ga. 33 (1998); World Famous Dudley's Food & Spirits, Inc. v. City of College Park, 265 Ga. 618 (1995); Airport Bookstore, Inc. v. Jackson, 242 Ga. 214 (1978); Entm't Prods., Inc. v. Shelby County, 721 F.3d 729 (6th Cir. 2013); Lund v. City of Fall River, 714 F.3d 65 (1st Cir. 2013); Imaginary Images, Inc. v. Evans, 612 F.3d 736 (4th Cir. 2010); LLEH, Inc. v. Wichita County, 289 F.3d 358 (5th Cir. 2002); Ocello v. Koster, 354 S.W.3d 187 (Mo. 2011); 84 Video/Newsstand, Inc. v. Sartini, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); Plaza Group Properties, LLC v. Spencer County Plan Commission, 877 N.E.2d 877 (Ind. Ct. App. 2007); East Brooks Books, Inc. v. Shelby County, 588 F.3d 360 (6th Cir. 2009); Entm't Prods., Inc. v. Shelby County, 588 F.3d 372 (6th Cir. 2009); Sensations, Inc. v. City of Grand Rapids, 526 F.3d 291 (6th Cir. 2008); World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); H&A Land Corp. v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007); Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (5th Cir. 1995); Fantasy Ranch, Inc. v. City of Arlington, 459 F.3d 546 (5th Cir. 2006); Illinois One News, Inc. v. City of Marshall, 477 F.3d 461 (7th Cir. 2007); G.M. Enterprises, Inc. v. Town of St. Joseph, 350 F.3d 631 (7th Cir. 2003); Richland Bookmart, Inc. v. Knox County, 555 F.3d 512 (6th Cir. 2009); Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County, 256 F. Supp. 2d 385 (D. Md. 2003); Richland Bookmart, Inc. v. Nichols, 137 F.3d 435 (6th Cir. 1998); Spokane Arcade, Inc. v. City of Spokane, 75 F.3d 663 (9th Cir. 1996); DCR, Inc. v. Pierce County, 964 P.2d 380 (Wash. Ct. App. 1998); City of New York v. Hommes, 724 N.E.2d 368 (N.Y. 1999); Taylor v. State, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); Fantasyland Video, Inc. v. County of San Diego, 505 F.3d 996 (9th Cir. 2007); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005); Starship Enters. of Atlanta, Inc. v. Coweta County, No. 3:09-CV-123, R. 41 (N.D. Ga. Feb. 28, 2011); High Five Investments, LLC v. Floyd County, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008); 10950 Retail, LLC v. Fulton County, No. 1:06-CV-1923, R. 62 Order (N.D. Ga. Dec. 21, 2006); 10950 Retail, LLC v. Fulton County, No. 1:06-CV-1923, R. 84 Contempt Order (N.D. Ga. Jan. 4, 2007); Z.J. Gifts D-4, L.L.C. v. City of Littleton, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); People ex rel. Deters v. The Lion's Den, Inc., Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); Reliable Consultants, Inc. v. City of Kennedale, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," Journal of Urban Health (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime?" Crime & Delinquency (2012) (Louisville, KY); Metropolis, Illinois — 2011-12; Manatee County, Florida — 2007; Hillsborough County, Florida — 2006; Clarksville, Indiana — 2009; El Paso, Texas — 2008; Memphis, Tennessee — 2006; New Albany, Indiana — 2009; Louisville, Kentucky — 2004; Fulton County, GA — 2001; Chattanooga, Tennessee — 1999-2003; Jackson County, Missouri — 2008; Ft. Worth, Texas — 2004; Kennedale, Texas — 2005; Greensboro, North Carolina — 2003; Dallas, Texas — 1997; Houston, Texas — 1997, 1983; Phoenix, Arizona — 1995-98, 1979; Tucson, Arizona — 1990; Spokane, Washington — 2001; St. Cloud, Minnesota — 1994; Austin, Texas — 1986; Indianapolis, Indiana — 1984; Garden Grove, California — 1991; Los Angeles,

California — 1977; Whittier, California — 1978; Oklahoma City, Oklahoma — 1986; New York, New York Times Square — 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas — 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; and Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA),

the city council finds:

- (1) Adult establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- (2) Each of the foregoing negative secondary effects constitutes a harm which the city has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the city's rationale for this division, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the city's interest in regulating adult establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the city. The city finds that the cases and documentation relied on in this article are reasonably believed to be relevant to said secondary effects.

The city hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

#### **Sec. 12-401. Definitions.**

For purposes of this article, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

*Adult arcade* means a commercial establishment to which the public is permitted or invited that maintains booths or rooms smaller than 100 square feet, wherein image-producing devices are regularly maintained, where a fee is charged to access the booths or rooms, and where minors are excluded from the booths or rooms by reason of age.

*Adult bookstore* means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

- (1) At least 35 percent of the establishment's displayed merchandise consists of said items, or
- (2) At least 35 percent of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or
- (3) The establishment maintains at least 35 percent of its floor space for the display, sale, and/or rental of said items; or
- (4) The establishment maintains at least 750 square feet of its floor space for the display, sale, and/or rental of said items.

*Adult establishment* means an "adult arcade," an "adult bookstore," an "adult motion picture theater," a "semi-nude lounge," or a "sex paraphernalia store."

*Adult motion picture theater* means a commercial establishment to which the public is permitted or invited that maintains viewing rooms that are 100 square feet or larger wherein films or videos characterized by their emphasis upon "specified sexual activities" or "specified anatomical areas" are regularly shown.

*Characterized by* means describing the essential character or quality of an item. As applied in this article, no business shall be classified as an adult establishment by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

*City* means the City of Lawrenceville, Georgia.

*Employ, employee, and employment* describe and pertain to any person who works on the premises of an adult establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

*Establish or establishment* means and includes any of the following:

- (1) The opening or commencement of any adult establishment as a new business;
- (2) The conversion of an existing business, whether or not an adult establishment, to any adult establishment; or
- (3) The addition of any adult establishment to any other existing adult establishment.

*Floor space* means the floor area inside an establishment that is visible or accessible to patrons for any reason, excluding restrooms.

*Hearing officer* means an attorney, not an employee of the city, who is licensed to practice law in Georgia, and retained to serve as an independent tribunal to conduct hearings under this article.

*Influential interest* means any of the following:

- (1) The actual power to operate the adult establishment or control the operation, management or policies of the adult establishment or legal entity which operates the adult establishment;
- (2) Ownership of a financial interest of 30 percent or more of a business or of any class of voting securities of a business; or
- (3) Holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the adult establishment.

*Licensee* means a person in whose name a license to operate an adult establishment has been issued, as well as the individual or individuals listed as an applicant on the application for an adult establishment license. In the case of an "employee," it shall mean the person in whose name the adult establishment employee license has been issued.

*Nudity or nude conduct* means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

*Operator* means any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner, part owner, or licensee of the business.

*Person* means an individual, proprietorship, partnership, corporation, association, or other legal entity.

*Premises* means the real property upon which the adult establishment is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the adult establishment, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for an adult establishment license.

*Regional shopping mall (enclosed)* means a group of retail and other commercial establishments that is planned, developed, and managed as a single property, with on-site parking provided around the perimeter of the shopping center, and that is generally at least 40 acres in size and flanked by two or more large "anchor" stores, such as department stores.



The common walkway or "mall" is enclosed, climate-controlled and lighted, usually with an inward orientation of the stores facing the walkway.

*Regularly* means the consistent and repeated doing of an act on an ongoing basis.

*Semi-nude* or *semi-nudity* means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

*Semi-nude lounge* means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment that regularly offers live semi-nude conduct. No establishment shall avoid classification as a semi-nude lounge by offering nude conduct.

*Sexual device* means any three-dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

*Sex paraphernalia store* means a commercial establishment where more than 100 sexual devices are regularly made available for sale or rental. This definition shall not be construed to include any establishment located within an enclosed regional shopping mall or any pharmacy or establishment primarily dedicated to providing medical products.

*Specified anatomical areas* means and includes:

- (1) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified criminal activity* means any of the following specified crimes for which less than five years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

- (1) Rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency;
- (2) Prostitution, keeping a place of prostitution, pimping, or pandering;
- (3) Obscenity, disseminating or displaying matter harmful to a minor, or use of child in sexual performance;

- (4) Any offense related to any sexually oriented business, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity;
- (5) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- (6) Any offense in another jurisdiction that, had the predicate act(s) been committed in Georgia, would have constituted any of the foregoing offenses.

*Specified sexual activity* means any of the following:

- (1) Intercourse, oral copulation, masturbation or sodomy; or
- (2) Excretory functions as a part of or in connection with any of the activities described in (1) above.

*Transfer of ownership or control* of an adult establishment means any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

*Viewing room* means the room or booth where a patron of an adult establishment would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video on an image-producing device.

