

Chapter 8

BUSINESS♣

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ARTICLE 8-1. BUSINESS LICENSES♣ ♣

Sec. 8-1-1. Definitions.

In this chapter, unless the context otherwise requires:

Business means any activity, trade, calling, profession, or occupation, whether a sole proprietorship, partnership, corporation, limited liability company or other recognized entity, which regularly provides delivery of products and/or services from an address or other location(s) within the corporate limits of the City of Show Low. Business does include a distributor/wholesaler with a business location within the corporate limits of the City of Show Low, but does not include a distributor/wholesaler located outside the city's corporate limits. Business does not include public schools, churches, amateur athletic teams or other similar organizations. Business includes "home occupations" as defined by the City of Show Low Zoning Ordinance.

- (1) *Permanent business* means a business use which occurs for a period of more than six months in any twelve (12) month period.

♣ **Cross references**—Ordinances, resolutions, franchises and contracts, Art. 2-5; tax code, Ch. 8A; economic development, Ch. 21.

♣ ♣ **Editor's note**—Sections 1 and 2 of Ord. No. 2003-08, adopted Sept. 2, 2003, amended Arts. 8-1 and 8-3 in their entirety and replaced them with Arts. 8-1 through 8-5 in their entirety. Section 3 of Ord. No. 2003-08 renumbered Art. 8-2, regarding licensing sexually oriented businesses, to Art. 8-6. Previously, Art. 8-3 pertained to business licenses in general. Ord. No. 2003-08 created new provisions for temporary peddlers, solicitors and transient merchants in Art. 8-3; special events in Art. 8-4; and carnivals in Art. 8-5. Art. 8-2 regarding home occupations was copied from §15-1-44(M). Prior to the adoption of Ord. No. 2003-08, Section 1 of Ord. No. 386, adopted June 6, 1995, repealed §§ 8-1-1 - 8-1-16 in their entirety. Formerly, §§ 8-1-1 – 8-1-16 pertained to peddlers and derived from the 1985 Code, and Section 3 of Ord. No. 386 added §§ 8-1-1 – 8-1-14.

- (2) *Temporary business* means a temporary business use which occurs for a period of less than six months in any twelve (12) month period.

Carnival shall mean and includes circuses, menageries, side show, and other similar amusement enterprises which are open to the public. The term "carnival" as used herein shall include rides, merry-go-rounds, booths for the conduct of games of skill, food dispensing facilities, and side shows.

Department means the City of Show Low planning and zoning department.

Distributor/wholesaler means a person or business who sells or distributes goods to retailers for resale, only. A distributor/wholesaler shall not include a person or business who sells goods direct to the public. A person or business who sells or distributes goods both to resellers and the public does not qualify as a distributor/wholesaler for purposes of this chapter.

Drug means any narcotic drug, dangerous drug, marijuana or peyote as defined by state statute.

Drug paraphernalia means:

- (1) All equipment, objects, devices, instruments, products and materials of any kind which are primarily used, intended for use, adapted, or designed and marketed for use in ingesting, inhaling or otherwise introducing a drug into the human body. It includes:
- (a) Metal, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls; and
 - (b) Any pipe characterized by a bowl which is so small, or of such a material or other design characteristic, that the primary use for which it is reasonably adapted, marketed or designed for is the smoking of drugs, rather than tobacco, with or without a screen; and
 - (c) Water pipes; and
 - (d) Carburetion tubes and devices; and
 - (e) Smoking and carburetion masks; and
 - (f) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand; and

- (g) Miniature cocaine spoons with level capacities of one-tenth cubic centimeter or less and cocaine vials; and
 - (h) Chamber pipes; and
 - (i) Carburetor pipes; and
 - (j) Electric pipes; and
 - (k) Air-driven pipes; and
 - (l) Chillums; and
 - (m) Bongs; and
 - (n) Ice pipes or chillers.
- (2) In determining whether an object is drug paraphernalia for purposes of this chapter, a court or other authority may consider, in addition to all other logically relevant factors, the following:
- (a) Statements made by anyone in control of the object concerning its use;
 - (b) Instructions, oral or written, if any, provided with the object concerning its use;
 - (c) Descriptive materials, if any, accompanying the object that explain or depict its use;
 - (d) The manner and context in which the object is promoted, marketed, or displayed for sale;
 - (e) Prior convictions, if any, of any owner or anyone in control of the object under any local, state or federal law relating to any drug or including but not limited to paraphernalia;
 - (f) Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business;
 - (g) The proximity of the object to other items of drug paraphernalia;
 - (h) Advertising concerning its use;
 - (i) Whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products; and

- (j) Expert testimony concerning its use; and
 - (k) The existence and scope of legitimate uses of the item in the community.
- (3) *Exceptions.* For purposes of this chapter, the definition of "drug paraphernalia" shall not apply to cigarette rolling papers and wooden pipes with large bowls and stems traditionally designed, marketed and intended for use with tobacco products, nor to public officers or employees while engaged in the performance of their official duties.

Fire district means the Show Low Fire district or other fire district, municipal fire department, as applicable.

Home occupation means a home occupation is any activity carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit. Home occupations shall be permitted in any residential zone upon the issuance of a home occupation permit and a business license from the City of Show Low.

License means a business license required, permanent or temporary, by this article.

Nonprofit organization means any association, business or other entity, organized and operated not for pecuniary profit and which has a letter or other document from the Internal Revenue Service verifying such nonprofit status.

Peddler means any person who conducts the business of selling goods, wares, merchandise, food or personal property of any nature whatsoever and who does not intend to establish a permanent business location within the city or who conducts such business by foot, cart, wagon, motor vehicle or any other type of conveyance from place-to-place, house-to-house, street-to-street, or business-to-business. Peddler shall not include a distributor/wholesaler.

Permit means a peddler's, solicitor's, transient merchant, special event vendor, carnival or a special event permit as described in this chapter.

Person means an individual, firm, sole proprietorship, partnership, joint venture, association, corporation, limited liability company or any other recognized entity acting as a unit, person shall apply in the plural as well as the singular number. Person includes subsidiaries of corporations or other businesses.

Planning and zoning director or director means the director of the city's planning and zoning department and his or her designee.

Police department means the police department of the City of Show Low.

Retailer means a person who buys products or goods from a producer, licensed manufacturer or a distributor/wholesaler for resale to a consumer only.

