

TITLE XI: BUSINESS REGULATIONS

Chapter

110. AMBULANCE TRANSPORTATION COMPANIES

111. AMUSEMENTS

112. PEDDLERS AND SOLICITORS

113. BODY ART ESTABLISHMENTS

114. TAXICABS

115. ADULT BUSINESSES

116. STREET VENDORS

117. ALCOHOLIC BEVERAGES

118. LODGING ESTABLISHMENTS

CHAPTER 110: AMBULANCE TRANSPORTATION COMPANIES

Section

General Provisions

- 110.01 Definitions
- 110.02 Operating regulations
- 110.03 Ambulance equipment
- 110.04 Radio dispatcher procedure
- 110.05 Use of emergency warning devices
- 110.06 Dead on arrival procedure
- 110.07 Registers and records to be kept
- 110.08 Maintaining central place of business
- 110.09 Removal from approved list
- 110.10 Ambulance operators to file schedule of rates;
posting of rates

Licenses and Permits

- 110.20 License and permit required
- 110.21 Licenses and permits not transferable
- 110.22 License holder's records and reports
- 110.23 Insurance policies required
- 110.24 Revocation, alteration, or suspension
- 110.25 Appeals

Chauffeurs and Attendants

- 110.35 Registration required
- 110.36 Application; qualifications

- IIO.37 Conviction of crime by applicant
- IIO.38 Investigation and examination of applicants
- IIO.39 Granting or refusal of license; fee
- IIO.40 Renewal of registration; fee
- IIO.41 Display of registration
- IIO.42 Revocation of registration
- IIO.43 Certain acts prohibited

- IIO.99 Penalty

GENERAL PROVISIONS

IIO.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"AMBULANCE." A motor vehicle constructed, reconstructed, or arranged for the purpose of transporting ill, sick, or injured persons.

3

IIO.01 BURKBURNETT - AMBULANCE TRANSPORTATION COMPANIES 4

"AMBULANCE CALL." The act of progressing with an ambulance to the scene of need and transporting a patient to this destination.

"ATTENDANT." A person who has the duty of caring for a sick, ill, or injured person who is being transported as a patient in an ambulance.

"CHAUFFEUR." Every individual who shall drive an ambulance, as herein defined and

who has a chauffeur's license issued by the State Department of Public Safety.

"CITY."\All areas within the territorial limits of the city.

"CODE OF CALLS."\The nonemergency type of call, slow run, or convalescent call. No red lights or siren used.

"CODE THREE CALLS."\The emergency type of call. This call is made with the use of red lights and sirens.

"COMMUNICABLE DISEASE."\Any disease which may be readily transmissible from one person to another by contact with the infected person, or equipment exposed to that person directly or indirectly.

"DEPARTMENT."\The Police Department of the city.

"EMERGENCY ACCIDENT CALLS."\All calls involving injuries occurring from fire, gas, explosion, electric shock, knife wound, gunshot, drowning, poisoning, vehicle, train, boating, or aircraft accident, or similar disaster.

"HEALTH DEPARTMENT."\The Wichita Falls City-County Health Unit.

"HEALTH OFFICER."\The Director of the Wichita Falls City-County Health Unit, or his designated representative.

"LICENSE."\A license of public convenience and necessity, as hereinafter described.

"OPERATOR."\Any person engaged in business as the owner or proprietor of ambulances, as defined herein requiring a license hereunder.

"PERMIT."\The operating permit which an operator is required to obtain hereunder for each and every motor vehicle operated under license authority.

"PERSON."\Any individual, firm, association, partnership, corporation, or other group or

combination acting as a unit.

"SANITATION AND DECONTAMINATION MEASURES."\\Those measures necessary to insure the health and well-being of all patients and ambulance personnel.

5 BURKBURNETT - AMBULANCE TRANSPORTATION COMPANIES 4\\110.02

"SICK CALLS."\\All private calls made directly to an ambulance service company, except those defined in this section herein as emergency accident calls.

(Ord. 281, passed 4-18-67)

4\\110.02\\OPERATING REGULATIONS.