#### **Sec. 12-402. License required.**

- (a) *Adult establishment license.* It shall be unlawful for any person to operate an adult establishment in the city without a valid adult establishment license.
- (b) *Employee license.* It shall be unlawful for any person to be an "employee," as defined in this article, of an adult establishment in the city without a valid adult establishment employee license, except that a person who is a licensee under a valid adult establishment license shall not be required to also obtain an adult establishment employee license. It shall be unlawful for any person who operates an adult establishment to employ a person at the establishment who does not have a valid adult establishment employee license.
- (c) *Application.* An applicant for an adult establishment license or an adult establishment employee license shall file in person at the City Finance Department a completed application made on a form provided by the Chief Financial Officer. An adult establishment may designate an individual with an influential interest in the business to file its application for an adult establishment license in person on behalf of the business. The application shall be signed as required by subsection (d) herein and shall be

notarized. An application shall be considered complete when it contains the information and/or items required in this subsection (c), accompanied by the appropriate licensing fee. An application must contain the information and/or items required in subparts (1)-(4) and (7)-(8) for each individual required to sign the application:

- (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
- (2) Current business address or another mailing address for the applicant.
- (3) Written proof of age, in the form of a driver's license, a picture identification document containing the applicant's date of birth issued by a governmental agency, or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.
- (4) A set of fingerprint impressions of the fingers and thumbs on both hands taken by the City Police Department Permits Unit. The permits unit shall provide this service, upon payment of the nominal fee for such service, on business days during its standard hours of operation upon request.
- (5) If the application is for an adult establishment license, the business name, location, legal description, mailing address and phone number of the adult establishment.
- (6) If the application is for an adult establishment license, the name and business address of the statutory agent or other agent authorized to receive service of process.
- (7) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
- (8) A statement of whether any adult establishment in which an applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
  - a. Been declared by a court of law to be a nuisance; or
  - b. Been subject to a court order of closure.
- (9) An application for an adult establishment license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business and a statement of floor area visible or accessible to patrons for any reason, excluding restrooms. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus

six inches. Applicants who are required to comply with the stage, booth, and/or room configuration requirements of this article shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations.

The information provided pursuant to this subsection (c) shall be supplemented in writing by certified mail, return receipt requested, to the Chief Financial Officer within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.

- (d) Signature. A person who seeks an adult establishment employee license under this section shall sign the application for a license. If a person who seeks an adult establishment license under this section is an individual, he shall sign the application for a license as applicant. If a person who seeks an adult establishment license is other than an individual, each person with an influential interest in the adult establishment or in a legal entity that controls the adult establishment shall sign the application for a license as applicant. Each applicant must be qualified under this article and each applicant shall be considered a licensee if a license is granted.
- (e) The information provided by an applicant in connection with an application for a license under this article shall be maintained by the office of the Chief Financial Officer on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by governing law or court order. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to such disclosure.
- (f) Within ten days of receiving an incomplete application, the Chief Financial Officer shall notify the applicant(s) of the manner in which the application is incomplete.

**Sec. 12-403. Issuance of license.**

- (a) *Adult establishment license.* Within 30 days of the filing of a completed adult establishment license application, the Chief Financial Officer shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The Chief Financial Officer shall issue a license unless:
  - (1) An applicant is less than 18 years of age.
  - (2) An applicant has failed to provide information required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
  - (3) The license application fee required by this article has not been paid.
  - (4) The adult establishment, as defined herein, is not in compliance with the interior configuration requirements of this article or is not in compliance with the locational requirements of the City Zoning Code.

- (5) Any adult establishment in which an applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
    - a. Been declared by a court of law to be a nuisance; or
    - b. Been subject to an order of closure.
  - (6) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this article.
- (b) *Employee license.* Upon the filing of a completed application for an adult establishment employee license, the Chief Financial Officer shall immediately issue a temporary license to the applicant if the applicant seeks licensure to work in a licensed adult establishment and the completed application, on its face, indicates that the applicant is entitled to an annual adult establishment employee license. The temporary license shall expire upon the final decision of the city to deny or grant an annual license. Within 30 days of the filing of a completed adult establishment employee license application, the Chief Financial Officer shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The Chief Financial Officer shall issue a license unless:
- (1) The applicant is less than 18 years of age.
  - (2) The applicant has failed to provide information as required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
  - (3) The license application fee required by this article has not been paid.
  - (4) Any adult establishment in which the applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
    - a. Been declared by a court of law to be a nuisance; or
    - b. Been subject to an order of closure.
  - (5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this article.
- (c) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for an adult establishment, the address of the adult establishment. The adult establishment license shall be posted in a conspicuous place at or near the entrance to the adult establishment so that it may be read at any time that the business is occupied by patrons or is open to the public. An adult establishment employee shall keep the employee's license on his or her person or on the premises where the licensee is then working.

**Sec. 12-404. Fees.**

The initial license and annual renewal fees for adult establishment licenses and adult establishment employee licenses shall be as follows: \$100.00 for the initial fee for an adult establishment license and \$50.00 for annual renewal; \$50.00 for the initial adult establishment employee license and \$25.00 for annual renewal. For an initial license application filed after July 1, the fee shall be \$50.00 for an initial adult establishment license and \$25.00 for an initial adult establishment employee license.

**Sec. 12-405. Inspection.**

Adult establishments and adult establishment employees shall permit the Code Enforcement Manager and his or her agents to inspect, from time to time on an occasional basis, the portions of the adult establishment premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this article, during those times when the adult establishment is occupied by patrons or is open to the public. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this article, but not to authorize a harassing or excessive pattern of inspections.

**Sec. 12-406. Expiration and renewal of license.**

- (a) Each license shall expire on December 31 of the calendar year for which it is issued. Such license may be renewed only by making application and payment of a fee as provided in this article.
- (b) Application for renewal of an annual license should be made by October 1, and when made after October 1, the expiration of the current license will not be affected.

**Sec. 12-407. Suspension.**

- (a) The Chief Financial Officer shall issue a written notice of intent to suspend an adult establishment license for a period not to exceed 30 days if the adult establishment licensee has knowingly or recklessly violated this article or has knowingly or recklessly allowed an employee or any other person to violate this article.
- (b) The Chief Financial Officer shall issue a written notice of intent to suspend an adult establishment employee license for a period not to exceed 30 days if the employee licensee has knowingly or recklessly violated this article.

**Sec. 12-408. Revocation.**

- (a) The Chief Financial Officer shall issue a written notice of intent to revoke an adult establishment license or an adult establishment employee license, as applicable, if the licensee knowingly or recklessly violates this article or has knowingly or recklessly

allowed an employee or any other person to violate this article and a suspension of the licensee's license has become effective within the previous twelve-month period.

- (b) The Chief Financial Officer shall issue a written notice of intent to revoke an adult establishment license or an adult establishment employee license, as applicable, if:
  - (1) The licensee has knowingly given false information in the application for the adult establishment license or the adult establishment employee license;
  - (2) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the adult establishment;
  - (3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the adult establishment;
  - (4) The licensee knowingly or recklessly operated the adult establishment during a period of time when the license was finally suspended or revoked;
  - (5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity or specified criminal activity to occur in or on the premises of the adult establishment;
  - (6) The licensee has knowingly or recklessly allowed a person under the age of 21 years to consume alcohol on the premises of the adult establishment;
  - (7) The licensee has knowingly or recklessly allowed a person under the age of 18 years to appear in a semi-nude condition or in a state of nudity on the premises of the adult establishment; or
  - (8) The licensee has knowingly or recklessly allowed three or more violations of this article within a twelve-month period.
- (c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.
- (d) When, after the notice and hearing procedure described in this article, the city revokes a license, the revocation shall continue for one year and the licensee shall not be issued an adult establishment license or adult establishment employee license for one year from the date revocation becomes effective.

**Sec. 12-409. Hearing; license denial, suspension, revocation; appeal.**

- (a) When the Chief Financial Officer issues a written notice of intent to deny, suspend, or revoke a license, the Chief Financial Officer shall immediately send such notice, which shall include the specific grounds under this article for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the Chief

Financial Officer for the respondent. The notice shall also set forth the following: The respondent shall have ten days after the delivery of the written notice to submit, at the office of the Chief Financial Officer, a written request for a hearing. If the respondent does not request a hearing within said ten days, the Chief Financial Officer's written notice shall become a final denial, suspension, or revocation, as the case may be, on the 30<sup>th</sup> day after it is issued.

- (b) If the respondent does make a written request for a hearing within said ten days, then the Chief Financial Officer shall, within ten days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten days nor more than 20 days after the date that the hearing notice is issued. The city shall provide for the hearing to be transcribed.
- (c) At the hearing, the respondent shall have the opportunity to present all relevant arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the Chief Financial Officer's witnesses. The Chief Financial Officer shall also be represented by counsel and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a final written decision, including specific reasons for the decision pursuant to this article, to the respondent within five days after the hearing.
- (d) If the decision is to deny, suspend, or revoke the license, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the 30<sup>th</sup> day after it is rendered. If the hearing officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the Chief Financial Officer to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the Chief Financial Officer shall contemporaneously therewith issue the license to the applicant.
- (e) If any court action challenging a licensing decision is initiated, the city shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any adult establishment that is lawfully operating as an adult establishment, or any adult establishment employee that is lawfully employed as an adult establishment employee, on the date on which the completed business or employee application, as applicable, is filed with the Chief Financial Officer: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the city's enforcement of any denial, suspension, or revocation of a temporary license or annual license, the Chief Financial Officer shall immediately issue the respondent a provisional license. The provisional license shall allow the respondent to continue operation of the



adult establishment or to continue employment as an adult establishment employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the city's enforcement.

**Sec. 12-410. Transfer of license.**

A licensee shall not transfer his or her license to another, nor shall a licensee operate an adult establishment under the authority of a license at any place other than the address designated in the adult establishment license application.

**Sec. 12-411. Hours of operation.**

No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.