Solicitor means a salesman or peddler which takes or attempts to take orders for the sale and future delivery of goods, wares, merchandise, intangibles, personal property of any nature whatsoever or services to be furnished or performed in the future, rather than selling such items from inventory or stock currently in possession. A person may be a solicitor regardless of whether such person has, carries, or exposes for sale a sample of the subject of such order, and regardless of whether such person collects advance payment on such sales or orders. Solicitor shall not include a distributor/wholesaler.

Special event means, but is not limited to, holiday sales, show promoters and show vendors, temporary swap meets, art shows, festivals, religious revivals, political rallies, vehicle shows and displays, swap meets, rodeos, parades, marches, demonstrations and similarly recognized temporary activities. A special event may take place inside a temporary or permanent structure or outside. A special event shall not include weddings and funeral ceremonies, elections, private yard sales, fundraising-type car washes, and activities such as retail sales promotions that are otherwise lawfully conducted and which are in accordance with the provisions of the city's Zoning Regulations. A special event shall not include minor fundraising activities of public schools, churches, or other nonprofit organizations which have a minimal impact on surrounding properties. Any organization claiming nonprofit status shall possess a letter or other documentation from the Internal Revenue Service proving nonprofit status.

Transient merchant or vendor means any person who engages in temporary business of selling and delivering goods, wares, or merchandise within the city, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, public room in a hotel, lodging house, apartment, shop, or any street, alley or other place within the city for the exhibition and sale of such goods, wares, or merchandise either privately or at public auction. The person or firm so engaged shall not be relieved from complying with the provisions of this chapter merely be reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business with, as a part of, or in the name of any such dealer, trader, merchant or auctioneer.

Zoning Regulations means the City of Show Low Zoning Ordinance.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 2003-08, §§ 1-2, 9-2-03; Ord. No. 2004-12, § 1, 7-6-04)

Sec. 8-1-2. License required.

Except as specifically set forth herein, it is unlawful for any person to conduct any business from within the city boundaries without first obtaining a business license from

the city in accordance with this chapter. A distributor or wholesaler who maintains a business location within the boundaries of the City of Show Low shall be required to have a business license. Every distributor/wholesaler which does not have a physical location within the city boundaries and which does business only as a distributor or wholesaler as defined in this chapter shall not be required to have a license or permit as required by this chapter.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-1-3. Change of location.

A business which possesses a current business license shall notify the department of a change of address within ten (10) days of the change of address. Upon receipt of a notice of change of address, the department shall give notice of such change to the appropriate Fire district.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-1-4. Prohibited business locations and activities.

- (a) No person shall conduct business within the city in any structure or area where conducting such business is prohibited by state or federal law, by the city's zoning regulations, by the applicable fire code or by other applicable codes or regulations.
- (b) No permanent business shall use any location within a public or private street, nor shall an applicant be licensed to operate a business in any congested area where its operations might impede traffic or otherwise inconvenience the public.
- (c) It is unlawful for any person to offer for sale, display for sale, or sell drug paraphernalia. The sale of any drug paraphernalia in violation of this subsection is declared to be a public nuisance and may be abated as provided by law. This remedy is in addition to any other civil or criminal remedy provided by law, including the penalty provisions as set forth in Section 1-8-1(a) of this Code, and the business license suspension and revocation procedures set forth in Section 8-1-11.
- (d) Except as an accessory use to a resident of a single-family residence, and as provided in section 15-1-44(N), outside sales and displays for sale of household animals, including cats, kittens, dogs, and puppies, is prohibited.
- (e) It is unlawful for any person to conduct any business activity that is prohibited under any state or federal law.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 2003-08, §§ 1-2, 9-2-03; Ord. No. 2004-12, § 1, 7-6-04; Ord. No. 2007-19, §§ 1-2, 11-20-07, Eff. 1-1-08)

Sec. 8-1-5. Exemptions.

A business license shall not be required when:

- (a) Federal or state law precludes requiring a business license for the business.
- (b) The business is the sale of handmade or homemade goods, or food products by an owner, proprietor or tenant of agricultural lands, orchards, farms and gardens on which such food products are grown, raised or prepared for market, if the business is carried on within 30 miles from the location on which the product was grown or produced.
- (c) The activity is regulated by the requirements for peddlers, solicitors, transient merchants, special events, special event vendors or carnivals as set forth in this chapter.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 487, 03-06-01; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-1-6. Application/issuance of business license.

- (a) Applications for a business license shall be made on forms and in the manner prescribed by the department.
- (b) The business license application shall include all of the following information and such other information as the department deems reasonably necessary:
 - (1) Name of business.
 - (2) Name, date of birth and social security number of the applicant and relationship to the business or entity.
 - (3) Street and mailing addresses of each business location(s).
 - (4) A brief description of the nature and type of business.
 - (5) The type of business entity. If the business is a corporation or limited liability company, the state where formed and the statutory agent's name and address.
 - (6) A list of hazardous materials or hazardous wastes as defined by Title 49 USC Chapter 51 Section 5102 and amendments thereto which will be used or stored by the business.
 - (7) List of officers/owners/managers of the business and their addresses.
 - (8) The name and telephone number for the individual(s) who can be called in case of emergency. This should be a telephone that will be answered twenty-four (24) hours a day.

- (9) The length of time for which the right to do business is desired.
- (10) A copy of the Arizona Transaction Privilege Tax documentation (if applicable).
- (11) If the business is subject to a certificate of health or sanitary examination, the applicant shall produce such certificate or permit from the Navajo County Health Department, as provided for in Arizona Revised Statutes Section 36-136 as amended. This section shall also apply to all new or remodeled restaurants, bars or other businesses which serve food to the public located within the city limits.
- (12) Where any business specified in this chapter is subject to other federal, state or local licensing, registration or permit requirements, i.e., professional, medical, technical, contractors, real estate, etc., the applicant shall produce such license, registration or permit from the appropriate federal, state or local governmental authorities.
- (13) Any person applying for a business license shall submit the application along with the applicable application fee as established by resolution of the city council.

(c) Upon receipt of completed business license application, the department shall:

- (1) Check the information provided pursuant to this section.
- (2) Promptly give a copy of the business license application to the appropriate Fire district providing fire protection services to the property.
- (3) Promptly give a copy of the business license application to the City of Show Low police department which shall check for outstanding warrants on the applicant(s).
- (4) Issue or deny the license within five working days.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-1-7. Renewal of business license (permanent business).