All license holders, operators, attendants, and chauffeurs, shall comply with the following regulations:

(A)\\Every license holder shall be required to provide immediate service, 24 hours daily, each and every day.

(B)\\Every ambulance shall adopt and use, after approval by the Health Officer, a distinctive uniform color scheme which shall not infringe upon any color scheme already in use by another ambulance operator; and each ambulance shall be identified in such a manner as clearly indicates that the vehicle is used for ambulance purposes only.

No other type advertising may be used on the vehicle.

(C)\\The ambulance operator's business name shall appear on each side and on the rear of the vehicle in letters of not less than three inches in height and 1/2-inch in stroke on a metal portion of the body. No other advertising shall be used other than "Ambulance Company".

(D)\Every call for ambulance service shall be answered promptly. Patients shall be loaded and transported without being subjected to unreasonable delays.

(E)\Clean and sanitary bed linens shall be provided for each patient carried and shall be changed as soon as practicable after the discharge of a patient.

(F)\Each ambulance shall have, in addition to its chauffeur, an attendant who holds a current certificate of Advanced Red Cross First Aid, or a U.S. Bureau of Mines certificate certified by the City-County Health Unit, and who shall remain in attendance to the patient being conveyed.

(G)\Every operator shall provide each driver with a daily manifest upon which shall be recorded the time, place of origin, destination, and charges for each trip made.

(H)\Every operator shall retain and preserve all daily manifests for at least six months, and these manifests shall be available for inspection by the Health Officer on request.

(I)\Every licensee shall, at all times, have stationed at his central place of business, a person who shall be required to promptly answer all calls for service, promptly dispatch ambulances, and be generally responsible for the conduct of the business.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.03\AMBULANCE EQUIPMENT.

License holders shall maintain in good operating condition, or ready for use, all of the following equipment which shall be modern and capable of rendering a satisfactory ambulance service:

(A)\All motor vehicles used for the purpose of providing ambulance service hereunder shall be designed and constructed to transport ill, sick, or injured persons in comfort and safety, and shall be maintained in clean, sanitary, and in first-class mechanical condition at all times.

(B)\All motor vehicles used for the purpose of providing ambulance service hereunder shall have as standard equipment:

(1)\Parking brake;

(2)\Front and rear bumper;

(3)\Heater and defroster sufficient to heat interior of ambulances in cold weather;

(4)\Air conditioner capable of cooling interior of ambulances in hot weather;

(5)\Right- and left-side rear view mirrors and one in driver's compartment;

(6)\A speedometer, exposed to view, and maintained in accurate operating condition;

(7)\Power steering;

(8)\Windshield wiper and washer;

(9)\Tires with a minimum of 4/32-inch tread;

(10) Tires shall have a six-ply or equivalent rating as a minimum;

(11) Factory recommended shock absorbers; and

(12) Adequate two-way radio equipment.

(C) The body of the ambulance shall have rear loading facilities with the patient compartment separated from the driver's compartment by a suitable partition with provision for communication between the driver and attendant; and there shall be at least two exits from the compartment where the patient is carried.

(D) Every ambulance used as an emergency vehicle shall have a hood-mounted rotating beacon of an approved design that is visible from the front of the vehicle for a distance of 500 feet.

(E) Each ambulance shall be equipped with, in usable and workable condition at all times:

AMBULANCE TRANSPORTATION COMPANIES 4\110.03

- (1)\One ambulance cot and a collapsible stretcher, or two stretchers, one of which is collapsible, with adequate straps to secure the patient safely to the stretcher or ambulance cot, and adequate means of securing the stretcher or ambulance cot within the vehicle;
- (2)\Adequate wrist and ankle restraints;
- (3)\Adequate sanitary sheets, pillow cases, blankets, and towels for each stretcher or ambulance cot, and two pillows for each ambulance;
- (4)\Two oxygen "E" tanks or of greater capacity of which one tank must be full at all times and an approved oxygen unit incorporating aspiration, resuscitation, and inhalation features, consisting of a range of sizes of face type;
- (5)\Hinged halfspring splints (for fractures of the thigh) with web strap for ankle hitch;
- (6)\Two or more padded boards three inches wide and three feet in length, and two or more similar padded boards 4-1/2-feet in length of material comparable with four-inch plywood (for coaptation splinting of fracture of leg or thigh);
- (7)\Two or more padded 15-inch by three-inch beaverboards (for fractures of forearm);
- (8)\Two sandbags about four inches in width, two inches in thickness, and 12 inches in length;
- (9)\Bag type resuscitation equipment, such as "Ambu Bags";
- (10)\Air splints for fractures of the extremities;

(II)\\Two each surgi-lift sheets; and

(I2)\\Emesis basin.