**Sec. 12-412. Regulations pertaining to operation of adult arcade or adult motion picture theater.**

- (a) A person who operates or causes to be operated an adult arcade or adult motion picture theater shall comply with the following requirements.
  - (1) The application for an adult establishment license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Chief Financial Officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
  - (2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
  - (3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five-foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to

ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

- (4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no specified sexual activity occurs in or on the premises.
  - (5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
    - a. That the occupancy of viewing rooms less than 100 square feet is limited to one person.
    - b. That specified sexual activity on the premises is prohibited.
    - c. That the making of openings between viewing rooms is prohibited.
    - d. That violators will be required to leave the premises.
    - e. That violations of these regulations are unlawful.
  - (6) It shall be the duty of the operator to enforce the regulations articulated in (5) a. through d. above.
  - (7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises has two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
  - (8) It shall be the duty of the operator to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
- (b) It shall be unlawful for a person having a duty under subsections (a)(1) through (a)(8) to knowingly or recklessly fail to fulfill that duty.
  - (c) No patron shall knowingly or recklessly enter or remain in a viewing room less than 100 square feet in area that is occupied by any other patron.

- (d) No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 100 square feet or larger in area.
- (e) No person shall knowingly or recklessly make any hole or opening between viewing rooms.

**Sec. 12-413. Loitering, exterior lighting and monitoring, and interior lighting requirements.**

- (a) It shall be the duty of the operator of an adult establishment to: (i) ensure that at least two conspicuous signs stating that no loitering is permitted on the premises are posted on the premises; (ii) designate one or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every 90 minutes or inspecting the premises by use of video cameras and monitors; and (iii) provide lighting to the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Said lighting shall be of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one foot candle as measured at the floor level. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within the operator's station.
- (b) It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
- (c) No adult establishment shall erect a fence, wall, or similar barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.
- (d) It shall be unlawful for a person having a duty under this section to knowingly or recklessly fail to fulfill that duty.

**Sec. 12-414. Penalties and enforcement.**

- (a) A person who violates any of the provisions of this article shall be guilty of a violation and, upon conviction, shall be punishable by fines not to exceed \$1,000.00 per violation, or by imprisonment for a period not to exceed 6 months, or by both such fine and imprisonment. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.
- (b) Any premises, building, dwelling, or other structure in which an adult establishment is repeatedly operated or maintained in violation of this article shall constitute a nuisance and shall be subject to civil abatement proceedings in a court of competent jurisdiction.

- (c) The city's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this article to enjoin, prosecute, restrain, or correct violations hereof. Such proceedings shall be brought in the name of the city, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this article, or any of the laws in force in the city or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred.

**Sec. 12-415. Prohibited conduct.**

- (a) No patron, employee, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
- (b) No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six feet from all patrons and on a stage at least 18 inches from the floor in a room of at least 600 square feet.
- (c) No employee who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee or the clothing of such an employee on the premises of an adult establishment.
- (d) No person shall possess, use, or consume alcoholic beverages on the premises of an adult establishment.
- (e) No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any employee who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same room.
- (f) No operator or licensee of an adult establishment shall violate the regulations in this section or knowingly or recklessly allow an employee or any other person to violate the regulations in this section.
- (g) A sign in a form to be prescribed by the Chief Financial Officer, and summarizing the provisions of subsections (a), (b), (c), and (d), shall be posted near the entrance of the adult establishment in such a manner as to be clearly visible to patrons upon entry. No person shall cover, obstruct, or obscure said sign.

**Sec. 12-416. Scienter required to prove violation or business licensee liability.**

This article does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state is necessary to establish a violation of a provision of this article. Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the adult establishment licensee for purposes of

finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

**Sec. 12-417. Severability.**

This article and each section and provision of said article hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said article, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this article be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this article.

*DIVISION 14. ANIMAL-DRAWN CARRIAGES*

**Sec. 12-463. Licensing of animal-drawn carriage companies; headquarters.**

(a) *License required.*

- (1) No person, firm or corporation shall operate a business involving the use of one or more animal-drawn carriage on the streets of the City unless a license for such business has first been granted by the City in accordance with the provisions of this division. The license shall be effective only for the calendar year stated in the license, unless suspended or revoked sooner, as provided by this division.
- (2) Application for the license shall be made on forms provided by the City and shall provide such information as is required for other business license applications, and such additional information as may be necessary to define completely the business operation. Renewal of the license shall be required prior to January 31 of each year.

(b) *Fixed place of business required.* Each animal-drawn carriage company, as a condition for holding a license under the provisions of this section, shall establish and maintain a fixed headquarters on private property for the operation of the company's business: The headquarters, to conform to the ordinances of the City, shall provide adequate off-street parking space for all animal-drawn carriages not in service on the streets. The company headquarters shall not be moved except by the approved transfer of the company's license to another location.

- (c) *Operating regulations.* In addition to the license requirements imposed in subsection (a) of this section, no license shall be issued to any carriage operator unless the operator complies with the following operating regulations:
- (1) A licensed veterinarian shall certify, after due and proper inspection, the good health of each draft animal before it is placed into service. A minimum of two such health inspections shall be required for each animal each calendar year.
  - (2) No single animal shall pull a carriage holding more than ten people, including the driver.
  - (3) Unless written approval is given by a licensed veterinarian, no animal having open sores or wounds, or any disease or ailment shall be permitted to be in service on the streets of the City.
  - (4) Each draft animal shall have its hooves properly trimmed and shod for street surfaces.
  - (5) Each animal shall be groomed daily and not have fungus, dandruff, or a dirty coat.
  - (6) Harnesses shall be properly fitted, maintained, and oiled so that no irritating material will come in direct contact with the animal.
  - (7) No driver may use more than a light touch of the whip upon any animal, and no driver or other person may forcefully strike an animal, or make movements or noise intended to frighten or harm an animal.
  - (8) No driver shall permit an animal to pull a carriage at a speed faster than a slow trot, except in emergency situations.
  - (9) No animal shall be subject to any condition or treatment, whether in service or out of service, which will impair the good health and physical condition of that animal.
  - (10) Adequate water shall be provided in stables and stalls at all times while any draft animal is present.
  - (11) Ventilation adequate to ensure the health and comfort of animals shall be provided in stable and stall areas.
  - (12) Bedding in stalls and stables shall be kept at least six inches deep and shall not show wetness under the pressure of any draft animal's hooves.
  - (13) Adequate and leak-free roofing is required for any stable or stall area in which animals are housed.
  - (14) Each individual draft animal shall have a stall large enough for the animal to safely turn around, but in no case shall any individual animal be kept in a stall less than 120 square feet in area. Ceilings in stalls and stables must be at least nine feet from the bedding and flooring.
  - (15) Food shall be kept free of contamination.

- (d) *Inspection of operating facilities and practices.* The City shall be empowered to inspect all stables, stalls and operating facilities of any carriage company without notice, and to examine the operating practices of any carriage company to ensure continuous compliance with this division.
- (e) *Refusal or failure to comply with division.* Any applicant who refuses or fails to comply with the requirements of this division shall not be issued a business license until proof of compliance is presented by the applicant and certified by the City. The foregoing licensing requirements shall be ongoing as requirements for continuous operation.
- (f) *Temporary suspension of license.* The City may temporarily suspend any carriage company license for violation of the provisions of this division.

**Sec. 12-464. Insurance.**

- (a) *Indemnity for benefit of City.* Any animal-drawn carriage company operating under this division shall hold the City of Lawrenceville, its officers, agents, servants and employees, harmless against any and all liability, loss, damages or expense which may accrue to the City by reason of negligence, default or misconduct of the company in connection with the rights granted to such company under this division. Nothing in this division shall be construed or interpreted to make the City of Lawrenceville, its officers, agents, servants or employees liable for damages because of any negligent act or omission or commission by any animal-drawn carriage company, its servants, agents, drivers or other employees, during the operation by the company of an animal-drawn carriage business or service, either in respect to injury to persons or with respect to damage to property which may be sustained.
- (b) *Insurance for benefit of passengers.* Any animal-drawn carriage company desiring a license to do business shall give and maintain a policy of indemnity from an insurance company authorized to do business in Georgia. The minimum coverage shall be \$150,000.00 for bodily injury to any one person, \$500,000.00 for injury to more than one person, which are sustained in the same accident, and \$25,000.00 for property damage resulting from one accident. The indemnity insurance shall inure to the benefit of any person who shall be injured or who shall sustain damage to property caused by the negligence of an animal-drawn carriage company, its servants or agents.
- (c) *Blanket policy.* Any company or person operating an animal-drawn carriage in the City shall give a separate policy of indemnity insurance for each separate animal-drawn carriage for hire, except where such company or person actually owns or holds legal title to more than one animal-drawn carriage, in which event such company or person may give one policy of indemnity insurance covering all the animal-drawn carriages actually owned. This latter provision, however, shall not apply to any group of persons separately owning animal-drawn carriages who may be jointly operating or doing business under a licensed animal-drawn carriage name.

- (d) *Notice when voided.* Before any policy of insurance required by this division is voided for any cause, nonpayment of premium or otherwise, notice thereof shall be given, in writing, to the Finance Department at least 30 days before the same shall take effect.

**Sec. 12-465. Removal from service for violations.**

- (a) Upon discovery of a violation of any provision in this division relating to animal-drawn vehicles for hire, the City may issue an order to the person responsible for the violation requiring the removal of the subject animal from service.
- (b) No animal which has been removed from service for violation of this section shall be returned to service until the animal has been inspected by the City or its agent and approved for return to service in writing. The City may consult with licensed veterinarians, the Atlanta Humane Society, Gwinnett County animal control, and other animal welfare experts in evaluating animal well-being.
- (c) Any person who refuses to comply with the order of the City or who complies with the order and returns the subject animal to service before being inspected and approved by the City shall be in violation of this code section and punishable upon adjudication in the Municipal Court.