A business license for a business shall be renewed each year on the renewal form prescribed by the department along with a renewal fee as established by the city council.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 487, 03-06-01; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-1-8. Inspections.

- (a) The director may inspect the premises of any business for conformance with this chapter.

- (b) Nothing in this chapter shall require any person or business to upgrade or undertake improvements to an existing building or structure to meet new requirements of the city Zoning Regulations or any other applicable code that would not otherwise be required by that Code. Likewise, a business license application shall not have any effect on a legal, nonconforming use as defined in the city Zoning Regulations. For example, a business currently operating under a legal, nonconforming use designation would be allowed to continue to carry on that business at the same location in accordance with the city Zoning Regulations.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-1-9. Records.

- (a) The department shall keep a record of all business licenses issued for a period of two years after the expiration of the license.
- (b) The department shall keep a record of all business licenses denied for a period of one year after the denial.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-1-10. Denial of application or revocation of a license.

The department shall have the power to deny applications and may refuse to issue a business license if the person applying for the license fails to comply with the requirements of this chapter. If the application for a business license is denied, the reasons for the denial shall be given within five days of the denial.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Cross reference—Duties of police department, § 4-1-5.

Sec. 8-1-11. Suspension/revocation.

- (a) Licenses issued under the provisions contained herein may be suspended or revoked by the Director after notice and a hearing before the Director for any of the following causes:
 - (1) Fraud, misrepresentation or false statements contained in a business license application.
 - (2) Failure to provide or maintain the certificates, licenses or registration required in sections 8-1-6(b)(11) and (12).

- (3) The business creates imminent danger to the public, or has caused serious injury or damage to person(s) or property and is likely to similarly endanger the public.
 - (4) Other violations of this chapter.
- (b) If the director has evidence to conclude that a suspension or revocation is authorized for the reasons set forth in subsection (a) of this section, the director may suspend the license immediately and shall give the applicant notice by certified mail of the suspension, and of a hearing to be held within ten (10) days to determine whether or not the license should be suspended or revoked. This notice shall contain a statement of the reason(s) for the proposed suspension and the suspension or revocation. Within three days after the hearing if the director determines that there is good and sufficient reason for the suspension or revocation of the business license, the director shall enter an order suspending or revoking the license and notifying the applicant of same by certified mail.
- (c) If the director intends to suspend or revoke a license for any of the reasons in subsection (a) of this section; except as authorized by subsection (b) of this section; the director shall give the applicant notice by certified mail sent to the licensee's last known address of a hearing to be held within ten (10) days to determine whether or not the license should be suspended or revoked. This notice shall contain a statement of the reason(s) for the proposed suspension or revocation. Within three days after the hearing, if the director determines that there is good and sufficient reason for suspension or revocation of a business license, the director shall enter an order suspending or revoking the license and notifying the applicant of same by certified mail.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-1-12. Appeal rights.

Within ten (10) days, excluding weekends and legal holidays, an applicant may appeal in writing to the board of adjustment from the refusal of the department to issue a license or permit under articles 8-1, 8-2, 8-3, 8-4 and 8-5 or from the suspension or revocation of any license or permit by the director.

- (a) The board of adjustment, upon receipt of a notice of appeal, shall determine whether or not to stay the revocation pending appeal; and shall set a time for hearing the appeal within thirty (30) days.
- (b) The appeal hearing shall be conducted in accordance with other appeals (zoning appeals for example) heard by the board of adjustment. The written decision of the board of adjustment shall be delivered/mailed to the parties within ten (10) days of the hearing.

- (c) Appeals from the board of adjustment shall be to the Navajo County Superior Court in accordance with Arizona law. Appeals to the Superior Court shall be filed within thirty (30) days of the date of the written decision of the board of adjustment.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-1-13. Exhibition of license or permit.

- (a) Every business, peddler, solicitor or transient merchant shall display its license or permit in a location conspicuous to the public at its place of business. Every business not having a fixed place of business, shall require its employees or agents to carry the license or permit, or a true facsimile thereof, at all times while carrying on that business for which the license or permit was granted.
- (b) Every special event sponsor or participant shall post the permit required by this chapter in a location conspicuous to the public during all hours of the special event.
 - (1) Every license or permit holder shall produce and exhibit its license whenever requested to do so by the director, by any police officer or by any other person. Failure to display, produce or exhibit the license, whether intentional or by neglect, shall be a violation of this chapter.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-1-14. License or permit not transferable.

No license or permit granted or issued pursuant to the provisions of this chapter shall be in any manner assignable or transferable to any other person or business. Upon the sale or other transfer of a business, a new application for business license or other permit shall be required.

(Ord. No. 386, § 3, 6-6-95; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-1-15. Enforcement and penalty.

It shall be the duty of the planning and zoning department and the Show Low police department to enforce this chapter. In addition to the denial, suspension or revocation of a license or permit as authorized in this chapter, the city may enforce this chapter by filing a complaint in the magistrate court. Any person found guilty of violating this chapter shall be punished in accordance with Article 1-8-1 of the Show Low City Code.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

ARTICLE 8-2. HOME OCCUPATIONS

Home occupations. A home occupation is any activity carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit. Home occupations shall be permitted in any residential zone upon the issuance of a home occupation permit and a business license from the City of Show Low subject to the requirements found in Chapter 15.

(Ord. No. 2003-08, §§ 1-2, 9-2-03; Ord. No. 2009-09, § 1, 6-02-09)

ARTICLE 8-3. TEMPORARY PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

Sec. 8-3-1. Permit required.

It is unlawful for any person to conduct any business which includes sales of goods or services to the general public as a peddler, solicitor or transient merchant without first obtaining a peddler's/solicitor's/transient merchant's permit. A permit card issued by the department shall be kept at all times by any person conducting business as either a peddler, solicitor or transient merchant and shall be surrendered upon request of the director (or designee) or any police officer of the city.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-3-2. Exemptions.

A person conducting sales required by statute, sales by order of any court or bona fide auction sales pursuant to Arizona law and distributors/wholesalers shall be exempt from the requirements of this article.

(Ord. No. 243, § 1, 12-17-85; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-3-3. Transient merchants.

A temporary permit may be issued to person(s) operating as a transient merchant for a limited time as determined by the director, but in no case greater than fourteen (14)

days within a sixty (60) day period, from the date of issuance. The time restriction, and expiration date, shall be clearly stated on the issued temporary permit.