(F)\\Each ambulance shall carry an attendant's bag which shall include large made dressings, sterile gauze pads, three- and six-inch gauze or muslin bandages, three- and six-inch cotton elastic bandages, adhesive tape (cylinder cut one inch, two inch, three inch), tourniquets, tongue blades, three taped together and padded for mouth gag; bandage shears, triangular bandages or slings; safety pins (large size); oropharyngealairways; mouth to mouth, two-way resuscitation airways, adult and children's sizes.

(G)\\All mechanical, safety, and special equipment, shall be subject to inspection at any time by authorized officials.

(H)\\No ambulance that has been substantially damaged or altered shall be again placed in service until it has been reinspected.

(I)\All ambulances shall be subject to the same status ordinances, and rules and regulations relating to safety and operating equipment applicable to other motor vehicles in the city.

(J)\The City-County Health Unit shall be responsible for certifying the sanitation of vehicles and shall inspect and certify that the vehicles are equipped in accordance with this section.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.04\ RADIO DISPATCHER PROCEDURE.

(A)\Any ambulance operator desiring to respond to emergency call Code Three as defined in 4\110.01, is hereby required to submit the name, company, location, and telephone number to the police dispatcher in order to receive calls. This would not pertain to Code One calls.

(B)\When the dispatcher receives an emergency call for any ambulance, he shall authorize and dispatch an approved ambulance to make the call.

(C)\In case an ambulance service operator receives a private sick call as defined in 4\110.01 hereof which is of an emergency nature and desires to answer such call as an emergency call under Code Three as defined in 4\110.01, the operator shall report to the police dispatcher such call. The police dispatcher shall then clear such ambulance service to answer such private sick calls.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.05\ USE OF EMERGENCY WARNING DEVICES.

(A)\An ambulance may respond, after receiving a call from a private citizen, or from the city, state, or county dispatcher, to a call using red lights and siren. If it is a private call, the police dispatcher must be notified of the call and the intent to use the above emergency warning

equipment on the city streets by the licensee receiving the call.

(B)\\After an ambulance has responded to a call and arrived at the point of pickup, it shall be unlawful for the ambulance to proceed to the hospital or other destination with the use of such emergency warning equipment except in the case of dire emergency. All dire emergencies must come under one or more of the following classifications:

(1)\\Acute respiratory distress, impaired breathing, airway blockage.

(2)\\Bleeding beyond control.

(3)\\Poisoning.

(4)\\Immediate and pending childbirth.

(5)\Orders or recommendation of a licensed physician.

(C)\Any time an ambulance is used to transport or transports a patient, or patients, with the use of red lights and siren a written report, giving full details of the circumstances, along with the name of the patient, his address, his condition, and the name of the doctor who examined the patient, and the name and license number of the person driving the ambulance must be filed with the Health Officer within 24 hours following the conclusion of the call.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.06\DEAD ON ARRIVAL PROCEDURE.

The following procedure shall be followed by all approved ambulances when the subject of the emergency call is dead on the arrival of the ambulance:

(A)\Dead on arrival, as used herein shall mean a determination of death by a medical examiner or medical doctor. Where there is not any instruction given by the next of kin, or other responsible person related to the deceased, as to where the body shall be delivered, the ambulance driver shall deliver it to a hospital until a medical examiner or licensed medical doctor formally pronounces the subject dead. The body shall then be taken to the funeral home or mortuary next in line on the rotating list. It will be the responsibility of the funeral home to register with the City Clerk and the Police Department to have their company on the rotating list.