**Sec. 12-466. Animal working conditions.**

- (a) No animal shall be worked under any of the following conditions, and any owner allowed to let the conditions exist will be found in violation of this division:
  - (1) If the animal pulls any combined weight, including passengers and driver, in excess of two times the animals' body weight. No animal or combination of animals shall pull any vehicle which is occupied by a number of persons which exceeds such vehicle's normal safe seating capacity;
  - (2) If the animal works more than ten hours in any 24-hour period without at least one 20-minute rest break or two ten-minute rest breaks per hours;
  - (3) If the animal pulling a vehicle for hire is moving at a speed faster than a slow trot;
  - (4) If the animal works more than 50 hours in any seven-day period; or if the animal works more than five consecutive days;
  - (5) If the animal is worked with equipment, other than normal blinders, which causes an impairment of vision; or
  - (6) If the animal is subjected to any condition or treatment which will impair the good health and physical condition of the animal.
- (b) For purposes of this section, working hours of animals shall include time spent on rest breaks and all the time animals are available for hire, and the term "slow trot" means a speed of five to 15 miles per hour.



**Sec. 12-467. Use of harness.**

- (a) No animal will be worked without a padded saddle or bit that is approved by the Gwinnett County S.P.C.A.
- (b) The harness must be oiled and cleaned so as to be soft at all times.
- (c) The harness will be properly fitted and maintained, and kept free of makeshift material, such as wire, sisal rope, and hazardous rusty chain.

**Sec. 12-468. Vehicles for hire pulled by animals.**

- (a) Vehicles for hire pulled by animals must be properly lubricated and wheels must spin freely.
- (b) Vehicles used for the purposes as outlined above shall conform to the following vehicle specifications:
  - (1) The wheel base shall be equal to or less than 14 feet.
  - (2) The total overall length of the vehicle shall be equal to or less than 28 feet.
  - (3) The maximum overall width of the vehicle shall be equal to or less than 78 inches.
  - (4) The tires shall be rubber or other resilient material. Metal tires or wheels are prohibited.
  - (5) The vehicle right turn radii shall not be greater than 12 feet for the right rear wheel and 24 feet for the left front wheel.
  - (6) The vehicle shall be drawn by no more than two animals, except at parades and at special events approved by the City.
  - (7) Vehicles shall be equipped with one red light on each outer extremity of the rear of the vehicle body and mounted between two and five feet above the road surface. Similarly mounted yellow lights shall be mounted on the front of the vehicle body. Each light shall be no less than four inches in diameter. Vehicles shall also be equipped with a slow-moving vehicle emblem as required by O.C.G.A. § 40-8-4.

**Sec. 12-469. Use of whips.**

No driver may whip an animal with more than a light touch by a light whip.

**Sec. 12-470. Diapers.**

- (a) No animal shall pull a vehicle for hire unless such animal is wearing a diaper. Diapers must be properly fitted and constructed of a sturdy material to ensure comfort to the animal and complete waste disposal.

- (b) Should a diaper fail for any reason, manure and urine shall be immediately treated with a chemical deodorizing solution, and manure must be removed immediately from the street by the carriage operator. Each carriage must be equipped with a suitable scoop shovel and airtight container.

**Sec. 12-471. Trailers.**

Any trailer or vehicle involved in transporting animals governed in this division must be in good working order and must be near the working location, so as to provide speedy removal of any animal in an emergency situation.

**Sec. 12-472. Drivers of animal-drawn vehicles.**

Drivers of animal-drawn vehicles shall be required to comply with the following:

- (1) Each driver must have in his possession a completed trip sheet for the vehicle he is driving and his current shift. Said trip sheet shall be kept with the carriage and available for inspection by the City.
- (2) Drivers must have a working knowledge and general experience involving livestock and driving carriages or animal-drawn vehicles.
- (3) Companies must provide new drivers with a driver-apprentice training program.

**Sec. 12-473. Animal-drawn vehicle route system.**

A proposed detailed route system shall be submitted to the City for review, recommendation and approval. The City shall designate streets and hours of the day that animal-drawn vehicles will be prohibited. A route system shall be submitted for each vehicle to be placed into operation. This detailed route system shall include the following information:

- (1) The hours of operation for the vehicle;
- (2) The days of the week the vehicle will be in operation;
- (3) The duration of the operation (i.e., summer only or year-round);
- (4) All locations for loading and unloading passengers.

**Sec. 12-474. Animal-drawn vehicle operating specifications.**

Animal-drawn vehicles shall adhere to the following operating specifications during the hours of operation:

- (1) Vehicles shall not make any left turn movements except from one-way streets.
- (2) Vehicles shall travel in the curb lane except when passing parked vehicles or other obstructions which prevent use of the curb lane.

- (3) Vehicles shall not travel on streets with grades equal to or greater than ten percent without approval of the City.
- (4) Vehicles shall not stop within the roadway other than at designated loading and unloading areas except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.
- (5) Vehicles shall observe all applicable rules of the road as set forth in the State of Georgia rules of the road.

**Sec. 12-475. Identification and marking generally.**

Every animal-drawn carriage shall have a sign plainly painted on each side of the vehicle, in letters not less than four inches high, containing the full name of the animal-drawn carriage company operating the vehicle.

**Sec. 12-476. Registration of number and names of owner and operator; tag required.**

- (a) *Registration.* The number assigned to an animal-drawn carriage in accordance with this division together with the names of the owner and operator of the animal-drawn carriage shall be registered with the City in a book to be kept for that purpose.
- (b) *State license tag for animal-drawn carriage required.* Prior to the use and operation of any vehicle as an animal-drawn carriage under the provisions of this division, the owner of the vehicle shall secure and display on the vehicle a current Georgia license registration tag.

**Sec. 12-477. Condition of animal-drawn carriages.**

- (a) *Safe mechanical condition of animal-drawn carriage required.* Every animal-drawn carriage operated on the streets of the City shall be maintained in a safe mechanical condition, with all safety equipment remaining intact and operating at all times when the animal-drawn carriage is in service.
- (b) *Cleanliness of animal-drawn carriage required.* Each vehicle operating under this division shall be kept painted, and in a clean and sanitary condition, free of litter and debris and at all times suitable for public transportation of passengers.

**Sec. 12-478. Authority for removal of animal-drawn carriages from streets.**

The Chief Financial Officer shall have the authority to remove from operation on the streets of the City any vehicle used as an animal-drawn carriage which is in violation of this division and to prohibit operation of the animal-drawn carriage until all deficiencies have been corrected. An order of the City to remove a vehicle from the streets may be appealed to the City Manager.

**Sec. 12-479. Rates of fare; rate card required.**

No owner or driver of an animal-drawn carriage shall charge a greater sum for the use of the animal-drawn carriage than in accordance with the published and advertised rates which shall be displayed in each vehicle. Rates shall be displayed in such place as to be conspicuous and to be in clear view of all passengers.

**Sec. 12-480. Stands generally.**

- (a) No parking shall be permitted in the corporate limits of the City except at such stands as may be established by the City. Whenever any stand is established, the stand may be used by animal-drawn carriages upon a rotation basis of first come-first serve. Fees for the use of stands shall be set by the Council.
- (b) Drivers of animal-drawn vehicles operated under this division shall maintain stands in a sanitary condition at all times. Any failure on the part of the driver to conform to the requirements of this section shall be unlawful and shall subject the driver and owner to the penalties provided in this division.
- (c) Any person desiring to have a place designated as a regular stand for animal-drawn carriages in the City shall make application by written petition to the City for the establishment of the animal-drawn carriage stand, setting out the location desired for the stand.

**Sec. 12-481. Driver not to leave vehicle while waiting to be hired.**

It shall be unlawful for any driver of any animal-drawn carriage to leave the vehicle, or the immediate premises thereof, while the vehicle is parked in an animal-drawn carriage stand while waiting to be hired.

**Sec. 12-482. Reserved.**

**Sec. 12-483. Animal-drawn carriage movement prohibited under certain circumstances.**

No driver shall collect fares, make change, or take on or discharge passengers while his animal-drawn carriage is in motion.

**Sec. 12-484. Property left in animal-drawn carriage by passenger.**

Any animal-drawn carriage driver or operator discovering in any animal-drawn carriage under his control, personal property which was lost or left therein by a passenger of such animal-drawn carriage, shall report the loss, and deliver all the property to the office of the animal-drawn carriage company within 12 hours after the discovery of the property. The driver's report shall include brief particulars to enable the company to identify the owner of

the property. The company shall retain the property on behalf of the owner for at least 60 days.

**Sec. 12-485. Safety equipment required.**

Each animal-drawn carriage shall be equipped with electrically powered lights or lanterns and reflectors when operating during the hours of darkness. The lights and reflectors shall be mounted so that they are visible from any direction. Each animal-drawn carriage shall have on board at all times a four-pound all-purpose fire extinguisher and a first aid kit.

**Sec. 12-486. Hours of operation.**

No animal-drawn carriage shall be operated on City streets between the hours of 12:00 midnight and 8:30 a.m. on any day. No animal-drawn carriage shall be operated between the hours of 4:30 p.m. and 6:00 p.m., Monday through Friday, except that such restriction shall not apply on legal holidays.