(Ord. No. 243, § 2, 12-17-85; Ord. No. 298, 2-7-89; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-3-4. Peddlers and solicitors.

An annual permit may be issued to person(s) operating as peddlers or solicitors who meet all the criteria set forth in this article. An annual peddler's/solicitor's permit fee as established by resolution of the city council shall be required at the time of application.

(Ord. No. 243, § 3, 12-17-85; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-3-5. Application and issuance of peddler's/solicitor's permit.

Any person applying for a peddler's/solicitor's permit shall submit an application to the department containing the following information:

- (a) Application for a peddler's/solicitor's permit shall be made on forms and in the manner prescribed by the planning and zoning director.
- (b) The peddler's/solicitor's permit application shall include all of the following information and such other information as the director deems reasonably necessary:
 - (1) Name of business.
 - (2) Name, date of birth and social security number of the applicant and relationship to the business or entity.
 - (3) Complete street and mailing addresses of business location(s).
 - (4) The applicant's telephone number.
 - (5) A brief description of the nature and type of the business.
 - (6) A list of hazardous materials or hazardous wastes as defined by Title 49 USC Chapter 51 Section 5102 and amendments thereto that will be used or stored by the business.
 - (7) Complete description including make and model, license plate state and number, vehicle identification number (VIN) and other identifying characteristics of any vehicle(s) used in the business.
 - (8) The type of business entity. If the business is a corporation or limited liability company, the state where formed and the statutory agent's name and address.
 - (9) List of officers/owners/managers of the business, with their dates of birth, social security numbers, and legal addresses.
 - (10) A copy of the Arizona Transaction Privilege Tax documentation (if applicable).

- (11) If the business specified in this article is subject to a certificate of health or sanitary examination, the applicant shall produce such certificate or permit from the Navajo County Health Department, as provided for in Arizona Revised Statutes, Title 36, Chapter 1 Article 2 and applicable Navajo County ordinances, as amended. This section shall also apply to all new or remodeled restaurants, bars or other businesses that serve food to the public located within the city limits.
- (12) Where any business specified in this article is subject to other federal, state or local licensing, registration or permit requirements, i.e., professional, medical, technical, contractors, real estate, etc., the applicant shall produce such license, registration or permit from the appropriate federal, state or local governmental authorities.
 - (a) If applying for a peddler's/solicitor's permit, a notarized statement signed by the person, that the person meets the requirements of section 8-3-5.
- (c) Any person applying for a peddler's/solicitor's permit shall submit the application along with the applicable application fee as set forth in this article.
- (d) Upon receipt of a completed peddler's/solicitor's permit application, the planning and zoning department shall:
 - (1) Promptly notify the police department of the pending application, after which, the police department shall conduct a computerized criminal history check on the applicant(s).
 - (2) Promptly give notice to the appropriate Fire district providing fire protection services to the area where the peddler/solicitor will be working.
- (e) If, as the result of information received from the applicant, the police department, the Fire district or as a result of the department investigation, the director determines that the granting of the permit would be detrimental to the public health, welfare or safety, the application shall be denied.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-3-6. Application and issuance of transient merchant's permit.

Any person applying for a transient merchant's permit shall submit an application to the department containing the following information:

- (a) Application for a transient merchant's permit shall be made on forms and in the manner prescribed by the planning and zoning director.

- (b) The transient merchant's permit application shall include all of the following information and such other information as the director deems reasonably necessary:
- (1) Name of business.
 - (2) Name, date of birth and social security number of the applicant and relationship to the business or entity.
 - (3) Complete street and mailing addresses of business location(s).
 - (4) The applicant's telephone number.
 - (5) A brief description of the nature and type of the business.
 - (6) A list of hazardous materials or hazardous wastes as defined by Title 49 USC Chapter 51 Section 5102 and amendments thereto that will be used or stored by the business.
 - (7) Complete description including make and model, license plate state and number, vehicle identification number (VIN) and other identifying characteristics of any vehicle(s) used in the business.
 - (8) The type of business entity. If the business is a corporation or limited liability company, the state where formed and the statutory agent's name and address.
 - (9) List of officers/owners/managers of the business, with their dates of birth, social security numbers and legal addresses.
 - (10) The length of time up to fourteen (14) days within a sixty (60) day period, for which the right to do business is desired.
 - (11) A copy of the Arizona Transaction Privilege Tax documentation (if applicable).
 - (12) If the business specified in this article is subject to a certificate of health or sanitary examination, the applicant shall produce such certificate or permit from the Navajo County Health Department, as provided for in Arizona Revised Statutes, Title 36, Chapter 1 Article 2 and applicable Navajo County ordinances, as amended. This section shall also apply to all new or remodeled restaurants, bars or other businesses that serve food to the public located within the city limits.
 - (13) Where any business specified in this article is subject to other federal, state or local licensing, registration or permit requirements, i.e., professional, medical, technical, contractors, real estate, etc., the applicant shall produce such license, registration or permit from the appropriate federal, state or local governmental authorities.
 - (14) If applying for a peddler's or solicitor's permit, a notarized statement signed by the person that the person meets the requirements of section 8-3-6.
 - (15) In addition to the requirements in section 8-3-6, applicants for a special event permit may be required by the director to submit three copies of a plot plan, indicating the following:
 - (a) Exact site location and layout of the event.
 - (b) Location and number of booth spaces, stalls or vending areas.

- (c) Location of temporary structures and temporary utilities necessary for operation.
 - (d) Location and provision of toilets and other sanitary services.
 - (e) Ingress and egress.
 - (f) Fire and emergency vehicle access.
 - (g) Parking areas.
 - (h) Signage.
 - (i) Lighting.
 - (j) Describe the security and traffic control measures to be taken for the special event.
- (c) Any person applying for a transient merchant's permit shall submit the application along with the applicable application fee as established by resolution of the city council.
- (d) Upon receipt of a completed transient merchant's permit application, the planning and zoning department shall:
- (1) Promptly notify the police department of the pending application, after which, the police department shall conduct a computerized criminal history check on the applicant(s).
 - (2) Promptly give notice to the appropriate Fire district providing fire protection services to the area where the transient merchant will be working.
- (e) If, as the result of information received from the applicant, the police department, the fire district or as a result of the department investigation, the director determines that the granting of the permit would be detrimental to the public health, welfare or safety, the application shall be denied.

(Ord. No. 243, § 4, 12-17-85; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-3-7. Issuance/denial of permit.