(B)\Any company or individual providing ambulance service under the provisions of this chapter or its employees shall have no discretion over where bodies shall be delivered, except in accordance with the terms of this chapter, and they shall not recommend or suggest in any manner, direct or indirect, as to where the bodies shall be delivered.

(C)\All operators shall be furnished with a copy of this chapter and shall keep their chauffeurs and attendants properly informed of same.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.07\REGISTERS AND RECORDS TO BE KEPT.

(A)\The Police Department shall keep a register containing the names and addresses of all operators, the description of their motor vehicles, with their license numbers and a complete record of all inspections of such vehicles and equipment. The Department shall also maintain a complete register of all chauffeurs and attendants, as defined hereunder, together with their registration numbers, and a complete record of all suspensions and revocations of certificates, permits, or chauffeurs' and attendants' registration.

(B)\The City-County Health Unit shall be responsible for maintaining records pertaining to health inspections of vehicles and equipment covered under this chapter.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.08\MAINTAINING CENTRAL PLACE OF BUSINESS.

Each operator shall maintain a central place of business, at which place he shall provide a properly listed telephone for receiving all calls for ambulance service, and at which central place of business he shall keep such business records and daily manifests set forth herein, available for inspection or audit as deemed advisable by the Health Officer. It shall also be the responsibility of every operator hereunder to keep on file with the Police Department the business address and telephone number whereby the operator may be reached at all times. (Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.09\REMOVAL FROM APPROVED LIST.

The City-County Health Unit shall conduct equipment inspections of all approved services at least every six months, or as often as in their judgement is warranted to maintain adequate standards and shall have the right to remove any ambulance service from the approved list for failure to maintain adequate mechanical standards of equipment, or for failure to comply with any of the provisions of this chapter. (Ord. 281, passed 4-18-67)

4\110.10\AMBULANCE OPERATORS TO FILE SCHEDULE OF RATES; POSTING OF RATES.

(A)\Every person authorized hereunder to operate one or more ambulances shall file with the City Clerk a schedule of the rates which will be charged for the transportation of persons in ambulances, and notice of any change in such rates shall be given the Health Officer in writing at least 30 days prior to the effective date of such change.

(B)\Every ambulance shall have posted in a conspicuous place, readily visible to the occupants a statement showing the rates to be charged. Such rates, as posted, shall be the same as those in the schedules filed pursuant to division (A) of this section.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

LICENSES AND PERMITS

4\110.20\LICENSE AND PERMIT REQUIRED.

It shall be unlawful and an offense for any person to use, drive, or operate any ambulance as defined in 4\110.01, within the territorial limits of the city without first obtaining a license of public convenience and necessity and a permit issued under and pursuant to the provisions of the City of Wichita Falls Ordinance 2310. This shall not apply to an ambulance picking up a patient on sick calls only in the city limits, and delivering that patient to a destination outside the city limits, nor shall it apply to an ambulance picking up a patient outside the city limits and delivering the patient to a destination inside the city limits.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.21\ \LICENSES AND PERMITS NOT TRANSFERABLE.

No license or permit issued hereunder shall be assignable or transferable by the person to whom issued. Any transfer or assignment of existing licenses and permits shall be accompanied only upon assent and approval of the Health Officer in the same manner and subject to the same application, investigation, fees, and public hearings as original applications for licenses. Any transfer of shares of stock or interest of any person or operator so as to cause a change in the directors, officers, shareholders, or managers of such person or operator shall be deemed a transfer or assignment as contemplated above, and subject to the same rules and regulations as any other transfer or assignment.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.22\ \LICENSE HOLDER'S RECORDS AND REPORTS.

Every license holder hereunder shall keep accurate records of receipts from operations, and such other operating information as may be required by the Health Officer. Every license holder shall maintain the records containing such information and other data required by this chapter at a place readily accessible for examination by the City Clerk, the Health Officer, or their authorized agents.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.23\ \INSURANCE POLICIES REQUIRED.

(A)\(I)\Every operator shall carry general and auto liability and property damage insurance with solvent and responsible insurers authorized to transact business in the state, to secure payment for any loss or damage resulting from any occurrence arising out of or caused by the operation or use of any of the operator's motor vehicles. Such insurer shall be rated by Best's Insurance Guide, published by the Alfred M. Best Company, New York, latest edition. Such insurer shall have a minimum general policy holder rating of "A" and a minimum financial rating of "AAAA."