**Sec. 12-487. Traffic violations.**

- (a) Animal-drawn carriages shall be prohibited from stopping in traffic or delaying any on-street traffic for the purposes of loading or unloading passengers or for any other purposes.
- (b) Every person riding any animal upon a roadway and every person driving any animal-drawn vehicle within the City limits of the City of Lawrenceville shall be subject to the provisions of this division and shall operate the vehicles in accordance with the traffic laws of the City of Lawrenceville.
- (c) Due to the nature of operating animal-drawn vehicles in areas of congestion and heavy traffic within the City, it shall be unlawful to operate the animal-drawn vehicles except when the animals are under complete control at all times and shall be operated with extra caution and due care for the safety of others.

**Sec. 12-488. Compliance required.**

Failure to comply with this division or any of the laws, ordinances and regulations of this City can result in revocation of permit and citation and punishment at Municipal Court. Owners, operators, and all of their agents and employees, including drivers, shall comply with any ordinance or laws of this City, and any county, state or federal agency which governs the treatment of animals, including horses or other oxen of burden.

**Sec. 12-489. Penalty.**

Any citation to Municipal Court for violation of any part of this division shall be punishable by fines not to exceed \$1,000.00 per violation, six months in jail or community service, or any combination thereof.

**Secs. 12-490—12-516. Reserved.**

*DIVISION 15. BODYART STUDIOS*

**Sec. 12-517. Scope.**

This division shall apply to any person, corporation or other organization which, for a fee, practices "body art" as defined by O.C.G.A. § 31-40-1 within the City limits.

**Sec. 12-518. Definitions.**

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

(1) "*Body art*" means a tattoo or piercing placed on the body of a person for aesthetic or cosmetic purposes.

(2) "*Body artist*" means any person who performs body art. Such term shall not include in its meaning any physician or osteopath licensed under Chapter 34 of Title 43 of the O.C.G.A., nor shall it include any technician acting under the direct supervision of such licensed physician or osteopath, pursuant to subsection (a) of Code Section 16-5-71 of the O.C.G.A.

(3) "*Body art studio*" means any facility or building on a fixed foundation wherein a body artist performs body art.

(4) "*Microblading of the eyebrow*" means a form of cosmetic tattoo artistry where ink is deposited superficially in the upper three layers of the epidermis using a handheld or machine powered tool made up of needles known as a microblade to improve or create eyebrow definition, to cover gaps of lost or missing hair, to extend the natural eyebrow pattern, or to create a full construction if the eyebrows have little to no hair.

(5) "*Tattoo*" means to mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin. Such term includes microblading of the eyebrow.

**Sec. 12-519. License, application; information to be given.**

Any person desiring to engage in the business, trade or profession of a body artist or practitioner or similar trade or business shall, before engaging in that business trade or

profession, file an application for a license addressed to the Chief Financial Officer. The application shall be in writing and shall set forth the following:

- (1) Applicant shall first obtain a body art studio permit and/or a body artist permit from the Gwinnett County Board of Health pursuant to the "Rules of Gwinnett County Board of Health Body Art Studios and Artists" hereby incorporated by reference into this division. A copy of the required permits shall be attached to the city application;
- (2) Operator and employees must be fingerprinted by the City and a character reference supplied for all persons to operate as a tattoo artist or practitioner and all employees;
- (3) Name and address of operator;
- (4) Name and address of any person having previously employed the operator for a space of two years or longer;
- (5) If the operator is a corporation, the address of the corporation as well as the names and addresses of the agents and employees of the corporation for a period of two years immediately prior to the filing of the application;
- (6) Qualifications must be plainly stated together with required exhibits annexed to the application;
- (7) A certificate certifying as to the good moral character of the operator, signed by three currently qualified and registered voters of good moral character of the City. These letters shall not be required for annual renewals of licenses issued under this division. For the purpose of this division, the term "good moral character" means that the person to whom the phrase refers shall not have been convicted of a felony or crime involving moral turpitude;
- (8) Fingerprints must be submitted to the City at least 60 days prior to issuance of license to allow for investigation of operator and employees and processing of fingerprints by GCIC;
- (9) Should the operator be a corporation, it shall also submit with the application a certificate, executed as described in subsection (7) of this section, certifying as to the good moral character of each employee and agent of the corporation who is actually engaged in the business of the corporation.

**Sec. 12-520. License requirements; restrictions; issuance; fee.**

- (a) *Qualifications.* Each operator and all employees under this division, prior to making application for a license must have the following qualifications:

- (1) The operator and all employees must be of good moral character, and in case the operator is a corporation, it must be created in or domesticated by the laws of the State of Georgia.
  - (2) The operator must be at least 18 years of age and have received a high school diploma or graduate equivalency diploma.
  - (3) The operator and each employee must furnish a current health certificate from a medical doctor which shall accompany the application as an exhibit. Should the operator be a corporation, it shall furnish a certificate for all its agents and employees actually engaged and working under the license. The certificate shall recite that the operator or employee is in good health and is free from infectious or contagious disease.
  - (4) The operator, or the manager in the event the operator is a corporation, must furnish with the application their affidavit of previous employment, together with an affidavit of the persons under whom the apprenticeship or practical experience was obtained, specifying that the operator has satisfied the requirements of this section.
  - (5) The operator must submit proof of licensure, certification or permitting by the State pursuant to O.C.G.A. § 31-40-1 et seq.
- (b) *Issuance; fee.* If the application is submitted in proper form and is approved by the City, then the Finance department is authorized to issue a license to the operator upon the payment of any occupation taxes and any regulatory fees due.

**Sec. 12-521. Information concerning employees to be filed with the City.**

It shall be the duty of all persons holding a license under this article to file with the City Finance Department the names of all employees, their home addresses, home telephone numbers and places of employment. Changes in the list of employees with the names of new employees must be filed with the City within three days from the date of any such change.

**Sec. 12-522. Record of treatments to be kept.**

It shall be the duty of any person granted a license under this article to maintain correct and accurate records of the names and addresses of the persons receiving treatment at an establishment, the type of treatment administered, and the name of the employee administering the treatment. The records shall be subject to inspection at any time by any duly authorized City employee or agent.

**Sec. 12-523. Grounds for suspension or revocation; notice; hearings; refund.**

- (a) No license which has been issued or which may hereafter be issued by the City to any licensee hereunder shall be suspended or revoked except for due cause as defined in this



division, except that the suspension or revocation of the State permit or license shall cause the City license to be suspended or revoked automatically.

- (b) Due cause for the suspension or revocation of the license shall consist of the violation of any laws or ordinances regulating the business, or violation of regulations made pursuant to authority granted for the purpose of regulating the business.
- (c) The City Chief Financial Officer is delegated the authority to suspend any license issued under this division for due cause in any emergency situation and said suspension may be made effective immediately and remain in force until the next session of the Municipal Court.
- (d) When a license is revoked under any of the provisions of this section, the City shall not be required to refund any portion of the occupation tax or regulatory fee.

**Sec. 12-524. Patronage of establishments by minors.**

- (a) *Restricted.* It shall be unlawful for any person under the age of 18 to patronize any body art establishment unless that person carries with him or her, at the time of the patronage, a written order directing the treatment to be given signed by a licensed physician or unless that person carries the written permission of their parent or legal guardian.
- (b) *Duty of operator.* It shall be the duty of the operator of the establishment to determine the age of the persons patronizing the establishment, and a violation of this section shall be grounds for revocation of the license of the establishment.

**Sec. 12-525. Treatment by unlicensed persons to be given only under supervision of license holder.**

Tattoo treatments may be given by persons not holding a license as a body artist or practitioner, provided that the treatments are given under the direct supervision of a person having such a license, and further provided that a person holding the license shall be in the same room where the treatment is being administered during the entire time of the giving of the treatment.

**Sec. 12-526. Hours of operation.**

No body artist shall engage in the business or profession except within and between the hours of 8:30 a.m. and 10:00 p.m. nor shall any operator of a body artist studio, parlor, establishment or business operate the same except within and between the aforesaid hours.

**Sec. 12-527. Signed copy of ordinance to be filed with license application.**

A signed copy of the ordinance from which this division is derived shall be filed with any license application.

**Sec. 12-528. Regulatory fee.**

To perform the investigation required by this division, the operator shall pay the City a regulatory fee of \$300.00 at the time the application is filed.

**Secs. 12-529—12-549. Reserved.**

*DIVISION 16. SOLICITING*

**Sec. 12-550. Intent.**

The intent of the City Council in enacting this division is to regulate the sale of goods and services by canvassing, soliciting, or peddling at residences in the City, to the end that criminal activity in the City and abusive techniques utilized by any such canvassers, solicitors or peddlers which adversely affect the public health, safety, and welfare in the City will be curtailed. This division is not intended as a de facto prohibition of door-to-door solicitation, nor is it an attempt to adversely affect interstate commerce. Instead, this division is intended to balance competing interests, reduce criminal activity and protect City citizens from abusive sales techniques versus the conduct of proper commercial sales activity. This division is not intended to allow any business activity which would otherwise be unlawful.

**Sec. 12-551. Definitions.**

For purposes of this division, the terms "canvasser," "solicitor" or "peddler" include any person who solicits orders door-to-door or house-to-house on behalf of a business, entity, individual, vocation or occupation.

**Sec. 12-552. Exempt activities or organizations.**

- (a) Persons, businesses and organizations exempted from local regulation by operation of State or federal law or by the Constitution of the United States, or of the State, are exempt from the requirements of this division.
- (b) Bona fide charitable or nonprofit organizations whose field sales representatives are under the age of 15 are not required to obtain an occupation tax certificate, canvasser's or solicitor's permit.
- (c) Federal, State or local government employees or public utility employees in the performance of his or her duty for his or her employer.