After receiving and reviewing the information required by sections 8-3-6 or 8-3-7, the director shall issue or deny the peddler's/solicitor's/transient merchant permit after five (5) working days, or after a required background check is complete (whichever is greater), along with the reason(s) for any denial. The department shall keep a record of all permits issued or denied for a period of one year after the date of the application.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-3-8. Application fees.

- (a) Transient merchants. Any person applying for a transient merchant permit as required by this article shall submit the application along with an application fee as established by resolution of the city council.
- (b) Peddlers/solicitors. Any person applying for a peddler's/solicitor's permit as required by this article shall submit the completed application, along with an application fee as established by resolution of the city council.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-3-9. Location.

It is unlawful for any peddler, solicitor or transient merchant to conduct business in the following manner:

- (a) On any public property, within any public right-of-way or within any portion of a public street, access, lane, or public easement without the city's (or other owner's) express written permission and the permission of the director.
- (b) On any public school grounds without the express written permission of the school district.
- (c) In any congested area where the peddlers or solicitors may impede or inconvenience the public.

(Ord. No. 243, § 5, 12-17-85; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-3-10. Restrictions.

Peddlers, solicitors and transient merchants shall comply with the following:

- (a) The director may approve certain temporary fencing usage if deemed to be in the interest of public safety, or required by either the local fire or police departments.
- (b) Use of generators shall comply with the noise control provisions of the City Code.
- (c) Banner signs shall be permitted in accordance with the Zoning Ordinance.
- (d) No A-frame signs shall be permitted.
- (e) No off-site signs shall be permitted.
- (f) No other signs prohibited by the Zoning Ordinance shall be permitted.

- (g) Transient merchant activities shall be limited to commercial and industrial zoning districts. Any proposed transient merchant activities shall comply with chapter 15 of the City Code including compliance with the permitted and conditional use requirements of each section.

(Ord. No. 243, § 6, 12-17-85; Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-3-11. Signs prohibiting peddling, soliciting or transient merchandising.

It shall be unlawful for a peddler, solicitor or transient merchant, in the course of business, to ring the doorbell or knock at any building whereon any of the following signs is exposed to public view: No Peddlers, No Solicitors or Canvassers, No Transient Merchants, No Soliciting or No Trespassing or any other sign which has similar words or intent.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

ARTICLE 8-4. SPECIAL EVENT PERMITS♣

Sec. 8-4-1. Permit required.

It is unlawful for any person to conduct or sponsor a special event within the city limits without first obtaining a special event permit pursuant to the requirements of this article. It is also unlawful for any person to sell or offer for sale goods or services at a special event within the city limits without first obtaining a special event vendor's permit pursuant to the requirements of this article.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-4-2. Time restriction.

A special event permit shall be limited to the specific time restriction shown on the permit.

♣ **Editor's note**—Sections 1 and 2 of Ord. No. 2003-08, adopted Sept. 2, 2003, amended Arts. 8-1 and 8-3 in their entirety and replaced them with Arts. 8-1 through 8-5 in their entirety. Ord. No. 2003-08 created new provisions for temporary peddlers, solicitors and transient merchants in Art. 8-3; special events in Art. 8-4; and carnivals in Art. 8-5. Also see editor's note at the bottom of page 1 of this chapter. Prior to the adoption of Ord. No. 2003-08, Ord. No. 292, adopted August 16, 1988, repealed Art. 8-4. Prior to such repeal, Art. 8-4, §§ 8-4-1 – 8-4-9, pertained to an occupational development fee, and was derived from Ord. No. 95, § 1, adopted June 6, 1979.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-4-3. Application requirements.

Any person applying for a special event permit shall submit an application to the department with the following information:

- (a) Applications for special event permits shall be made on forms and in the manner prescribed by the planning and zoning department.

- (b) The special event permit application and special event vendor's permit application shall include all of the following information and such other information as the department deems reasonably necessary:
 - (1) Name of person, business or organization.
 - (2) Name, date of birth and social security number of the applicant and relationship to the person, business or organization.
 - (3) Complete street and mailing addresses of each person, business or organization.
 - (4) A brief description of the nature and type of the business or organization.
 - (5) A list of hazardous materials or hazardous wastes as defined by Title 49 USC Chapter 51 Section 5102 and amendments thereto that will be used or stored by the business.
 - (6) The type of business entity. If the business or organization is a corporation or limited liability company, the state where formed and the statutory agent's name and address.
 - (7) Whether the business is for profit or nonprofit. Proof of nonprofit status is required. See Section 8-1-1.
 - (8) List of officers/owners/managers of the business or organization, with their addresses.
 - (9) The dates and times for the special event.
 - (10) A copy of the Arizona Transaction Privilege Tax documentation (if applicable).
 - (11) If the business specified in this article is subject to a certificate of health or sanitary examination, the applicant shall produce such certificate or permit from the Navajo County Health Department, as provided for in Arizona Revised Statutes, Title 36, Chapter 1, Article 2 and applicable Navajo County ordinances, as amended.
 - (12) Where any business specified in this article is subject to other federal, state or local licensing, registration or permit requirements, i.e., professional, medical, technical, contractors, real estate, etc., the applicant shall produce such license, registration or permit from the appropriate federal, state or local governmental authorities.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-4-4. Special event plot plan.

In addition to the requirements in section 8-4-3, applicants for a special event permit may be required by the director to submit three copies of a plot plan, indicating the following:

- (a) Exact site location and layout of the event.
- (b) Location and number of booth spaces, stalls or vending areas.
- (c) Location of temporary structures and temporary utilities necessary for operation.
- (d) Location and provision of toilets and other sanitary services.
- (e) Ingress and egress.
- (f) Fire and emergency vehicle access.
- (g) Parking areas.
- (h) Signage.
- (i) Lighting.
- (j) Describe the security and traffic control measures to be taken for the special event.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-4-5. Special event permit application fee.

Any person applying for a special event permit as required by this article shall submit an application along with an application fee, as established by resolution of the city council. This fee may be waived by the city manager or his/her designee for nonprofit organizations only. Any determination made by the city manager or his/her designee regarding waiver of the required fee may be appealed to the city council.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-4-6. Special event vendor's permit application fee.

Any person applying for a special event vendor's permit as required by this article shall submit an application along with an application fee, as established by resolution of the city council. This fee may be waived by the city manager or his/her designee for special event vendors who are nonprofit organizations only. Any determination made by the city manager or his/her designee regarding waiver of the required fee may be appealed to the city council.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-4-7. Permit approval/denial.