(2)\Each vehicle shall be insured for the sum of at least \$100,000 for injuries to, or death of any one person arising out of any one accident and the sum of at least \$300,000 for injuries to, or death of more than one person in any one accident, and for the sum of at least \$50,000 for damages to property arising from any one accident.

(3)\Every insurance policy or contract for such insurance shall provide for the operator and person insured, or any person driving in the insured vehicle. Such insurance shall be obtained and certificates of insurance shall be filed with the City Clerk before a license or permit shall be issued.

(B)\All such certificates of insurance shall provide for a 30-day cancellation notice to the City Clerk.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.24\REVOCAATION, ALTERATION, OR SUSPENSION.

The revocation, alteration, or suspension of the license and permit issued pursuant to Wichita Falls City Ordinance 2310 insofar as they pertain to the city shall be governed by the same provisions as set out in Wichita Falls City Ordinance 2310.

(Ord. 281, passed 4-18-67)

4\110.25\APPEALS.

The applicant or the protestants shall have the right to appeal any order relating to the issuance, denial, revocation, alteration, or suspension of the license or permit to the Board of Commissioners by filing with the City Clerk within ten days from the date of the order a written notice of appeal, which notice shall set forth the grounds for the appeal. The Board of Commissioners, after a hearing is had in summary manner, may sustain or reverse the order.

(Ord. 281, passed 4-18-67)

CHAUFFEURS AND ATTENDANTS

4\110.35\REGISTRATION REQUIRED.

It is hereby declared unlawful for any person to drive, manage, or control any ambulance on any street in the city or for any person to attend or render first aid to a passenger in such ambulance without first having been examined and registered as a public chauffeur or an attendant, as the case may be.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.36\APPLICATION; QUALIFICATIONS.

(A)\Application for registration as a chauffeur or attendant shall be made in writing to the City Clerk upon forms provided by him therefor. The application shall contain the full name and street address of the applicant and such other information as may be required by the City Clerk

to properly identify the applicant and disclose any information as to his character, reputation, and physical qualifications, past employment, and conduct deemed relevant to the question of the qualification of the applicant for registration as a chauffeur or attendant.

(1)\All applicants for registration as a chauffeur or attendant must meet all the qualifications provided in division (B) of this section.

(2)\Application for registration as chauffeur or attendant shall be verified under oath and shall contain the following information:

(a)\The name, age, sex, weight, height, color of eyes and hair of the applicant, his residence address, and length of residence in city.

13 BURKBURNETT - AMBULANCE TRANSPORTATION COMPANIES 4\110.36

(b)\Whether or not the applicant has heretofore been licensed or registered as an ambulance driver or attendant, and if so, when any by what state and whether such license or registration has been revoked or suspended, and if so, the date of and reason for such revocation or suspension. The name of the person by whom applicant is employed.

(c)\The number of times convicted of moving traffic violations.

(d)\The experience the applicant has had in driving motor vehicles.

(e)\Whether or not the applicant has ever been convicted of a felony or misdemeanor, giving particulars of each such conviction.

(f)\Names of three reputable persons who know the applicant and are acquainted with his general reputation and character. Such persons given as references must be residents of the city.

(g)\Such application shall be made in triplicate. The Chief of Police shall cause an investigation to be made of the facts set forth in the application, and shall not approve the issuance of a registration certificate to any person whose general reputation for integrity or responsibility, or whose previous record as a law violator is such as to render the applicant unfit for such application. Every applicant for registration as a driver must have a valid chauffeur's license. The Chief of Police shall also cause each applicant for a driver's registration to be examined as to his knowledge of the provisions of this division and the traffic regulations and geography of the city, and if the applicant fails to show a reasonable knowledge of such matters, he shall be refused a registration certificate.