**Sec. 12-553. Occupation tax certificate required, application.**

- (a) All persons, firms, companies, corporations or other entities engaging or offering to engage in business as a canvasser, solicitor or peddler involving going from door-to-door or house-to-house, without an appointment or invitation, in residential areas or

businesses of the City, for the purpose of soliciting orders, sales, subscriptions, or conducting business of any kind, shall file an application in the required form, and obtain a permit for such activity from the City Chief Financial Officer. Provided, however, that nonprofit agencies, entities, or organizations which are certified as exempt from payment of U.S. Income Taxes by the Internal Revenue Service may canvass or solicit without permits, upon registering with the City Finance Department and furnishing the City written confirmation of their tax exempt status and a list of their representatives including names, addresses, date of birth, and telephone numbers.

- (b) The application shall include but shall not be limited to the following information:
  - (1) Full name, date of birth, and address of applicant.
  - (2) Full name(s), date(s) of birth, of any other person(s) having an ownership interest in the proposed business. In the case of a corporation, this list shall include owners of 20 or more percent of the common or preferred stock.
  - (3) Full names, dates of birth, and titles of corporate officers where appropriate.
  - (4) Full name, address, telephone number, date of birth, title, of individuals to be employed.
- (c) It shall be the duty of all persons holding a permit under this section to annually file, along with the renewal application for the permit, the names, home address, home telephone number, date of birth, Social Security number and place of employment for all employees so engaged in canvassing, soliciting or peddling.

**Sec. 12-554. Work permits required, annual list.**

- (a) Prior to the issuance of an entity permit, a work permit shall be required for individual owner(s), manager(s) and employee(s).
- (b) Applications for work permits shall be submitted to the Finance Department. The application shall be submitted along with a fee of \$25.00. The application shall include the following information: full name, home address, home telephone number, date of birth and Social Security number. The Finance Department shall conduct a background check and shall issue permits subject to the requirements and limitations contained in sections 12-555 and 12-557.
- (c) If an application for a work permit is denied for any reason, the applicant will be notified in writing of such denial and the reason for the denial. The applicant may appeal the decision of the Finance Department to the City Manager. Such appeal shall be by written petition, filed in the office of the City Chief Financial Officer within 15 days after the final order or action of the Finance Department and in order to defray administrative costs, must be accompanied by a filing fee of \$50.00.

**Sec. 12-555. Applicant disqualification.**

No entity permit or work permit shall be granted to any person under the age of 18 or who has been convicted, pled guilty or entered a plea of nolo contendere under any federal, state or local law of any crime involving moral turpitude, illegal gambling, any felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, any theft or violence against person or property, any crime of possession or sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under state law, criminal solicitation to commit any of these listed offenses, attempts to commit any of these listed offenses, for a period of ten years prior to the date of application for such certificate or work permit and has been released from parole or probation.

**Sec. 12-556. General operating provisions.**

It shall be the duty of any person granted a permit under this division to maintain correct and accurate records concerning proposed method of operation in the City, including the dates and times and area of operation, and employee's assignments by geographic area and dates. Such record shall be kept for a minimum of 12 months beyond the expiration date of the permit and shall be made available for inspection by city employees or agents. A copy of such record shall be forwarded to the City Chief Financial Officer or his or her designee quarterly.

**Sec. 12-557. Suspension or revocation of permit.**

- (a) The work permit or entity permit of any canvasser, solicitor or peddler charged with any felony, criminal trespass, public indecency, misdemeanor involving any type of sex crime, theft or violence against person or property, criminal solicitation to commit any of these offenses, or violation of this chapter or any other City ordinance while canvassing or soliciting shall be deemed suspended and subject to seizure from the time of lawful arrest, or an arrest for any violation of the Georgia Criminal Code by any law enforcement agency within Gwinnett County. Such suspension shall remain in effect until the canvasser, solicitor or peddler is convicted or acquitted, or until the charge is dismissed, "dead-docketed," "nolle prossed," or "no-billed." It shall be the responsibility of the canvasser or solicitor to present the Finance Department with proof that the arrest which led to the suspension was dismissed, "dead-docketed," "nolle prossed," or "no-billed." Upon presentation of proof of such dispositions, the permit or the canvasser or solicitor permit will be reinstated and will be valid until date of original expiration.
- (b) The permit of any canvasser, solicitor or peddler who is convicted, has entered a plea of guilty, or has received a nolo contendere to a felony, criminal trespass, public indecency, misdemeanor involving any type of sex crime, theft or violence against person or property, or criminal solicitation to commit any of these offenses, shall be deemed

revoked and subject to seizure by the City from the time of such conviction, guilty, or nolo contendere sentencing.

- (c) The permit of any canvasser, solicitor or peddler who is convicted, has pled guilty, or received nolo contendere sentencing for any violation of this chapter shall be deemed revoked and subject to seizure by the City from the time of such sentencing.
- (d) If a permit is denied, revoked or suspended for any reason, the applicant will be notified in writing of such denial and the reason for the denial. The applicant may appeal the decision to deny, revoke or suspend the certificate or permit to the City Manager. Such appeal shall be by written petition, filed in the office of the City Chief Financial Officer within 15 days after the final order or action of the Finance Department and in order to defray administrative costs, must be accompanied by a filing fee of \$50.00.

**Sec. 12-558. Unlawful or prohibited activities.**

The following are prohibited practices for canvassers, solicitors, and/or peddlers and any violation shall constitute grounds for suspension, revocation, or denial of renewal of permit, and/or arrest:

- (1) Canvassing, soliciting or peddling on Sunday, or between the hours of 9:00 p.m. and 9:00 a.m. Monday through Saturday.
- (2) Canvassing, soliciting or peddling at any location where a sign is posted at or near the main entrance or driveway to the residence or business prohibiting such activity.
- (3) Using any entrance, or part of the building, other than the main entrance to the residence or business.
- (4) Entering a residence except at the express invitation of the occupant.
- (5) Failure of the canvasser, solicitor or peddler to inform the occupant in plain terms of the purpose of the call.
- (6) The canvasser, solicitor or peddler to represent that they are participating in any contest, game or other competitive endeavor, or that they are offering the occupant an opportunity to participate in any such contest, game or endeavor.
- (7) The canvasser, solicitor or peddler to use vulgar, insulting or threatening language in the course of any solicitation.
- (8) The canvasser, solicitor or peddler to remain upon the property of the residence or business after the occupant has verbally indicated that they do not wish to make a purchase or donation. For the purpose of this chapter, a solicitation shall be deemed to continue until the solicitor has left property of the residence or business.
- (9) Canvassing, soliciting or peddling anyone under the age of 18 years.

- (10) Failure of canvasser or solicitor to have a valid permit prominently displayed on their person (upper front portion of the body commonly referred to as the top of the shoulders down to the waist) or refuse any customer or prospective customer's request to examine same. All canvassers or solicitors of nonprofit organizations who solicit funds without a permit shall have prominently displayed documentation identifying themselves, their organization including tax exempt status, and shall not refuse any customer or prospective customer the right to examine same upon request. Except that canvassers or solicitors of nonprofit organizations who are under the age of 15 are not required to display or produce for examination any documentation.
- (11) For more than two canvassers, solicitors or peddlers to engage in solicitation upon any residence or business at the same time for the same goods or services.
- (12) Canvasser, solicitor or peddler to make more than one solicitation call at the same residence within any consecutive two-week period without receiving prior invitation from the occupant of such residence.
- (13) Canvasser, solicitor or peddler to violate any of the provisions of this article, or to violate any other applicable county ordinance while engaging in any of the activities described.
- (14) Canvasser, solicitor or peddler to engage in any of the conduct described in this article during a period in which their permit is denied, suspended, or revoked.
- (15) Canvasser, solicitor or peddler to lend, rent, or sell their permit card to another, or canvass or solicit using the permit card of another.
- (16) The canvasser, solicitor or peddler to deviate from the stated guidelines as set out in the permit application or amendments thereto filed by applicant.

**Secs. 12-559—12-584. Reserved.**

*DIVISION 17. RESERVED*

**Secs. 12-585—12-615. Reserved.**

*DIVISION 18. SOLICITATION OF CONTRIBUTIONS ON STREETS AND HIGHWAYS BY CHARITABLE ORGANIZATIONS*

**Sec. 12-616. Registration and permit; qualifications.**

- (a) *Registration and permit.* Any person who wishes to organize, form, or conduct a solicitation of contribution on streets and highways within the City shall be required to apply for a permit for such activity at least seven days in advance of the date on which

the solicitation shall take place and to obtain a permit therefor. A separate application shall be required for each day of soliciting.

- (b) *Qualifications.* In order to receive such permit, the applicant must produce evidence satisfactory to the City that the organization is a charitable organization registered in accordance with O.C.G.A. § 43-17-5 or is a charitable organization exempt from such registration in accordance with O.C.G.A. § 43-17-9. The City shall not process any application which does not contain certification of the registration or exemption of the charitable organization.