Upon receipt of an application, the director or designee, shall conduct the necessary investigation for the protection of public health, safety, welfare and overall public good. The permit application and any required plot shall be referred to the applicable fire district providing area fire protection and the police department. The police department shall conduct a computerized criminal history check on the applicants for all special events. After receiving and reviewing the information required by section 8-4-3, the director shall issue or deny the special event permit after five (5) working days, or after a required background check is complete (whichever is greater), along with any conditions of approval, or, if denied, the reason(s) for any denial. The department shall keep a record of all permits issued or denied for a period of one year after the date of the application. If, as a result of such investigation, any agency determines that the granting of the permit would be detrimental to the public health, welfare or safety, the application shall be denied. If a special event permit or a special event vendor's permit application is denied, the reason(s) for the denial shall be given in writing within ten (10) days of the denial. The department shall keep a record of special events permits issued for a period of two (2) years.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

ARTICLE 8-5. CARNIVAL PERMITS

Sec. 8-5-1. Permit required.

It is unlawful for any person to conduct or sponsor a carnival within the city limits without first obtaining a carnival permit pursuant to the requirements of this article. It is also unlawful for any person to sell or offer for sale goods or services at a carnival within the city limits without first obtaining a special event vendor's permit pursuant to the requirements of section 8-3-3.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-5-2. Time restriction.

A carnival permit shall be limited to the specific time restriction shown on the permit.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-5-3. Application requirements.

Any person applying for a carnival permit shall submit an application to the department with the following information:

- (a) Applications for carnival permits shall be made on forms and in the manner prescribed by the planning and zoning department.
- (b) The carnival permit application and special event vendor's permit application shall include all of the following information and such other information as the department deems reasonably necessary:
 - (1) Name of person, business or organization.
 - (2) Name, date of birth and social security number of the applicant and relationship to the person, business or organization.
 - (3) Complete street and mailing addresses of each person, business or organization.
 - (4) A brief description of the nature and type of the business or organization.
 - (5) A list of hazardous materials or hazardous wastes as defined by Title 49 USC Chapter 51 Section 5102 and amendments thereto that will be used or stored by the business.
 - (6) The type of business entity. If the business or organization is a corporation or limited liability company, the state where formed and the statutory agent's name and address.
 - (7) Whether the business is for profit or nonprofit. Proof of nonprofit status is required (see section 8-1-1).
 - (8) List of officers/owners/managers of the business or organization, with their addresses.
 - (9) The dates and times for the special event.
 - (10) A copy of the Arizona Transaction Privilege Tax documentation (if applicable).
 - (11) If the business specified in this article is subject to a certificate of health or sanitary examination, the applicant shall produce such certificate or permit from the Navajo County Health Department, as provided for in Arizona Revised Statutes, Title 36, Chapter 1, Article 2 and applicable Navajo County ordinances, as amended.
 - (12) Where any business specified in this article is subject to other federal, state or local licensing, registration or permit requirements, i.e., professional, medical, technical, contractors, real estate, etc., the applicant shall produce such license, registration or permit from the appropriate federal, state or local governmental authorities.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-5-4. Carnival plot plan.

In addition to the requirements in section 8-5-3, applicants for a special event permit may be required by the director to submit three copies of a plot plan, indicating the following:

- (a) Exact site location and layout of the event.
- (b) Location and number of ride locations, booth spaces, stalls or vending areas.
- (c) Location of temporary structures and temporary utilities necessary for operation.
- (d) Location and provision of toilets and other sanitary services.
- (e) Ingress and egress.
- (f) Fire and emergency vehicle access.
- (g) Parking areas.
- (h) Signage.
- (i) Lighting.
- (j) Describe the security and traffic control measures to be taken for the special event.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-5-5. Carnival permit application fee.

Any person applying for a carnival permit as required by this article shall submit an application along with an application fee, as established by resolution of the city council, which fee may be waived by the city manager or his/her designee for carnivals sponsored by nonprofit organizations only. Any determination made by the city manager or his/her designee regarding waiver of the required fee may be appealed to the city council.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

Sec. 8-5-6. Permit approval/denial.

Upon receipt of an application, the director or designee, shall conduct the necessary investigation for the protection of public health, safety, welfare and overall public good. The permit application and any required plot shall be referred to the applicable fire district providing area fire protection and the police department. The police department shall conduct a computerized criminal history check on the applicants for all special events. After receiving and reviewing the information required by sections 8-5-3 and 8-5-4, and after the site has been inspected by the proper agency for safety, the director shall issue or deny the carnival permit after five (5) working days, or after a required background check is complete (whichever is greater), along with any conditions of approval, or, if denied, the reason(s) for any denial. The department shall keep a record of all permits issued or denied for a period of one year after the date of the application. If, as a result of such investigation, any agency determines that the granting of the permit would be detrimental to the public health, welfare or safety, the application shall

be denied. If a carnival permit is denied, the reason(s) for the denial shall be given in writing within ten (10) days of the denial. The department shall keep a record of carnival permits issued for a period of two (2) years.

(Ord. No. 2003-08, §§ 1-2, 9-2-03)

ARTICLE 8-6. LICENSING OF SEXUALLY ORIENTED BUSINESSES♣

Sec. 8-6-1. Purpose and Intent.

It is the purpose and intent of this article to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City of Show Low and to establish reasonable and uniform regulations to reduce or eliminate the adverse secondary effects from such sexually oriented businesses. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not 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 the article to condone or legitimize the distribution of obscene material.

(Ord. No. 2003-08, § 3, 9-2-03)

Sec. 8-6-2. Definitions.