**Sec. 12-617. Application; review of application; disposition; waiver.**

- (a) *Application.* The application for a permit to conduct such solicitation shall be made to the Finance Director who shall consult with the Police Chief in writing, shall be signed by the person responsible for supervising the solicitation, and shall contain the following information:
  - (1) The proposed date and time of the solicitation;
  - (2) The proposed location of the solicitation;
  - (3) The number of persons who are expected to participate in the solicitation, the name and address of each participant, and an executed agreement from each participant agreeing to hold harmless and indemnify the City;
  - (4) The name and address of the person or organization sponsoring or promoting the proposed solicitation;
  - (5) A certificate of insurance demonstrating that the organization sponsoring or promoting the proposed solicitation maintains general liability insurance in an amount not less than \$1,000,000.00, together with a certificate showing the City of Lawrenceville as a holder of the policy or an additional named insured;
  - (6) The name, address and phone number of the person making the application for a permit.
- (b) *Review of application.* The City shall review the information set forth in the application and ascertain the following: the extent of vehicular and pedestrian traffic anticipated at the time and place and on the route of the proposed solicitation; whether or not, in light of all circumstances the proposed solicitation will reasonably burden or interfere with the normal use of the streets or sidewalks of the City by the general public. The City shall consider the risk involved in soliciting to the participants and to others using the streets of the City in the selected areas.
- (c) *Disposition.* In the event the City determines, in view of all the circumstances, that the proposed solicitation will unreasonably burden and interfere with the normal use of the streets or sidewalks of the City by the general public, the City shall deny the request for a permit. If the City determines on the contrary that the proposed solicitation will not

unreasonably burden or interfere with the normal use of the streets or sidewalks of the City by the general public, the City may grant the permit. In either case, the City shall indicate its disposition on the application in writing and shall notify the applicant of the action taken.

**Sec. 12-618. Conduct during solicitation.**

Each person participating in the solicitation shall wear reflective clothing and shall wear vests, hats or other material to identify the group soliciting. The applicant shall further post adequate notices at least 500 feet in front of the solicitation warning oncoming vehicular traffic of the presence of the solicitation.

**Sec. 12-619. Revocation of permit.**

Every permit issued under this division is subject to the right, which is hereby expressly reserved, to revoke the same should any solicitation occur contrary to the provisions of this division, any other ordinance of the City of Lawrenceville, the laws of the State of Georgia, or the public safety and welfare as determined by the City.

**Sec. 12-620. Penalty.**

Any applicant, participant, person or organization violating the provisions of this division, in addition to the revocation of his, her, or its license, shall be liable for a fine or penalty not less than \$200.00 no more than \$1,000.00 for each offense and up to six months of imprisonment.

**Sec. 12-621. Repeal of conflicting laws.**

All existing ordinances of the City of Lawrenceville are hereby repealed insofar as they may be inconsistent with the provisions of this division.

**Secs. 12-622—12-645. Reserved.**

*DIVISION 19. RESERVED*

**Secs. 12-646—12-669. Reserved.**

*DIVISION 20. Reserved.*

**Secs. 12-670—12-700. Reserved.**

*DIVISION 21. PRECIOUS METALS DEALERS*



### **Sec. 12-701. Definitions.**

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

*Nonpermanent location* means any location used to conduct business in a temporary location or for a limited time. The term "nonpermanent location" includes, but is not limited to, moveable vehicles, temporary or moveable structures, tents, awnings, hotels or motels and the like.

*Permanent location* refers to a business domiciled within a properly constructed building located within an area zoned for such business.

*Precious metals* means any metals, including, but not limited to, in whole or in part, silver, gold and platinum.

*Precious metals dealer* means any person, partnership, sole proprietorship, corporation, association or other entity engaged in the business of purchasing, bartering or acquiring in trade any precious metals from persons or sources, other than from manufacturers of or licensed dealers in precious metals, for re-sale in its original form or as changed by melting, reforming, remolding, or for re-sale as scrap or in bulk.

### **Sec. 12-702. Hours and method of operation.**

The hours during which precious metals dealers may conduct business shall be from no earlier than 7:00 a.m. to no later than 9:00 p.m. If dealing in precious metals is ancillary to the principal business, this provision shall only apply to dealings in precious metals and not to other portions of the business. Precious metals dealers may only operate from a permanent location. Conducting business as a precious metals dealer in any nonpermanent location shall constitute a violation of this section.

### **Sec. 12-703. License required, supplementary to business license or occupational tax.**

All persons, before beginning the business of operating a precious metal dealer business, shall first file an application with the City of Lawrenceville for an annual precious metals dealer license to conduct such business. The issuance of said precious metals dealer license shall be a requirement in addition to a business license or occupation tax certificate required by the City of Lawrenceville.

- (1) *Form of application.* The application for a precious metals dealer license shall be completed on a form prescribed by the City. At minimum, the application shall include the physical address at which the business is proposed to be operated and the full name, address, phone number, date of birth, photograph and social security number of managerial employees of the business. Additionally, the permit shall list

the owner of the business. In the event the business is owned by a partnership or corporation, the partners or officers and registered agent shall be listed.

- (2) *License fee; separate license required for each physical location.* The completed form must be accompanied by an application and license fee of \$100.00. In the event an owner has more than one physical business location, each location will be required to obtain a separate license. The application fee is nonrefundable in the event the applicant, for any reason, is not issued a license, business license, or occupational tax certificate.
- (3) *Background check required.* Upon receipt of the application and fee, the City shall conduct a background check on the applicant. A precious metals dealer license may not be issued where the applicant has been convicted, plead guilty, or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, any felonies, or any crime involving theft or fraudulent practices within a period of ten years immediately prior to the filing of such application.
- (4) *Falsified applications.* No license shall be issued if it is found that the applicant falsified, concealed or misrepresented any material fact in the application.
- (5) *Denial of license; appeal process.* If an application for a precious metals dealer license is denied for any reason, the applicant will be notified in writing of such denial and the reason for the denial. The applicant may appeal the decision of the Chief Financial Officer to the City Manager. Such appeal shall be by written petition, filed in the office of the City Clerk within 15 days after the final order or action of the Chief Financial Officer and in order to defray administrative costs, must be accompanied by a filing fee of \$100.00.
- (6) *Renewal.* Owners are required to renew the license upon expiration thereof and shall be required to pay a renewal fee of \$100.00.
- (7) *Replacement license.* In the event a license is lost or destroyed, a replacement license may be issued for the unexpired term of the initial license.
- (8) *Display of license.* Operators of precious metals dealer businesses shall conspicuously display the license at all times while the business is in operation.
- (9) *License issued in error; license the property of the City.* Any precious metals dealer license issued through administrative oversight or error may be terminated and seized by the City. All precious metals dealer licenses remain the property of the City of Lawrenceville. Upon notice by the City, the holder of a precious metals dealer license must surrender said license.
- (10) *Suspension or revocation of license; appeal.* The Chief Financial Officer or his or her designee may suspend or revoke any license issued under this section for falsifying an application, violation of this section, or if the applicant has otherwise become

ineligible to hold a license under this section. The license holder may appeal the decision of the Chief Financial Officer to the City Manager.

- (11) *Exclusions.* Businesses holding a valid pawn license issued in accordance with division 7 of this chapter shall not be required to obtain a separate precious metals dealer license.

**Sec. 12-704. Work permits required of employees.**

No person shall be employed by a precious metals dealer in any capacity that receives precious metals from others, other than from manufacturers of or licensed dealers in precious metals, until such person has obtained a work permit from the City.

- (1) *Form of application; fee required.* An application for a work permit shall be made on a form prescribed by the Police Chief or his designee. Such application form shall include, at a minimum, the applicant's name, date of birth, and social security number. The applicant must also provide positive identification (only official government-issued pictured identification accepted, e.g., driver's license, passport, military card, or State-issued identification card) at the time of application.
- (2) *Fee for permit.* The completed permit application form must be accompanied by an application and permit fee of \$100.00. The application fee is nonrefundable.
- (3) *Background check required.* Upon receipt of the application and fee, the City shall conduct a background check on the applicant. A permit may not be issued where the applicant has been convicted, plead guilty, or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, any felonies, or any crime involving theft or fraudulent practices within a period of five years immediately prior to the filing of such application.
- (4) *Falsified applications.* No permit shall be issued if it is found that the applicant falsified, concealed or misrepresented any material fact in the application.
- (5) *Denial of permit; appeal process.* If an application for a work permit is denied for any reason, the applicant will be notified in writing of such denial and the reason for the denial. The applicant may appeal the decision of the Chief Financial Officer to the City Manager. Such appeal shall be by written petition, filed in the office of the City Clerk within 15 days after the final order or action of the Police Department and in order to defray administrative costs, must be accompanied by a filing fee of \$50.00.
- (6) *Renewal.* Permit holders are required to renew the permit upon expiration thereof and shall be required to pay a renewal fee of \$50.00.
- (7) *Replacement permit.* In the event a permit is lost or destroyed, a replacement permit may be issued for the unexpired term of the initial license upon the payment of a permit replacement fee of \$20.00.

- (8) *Permit in possession while working; inspection by City.* Permit holders must have a valid permit on their person at all times while working within a precious metals dealer establishment. The permit shall be displayed upon the request of a designated employee or agent of the City.
- (9) *Permits issued in error; permit the property of the City.* Any work permit issued through administrative oversight or error may be terminated and seized by the City. All permits remain the property of the City of Lawrenceville. Upon notice by the City, the holder of a permit must surrender said permit.
- (10) *Suspension or revocation of permit; appeal.* The City may suspend or revoke any permit issued under this section for falsifying an application, violation of this section, or if the applicant has otherwise become ineligible to hold a license under this section. The permit holder may appeal the decision of the Chief Financial Officer to the City Manager.
- (11) *Exclusions.* Persons whose work is substantially that of a precious metals dealer who work at a pawnshop as defined in section 12-200 are not required to have a precious metals work permit in addition to the pawn work permit.