In this article, unless the context otherwise requires:

- (1) *Employee* means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated as employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a

♣ **Editor's note**—Section 3 of Ord. No. 2003-08, adopted Sept. 2, 2003, renumbered Art. 8-2, regarding licensing sexually oriented businesses, to Art. 8-6. Previously, Art. 8-2, Licensing of Sexually Oriented Businesses, was adopted by Ord. No. 498, which adopted Res. No. 909 by reference. It is provided in its entirety for informational purposes. Ord. No. 272, § 3, adopted July 7, 1987, repealed Art. 8-2, §§ 8-2-1 – 8-2-8, relative to the transaction privilege tax. The provisions of former §§ 8-2-1, 8-2-3 – 8-2-5 and 8-2-8 derived from Ord. No. 90, § 1, adopted Sept. 20, 1978; Ord. No. 129, § 1, adopted Sept. 24, 1980; Ord. No. 142, § 1, enacted June 10, 1981; Ord. No. 164, § 1, enacted Nov. 10, 1982; Ord. No. 171, § 1, adopted April 6, 1983; and Ord. No. 230, §§ 1,2, adopted April 16, 1985. Former §§ 8-2-2, 8-2-6 and 8-2-7 bore no history notation. The City Tax Code is currently adopted by reference in Ch. 8A of this Code.

person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

- (2) *Licensee* means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.
- (3) *Person* means an individual, proprietorship, corporation, association, or other legal entity.
- (4) *Specified criminal activity* means any of the following offenses:
 - (a) Prostitution or promotion of prostitution, dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; sexual abuse; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states and countries;
 - (b) for which:
 - 1) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date; if the conviction is a misdemeanor offense; or
 - 2) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or
 - 3) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.
 - 4) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or person residing with the applicant.
- (5) *Transfer of ownership or control* of a sexually oriented business means and includes any of the following:

- (a) the sale, lease, or sublease of the business;
 - (b) the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
 - (c) the establishment of a trust, gift, or other similar legal device which transfers 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.
- (6) *Definitions included.* All definitions listed in Section 15-1-68 of the Zoning Ordinance relating to sexually oriented businesses are applicable to this article.

(Ord. No. 2003-08, § 3, 9-2-03)

Sec. 8-6-3. License requirements.

- (1) It is unlawful:
 - (a) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this article.
 - (b) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the City pursuant to this article.
 - (c) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this article.
- (2) An application for a license must be made on a form provided by the City.
- (3) All applicants must be qualified according to the provisions of this article. The application may request and the applicant shall provide such information (including fingerprints) as to enable the City to determine whether the applicant meets the qualifications established in this article.
- (4) If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must 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.

- (5) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
- (a) If the applicant is:
 - 1) an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is 18 years of age;
 - 2) a partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
 - 3) a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
 - 4) a limited liability company, the company shall state its complete name, and the names of all members who own a twenty-percent or greater interest in the capital or profits of the limited liability company. If the management of the limited liability company is vested in a manager or managers, the company shall also state the name of each person who is a manager of the limited liability company.
 - (b) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state the sexually oriented business's fictitious name and submit the required registration documents.
 - (c) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this article, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
 - (d) Whether the applicant, or a person residing with the applicant, has had a previous license under this article or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed

under this article whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

- (e) Whether the applicant or a person residing with the applicant holds any other licenses under this article or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.
- (f) The single classification of license for which the applicant is filing.
- (g) The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.
- (h) The applicant's mailing address and residential address.
- (i) A recent photograph of the applicant(s).
- (j) The applicant's driver's license number, Social Security Number, and/or his/her state or federally issued tax identification number.
- (k) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- (l) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 200 feet of the property to be certified and also depicting the property lines of any established use listed in Section 15-1-68(D)(2) of the Zoning Ordinance within one thousand (1,000) feet of the property to be certified. For purposes of this paragraph, a use shall be considered existing or established if it is in existence at the time an application is submitted.

(Ord. No. 2003-08, § 3, 9-2-03)

Sec. 8-6-4. Employee license.

- (1) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the City the following information:
 - (a) The applicant's name or any other name (including "stage" names) or aliases used by the individual;
 - (b) Age, date, and place of birth;
 - (c) Height, weight, hair and eye color;
 - (d) Present residence address and telephone number;
 - (e) Present business address and telephone number;
 - (f) Date, issuing state and number of driver's permit or other identification card information;
 - (g) Social Security number; and
 - (h) Proof that the individual is at least eighteen (18) years of age.
- (2) Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:
 - (a) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.
 - (b) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
 - (c) A statement whether the applicant has been convicted of a specified criminal activity as defined in this article and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

- (3) Upon the filing of an application for a sexually oriented business employee license, the city shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the City shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
- (a) The applicant has failed to provide information reasonable necessary for issuance of the license or has falsely answered a question or request for information on the application form;
 - (b) The applicant is under the age of eighteen (18) years;
 - (c) The applicant has been convicted of a "specified criminal activity" as defined in this article;
 - (d) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this article;
 - (e) The applicant has been denied a license by the City to operate a sexually oriented business within the preceding 12 months or has had a sexually oriented business operating license revoked by the City; or
 - (f) The applicant has had a sexually oriented business employee license revoked by the City within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this section shall be subject to appeal as set forth herein.

(Ord. No. 2003-08, § 3, 9-2-03)

Sec. 8-6-5. Issuance and renewal of license.

- (1) Within 30 days after receipt of a completed sexually oriented business application, the City shall approve or deny the issuance of a license to an applicant. The City shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
- (a) An applicant is under eighteen (18) years of age.

- (b) An applicant or a person with whom applicant is residing is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
 - (c) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
 - (d) An applicant or a person with whom the applicant is residing has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
 - (e) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this article.
 - (f) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
 - (g) The license fee required by this article has not been paid.
 - (h) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this article.
- (2) The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
- (3) The health department, fire department, and the building official shall complete their certifications that the premises is in compliance or not in compliance with the requirements of this article within twenty (20) days of receipt of the application by the City.
- (4) A sexually oriented business license shall issue for only one classification set forth in Section 15-1-68(C).
- (5) A license granted pursuant to this article shall be subject to annual renewal upon the written application of the applicant and a finding by the City that the applicant has not been convicted of any specified criminal activity as defined in this article or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth herein.

(Ord. No. 2003-08, § 3, 9-2-03)

Sec. 8-6-6. Fees.

- (1) Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a \$500.00 non-refundable application and investigation fee.
- (2) In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the City an annual non-refundable license fee of \$250.00 within thirty (30) days of license issuance or renewal.
- (3) Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual \$250.00 non-refundable application, investigation, and license fee.

(Ord. No. 2003-08, § 3, 9-2-03)

Sec. 8-6-7. Inspection.

- (1) An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other City departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
- (2) A person who operates a sexually oriented business or his agent or employee commits a civil violation punishable as provided in section 1-8-1(a) of this Code, if he refuses to permit such lawful inspection of the premises at any time it is open for business.

(Ord. No. 2003-08, § 3, 9-2-03; Ord. No. 2004-14, § 8, 7-6-04)

Sec. 8-6-8. Expiration of License.

- (1) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

- (2) When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.

(Ord. No. 2003-08, § 3, 9-2-03)

Sec. 8-6-9. Suspension.

- (1) The City shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has committed any of the following:
 - (a) violated or is not in compliance with any provision of this article;
 - (b) refused to allow an inspection of the sexually oriented business premises as authorized by this article;
 - (c) has violated applicable provisions of the Show Low City Code.
 - (d) been on the premises of the sexually-oriented business while in an intoxicated condition or has committed disorderly conduct as defined in A.R.S. §13-2904, as amended, while on the premises of the business, or knowingly has permitted an employee to be on the business premises while the employee was in an intoxicated condition;
 - (e) knowingly permitted gambling by any person on the premises of the sexually oriented business.

(Ord. No. 2003-08, § 3, 9-2-03)

Sec. 8-6-10. Revocation.

- (1) The City shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding twelve (12) months.
- (2) The City shall revoke a license if it determines any of the following:
 - (a) a licensee gave false or misleading information in the material submitted during the application process;
 - (b) a licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

- (c) a licensee has knowingly allowed prostitution on the premises;
 - (d) a licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
 - (e) except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises;
 - (f) a licensee is delinquent in payment to the City, County, or State for any taxes or fees past due; or
 - (g) on two (2) or more occasions within a twelve (12) month period, a person or persons while in or on the licensed premises committed an offense listed herein for which a conviction has been obtained, and the person or persons were managers or employees of the sexually-oriented business at the time the offenses were committed. The license denial, suspension, or revocation shall be stayed automatically pending judicial review of such administrative action.
- (3) When the City revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.
- (4) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

(Ord. No. 2003-08, § 3, 9-2-03)

Sec. 8-6-11. Transfer of license.

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

(Ord. No. 2003-08, § 3, 9-2-03)

Sec. 8-6-12. Injunction.

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of any part of this article is subject to suit for injunction as well as prosecution for a civil violation punishable as provided in section 1-8-1(a) of this Code. Each day a sexually oriented business operates in violation of any part of this article is a separate offense or violation.

(Ord. No. 494, §2, 10-1-01, adopted Res. No. 909 by reference. Res. No. 909 has been included for information of the reader. Ord. No. 2003-08, § 3, 9-2-03, renumbered Art. 8-2 to Art. 8-6; Ord. No. 2004-14, § 9, 7-6-04)

ARTICLE 8-7. MERCHANTS' DISCLOSURE REQUIREMENTS

Sec. 8-7-1. Requiring merchants to make certain disclosures related to the sale of motorized skateboards and motorized play vehicles; penalty.

- (1) It is unlawful for a merchant to sell motorized skateboards or motorized play vehicles without making the disclosures required by this section.
- (2) Any merchant who sells motorized skateboards or motorized play vehicles within the City limits of Show Low shall:
 - A. Post, in a prominent place at each location where motorized skateboards or motorized play vehicles are on display, a notice to the effect that operation of motorized skateboards and motorized play vehicles is prohibited:
 1. On any public sidewalk, roadway, or any other part of a highway or on any bikeway, bicycle path or trail, equestrian trail, or shared-use path in the city limits of Show Low: and
 2. On any private property of another without the written permission of the owner, the person entitled to immediate possession of the property, or the authorized agent of either.
 - B. Provide a copy of such notice to each purchaser of a motorized skateboard or motorized play vehicle, either before or in connection with the purchase.
- (3) The definitions of "motorized skateboard" and "motorized play vehicle" contained in Section 13-2-16 of this Code shall also apply to this section.

- (4) Violation declared civil infraction violation. Unless otherwise specifically stated in this chapter, any violation of this section is punishable as a civil violation pursuant to Section 1-8-1(a) of this Code. Each day that a violation continues shall be a separate offense punishable as herein above described.

(Ord. No. 2004-18, § 2, 8-17-04, eff. 8-17-04)

ARTICLE 8-8. PSEUDOEPHEDRINE PRODUCTS♣

Sec. 8-8-1. Sale of products containing pseudoephedrine.

- (a) Definitions.

In this Article, unless the context otherwise requires:

- (1) “Pseudoephedrine product” means any product containing ephedrine or pseudoephedrine and includes any compound, mixture or preparation that contains any detectable quantity of ephedrine, pseudoephedrine, norpseudoephedrine or phenylpropanolamine or their salts, optical isomers or salts of optical isomers. Product packaging that lists ephedrine, pseudoephedrine, norpseudoephedrine or phenylpropanolamine as an active ingredient shall constitute prima facie evidence that the product is a pseudoephedrine product.
- (2) “Retail establishment” means any place of business that offers any pseudoephedrine product for sale at retail.
- (b) The operator of a retail establishment shall keep all products containing pseudoephedrine behind a store counter or otherwise in a manner that is inaccessible to customers without the assistance of the operator or an employee of the establishment.
- (c) A person making a retail sale of a product containing pseudoephedrine shall require a government-issued, photo identification from the purchaser and shall record the purchaser's name, date of birth, quantity of pseudoephedrine product purchased, transaction date and the initials of the seller.
- (d) The information required to be obtained by subsection (c) will be retained by the retail establishment for a period of ninety (90) days, and will be considered a confidential document that will only be available to the operator of the retail establishment, and shall be available to the City of Show Low police department officers, Arizona Department of Public Safety officers, Navajo County sheriff's

♣ **Editor's note**—Section 1 of Ord. No. 2006-01, adopted Jan. 17, 2006 (with an effective date of Feb. 17, 2006), added Art. 8-8, regarding the sale of pseudoephedrine products, in its entirety.

department officers and other law enforcement officers.

- (e) The operator of a retail establishment shall be responsible for training all employees of the requirements and penalties hereunder and otherwise require employee compliance of this Article.

Sec. 8-8-2. Violations, penalties.

- (a) A first violation of this Article shall be cited as a civil violation, punishable as provided in section 1-8-1(a) of this Code.
- (b) A person who commits a violation of this Article after having previously been found responsible for committing a violation of this Article within a twenty-four (24) month period, whether by admission, payment of the fine, by default or by judgment after hearing, may be cited for a criminal violation of this Article, punishable as provided in section 1-8-1(b) of this Code.

(Ord. No. 2006-01, § 1, 1-17-06, eff. 2-17-06)