**Sec. 12-705. Records of transactions; required information; method of transmittal.**

Engaging in the business of dealing in precious metals within the City limits of Lawrenceville is hereby declared to be affected with the public interest due to the opportunity it affords for the disposal of stolen property. In the public interest and as set forth in this section, all precious metal dealers shall document all transactions as required by this division. A transaction number will be assigned to every transaction to document the transaction.

- (1) *Identification of persons pledging items.* Employees of precious metals dealers shall require all persons pledging, trading, pawning, exchanging, or selling precious metals to show proper identification prior to conducting a transaction. For purposes of this section, the term "proper identification" consists of a government-issued identification document, such as a driver's license, state identification card, military identification card or passport.
- (2) *Required documentation of identifying data.* Employees of precious metals dealers shall document the name, address, telephone number, race, gender, height, weight, driver's license number, date of birth, social security number, and identifying number from the presented identification of the person pledging, trading, pawning, exchanging, or selling precious metals along with the date and time of the transaction. This documentation shall be made at the time of the transaction.
- (3) *Photographs required.* Employees of precious metals dealer shall photograph all persons pledging, trading, pawning, exchanging, or selling precious metals. Such photograph will be made with a digital camera or web camera. Such photograph

shall clearly show a frontal view of the subject's face along with the precious metals dealer transaction number. Additionally, photographs of the items being pledged, traded, pawned, exchanged or sold shall be made. The photographs shall be appended to the record of the transaction in a manner prescribed by the City.

- (4) *Fingerprint and signature required.* Employees of precious metals dealers shall obtain from all persons pledging, trading, pawning, exchanging, or selling property the fingerprint of the right hand index finger. The fingerprint shall be appended to the record of the transaction in a manner prescribed by the City. The subject shall also sign the transaction. In the event the indicated finger is missing, the next finger available on the right hand will be used and the finger used will be noted on the transaction record. If the right hand is amputated, congenitally deformed, or otherwise unavailable due to medical condition, the left hand may be used and noted on the record. If neither hand is available due to medical condition, amputation or congenital deformity, that fact will be noted on the transaction record. Fingerprints and the information required in this section shall be obtained each time such person pledges, trades, pawns, exchanges, or sells any precious metals.
- (5) *Accurate property descriptions required.* Employees of precious metals dealers shall document an accurate description of all items pledged, traded, pawned, exchanged or sold to the precious metals dealer. Such description shall include, at a minimum and to the extent possible, manufacturer, model, serial number, style, material, kind, color, design, number of stones (if jewelry), and any identifying names, marks, numbers or engravings.
- (6) *Tags required.* Each item received by a precious metals dealer as a pledge, trade, pawn, exchange, or purchase shall be tagged with the transaction number. Such tag must remain attached to the item until the item is disposed of by sale, trade or other lawful means.
- (7) *Wholesale purchases excluded.* The requirements of this section shall not apply to property purchased from licensed wholesale or distributor businesses for the purpose of retail sale; however, the precious metals dealer employees shall maintain purchasing records for property exempted under this subsection while the property remains in inventory.
- (8) *Special requirements for new or unused goods.* Items of property that appear to be new, unused, and in their original packaging may not be accepted by a precious metals dealer unless the customer can supply a copy of the original sales receipt or other proof of purchase. Precious metals dealers shall retain a copy of such receipt or proof of purchase on file while the item is in inventory.
- (9) *Entry of transactions for electronic transmittal.* Each precious metals dealer shall enter each transaction into the electronic automated reporting system as it occurs.

In the event the electronic transmittal system is unavailable, precious metals dealers shall make records in paper form as prescribed by the Chief Financial Officer. Such paper forms shall include all information otherwise required. Precious metals dealers shall keep a supply of paper forms available at all times.

- (10) *Automated reporting system; mandatory use.* The Chief Financial Officer shall select and designate an automated electronic reporting system for use by precious metals dealers to record and transmit transactions. The precious metals dealer will be assessed a fee for each transaction entered into the system. This fee may be assessed to the person pledging, trading, pawning, exchanging, or selling property. Said fee will be collected by the Chief Financial Officer or his or her designee, which may be a third-party administrator of the automated reporting system.

**Sec. 12-706. Retention of property; storage; police holds.**

- (a) All property received through any precious metals dealer transaction shall be held for at least 30 days before being disposed of by sale, transfer, shipment, smelting, reforming, reshaping or otherwise.
- (b) All property pledged, traded, pawned, exchanged or sold to the precious metals dealer shall be held and maintained on the premises of the licensed precious metals dealer that completed the transaction, or, if impractical, at such other location as may have been previously approved in writing by the Chief Financial Officer or his or her designee. No off-site locations will be approved which are outside of the City limits of Lawrenceville.
- (c) The Lawrenceville Police Department shall have the authority to place property that is the subject of a law enforcement investigation on police hold. In that event, the Police Department shall notify the precious metals dealer of the need for the police hold and identify all property subject to the police hold. Such notification may be made verbally; however, written notice shall be provided within 24 hours of the verbal hold. Upon notification, it shall be the responsibility of the precious metals dealer to maintain the subject property until such time as the property is released from the police hold or the property is confiscated as evidence.

**Sec. 12-707. Dealing with minors.**

It shall be unlawful for any precious metals dealer, his agents or employees, to receive, from minors, goods of any character or description. A minor, for the purpose of this section, is an individual under the age of 18.

**Sec. 12-708. Responsibility for enforcement.**

The Finance Department shall have the responsibility for the enforcement of this section. Sworn officers of the Lawrenceville City Police Department, and civilian employees designated by the Chief Financial Officer shall have the authority to inspect establishments

licensed under this section during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this section and State law.

**Sec. 12-709. Penalty for violation.**

Any person, firm, company, corporation or other entity who violates any provision of this division may be subject to arrest or summoned to appear in the Lawrenceville Municipal Court and, upon conviction or other finding of guilt, may be punished by a fine of up to \$1,000.00- or six-months imprisonment, or both.

*DIVISION 22. ESTATE SALES*

**Sec. 12-710. Definitions.**

*Estate sale* means the sale of personal property, which is open to the public and conducted from or on any property located on any residential lot by an individual, company, firm, corporation or other entity for a profit and on behalf of another person or persons. The term "estate sale" shall not include yard sales, garage sales or carport sales which are conducted directly by individuals who own the goods or merchandise to be sold.

*Personal property* means any property which is owned, utilized and maintained by an individuals and acquired in the normal course of living in or maintaining a residence. Such term includes, but is not limited to, clothing, furniture, jewelry, artwork, household items, dishes, antiques and other similar goods owned by the person or persons who reside or formerly resided in the residence where such estate sale is to take place.

**Sec. 12-711. Permit required.**

It shall be unlawful for any person or entity to conduct an estate sale without first having obtained a license from the City of Lawrenceville. There shall be no fee charged for such permit; however, no permit will be granted unless all requirements set forth herein have been met.

**Sec. 12-712. Application for permit.**

At least five business days prior to the start date of an estate sale, the person or entity seeking to conduct such sale shall file a written application with the City of Lawrenceville Police Department, setting forth the following information:

- (1) Full name and address of the person or entity seeking the permit;
- (2) The address of the proposed estate sale;
- (3) The dates and times which the proposed sale will take place;
- (4) The estimated value of the goods to be sold;

- (5) The estimated number of attendees;
- (6) A traffic and parking plan detailing the proposed method for controlling traffic in order to ensure the flow of vehicular traffic will not be impeded during the proposed sale; and
- (7) An affirmative statement that the goods to be sold are owned by the person or persons with whom the applicant has contracted to conduct the sale, and that such goods were not acquired for the purposes of resale.

**Sec. 12-713. Number and duration.**

No estate sale shall be permitted on any premises more than two times in any 12-month period. A second sale on one premises shall not begin until at least 30 days after the last day of the first sale. Each estate sale shall be limited to four consecutive days and shall be allowed only between the hours of 8:00 a.m. and 6:00 p.m.

**Sec. 12-714. Display area.**

All personal property offered for sale shall be displayed within the residence, garage, carport or rear yard. However, a vehicle offered for sale may be displayed on the paved driveway within the front yard.

**Sec. 12-715. Conditions of permit.**

Any estate sale permit issued to an applicant shall be subject to the following additional conditions:

- (1) Parking of motor vehicles is restricted to one side of the street, and where practical, shall be restricted to the same side of the street which the sale will be conducted.
- (2) No permit holder shall allow vehicles to impede the passage of traffic on any roads or streets in the vicinity of the sale. Permit holders shall report to the Police Department any vehicles which are parked in violation of this division.
- (3) Permit holders shall keep the streets, sidewalks and general vicinity of the sale location free from trash and litter.
- (4) No permit holder shall permit any loud or boisterous conduct on or near the premises.
- (5) No permit holder shall permit persons to line up or congregate, either on foot or in automobiles, prior to the start of the estate sale.
- (6) All signs advertising an estate shall meet the requirements of article 7 of the City of Lawrenceville Zoning Ordinance.
- (7) Such further conditions as the City shall deem necessary to ensure the general health, safety and welfare of the public.



**Sec. 12-716. Revocation of permit.**

- (a) Any permit issued under this division may be revoked or any application for issuance of a permit may be refused by the City if the application submitted by the applicant or permit holder contains any false, fraudulent or misleading information or statements.
- (b) The City may revoke any estate sale permit and order the sale stopped upon a determination that any of the conditions of this division have been violated.