(B)\Every applicant for commercial chauffeur must be the holder of a chauffeur's license issued by the state. Every applicant must be able to speak, read, and write the English language. Every applicant must furnish a written certificate from a medical doctor or osteopathic physician that he is of sound physique, possesses good eyesight, is not subject to epilepsy, vertigo, heart trouble, or other infirmity of body or mind, and not addicted to the use of drugs or intoxicating liquors, so as to render him unfit to perform the duties of a chauffeur or attendant.

(1)\Every applicant must furnish satisfactory proof that he is a person of good moral character.

(2)\Every applicant must furnish proof that he holds a current certificate in Advanced Red Cross or U.S. Bureau of Mines First Aid, certified by the City-County Health Unit.

(3)\Every applicant for chauffeur must be at least 21 years of age.

(4)\Every applicant for attendant must be at least 18 years of age.

(Ord. 281, passed 4-18-67)

4\110.37\CONVICTION OF CRIME BY APPLICANT.

No person shall be registered as a chauffeur or attendant at any time after conviction of a felony, or any offense involving moral turpitude, any offense involving the use of or traffic in narcotic drugs, or any offense involving the use of a deadly weapon.

(Ord. 281, passed 4-18-67)

4\110.38\INVESTIGATION AND EXAMINATION OF APPLICANTS.

The character, reputation, and pertinent knowledge of each applicant for registration as a chauffeur or attendant, shall be investigated in accordance with the provisions of 4\110.36(A)(1)(g), and a report of such investigation containing any facts relevant to the character and reputation of the applicant shall be placed on file in the office of the Police Department. The fingerprints and photographs of each applicant shall be obtained and placed on file in the office of the Police Department.

(Ord. 281, passed 4-18-67)

4\110.39\GRANTING OR REFUSAL OF LICENSE; FEE.

(A)\If the applicant is found to be a fit and proper person to operate and drive an ambulance within the city by the Chief of Police according to the standards set forth in this subchapter, and if he shall so certify to the City Clerk, the City Clerk shall issue to the applicant a driver's license and registration, and a driver's identification card. The license identification card shall be of a form prescribed by the City Clerk and shall contain a picture of the driver affixed in such a manner that another picture cannot be substituted therefor without detection, the driver's name, license number, card number, and the expiration date of the license. These cards shall have a space on the reverse side for entering violations and fines. The color of the license shall be changed each license year. Each license issued hereunder shall expire on December 31 next succeeding its issuance. No additional application shall be required for a renewal license if such renewal license is applied for by January 1 following.

(B)\In the event any applicant be disapproved by the Chief

of Police because it is found that such applicant is unfit, by reason of his previous record as a law violator, or by reason of his general reputation for integrity or responsibility, the applicant shall not be eligible to apply for a driver's registration and

15 BURKBURNETT - AMBULANCE TRANSPORTATION COMPANIES 4\110.42

license until the expiration of six months from the date of such disapproval. If the Police Department shall be satisfied that the applicant meets the required qualifications, he shall be granted a registration and license. Every applicant for registration as a chauffeur or attendant shall pay an annual fee of \$5 for such registration for the first year.

(Ord. 281, passed 4-18-67)

4\110.40\RENEWAL OF REGISTRATION; FEE.

A chauffeur or attendant holding a registration card in good standing and whose status and conditions have not changed since obtaining such registration, shall be entitled to a renewal thereof upon payment of the renewal registration fee of \$5.

(Ord. 281, passed 4-18-67)

4\110.41\DISPLAY OF REGISTRATION.

It shall be the duty and responsibility of every chauffeur and attendant registered hereunder, to display his registration card in his vehicle in such a manner as to be readily visible at all times. No other permits shall be visible.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.42\REVOCATION OF REGISTRATION.

(A)\If any chauffeur or attendant shall violate any traffic laws or regulations or any order, rule, or regulation of the Police Department pertaining to the administration or enforcement of this chapter, or any other ordinance concerning motor vehicles as defined herein, the Department may suspend the chauffeur's or attendant's registration privilege for a period not to exceed 90

days. If any person has obtained a registration card by application in which any material was omitted or stated falsely, or if he shall become unfit to operate a motor vehicle, or attend patients as defined herein because of any infirmity of body or mind, or because of addiction to the use of any drugs or intoxicating liquors or shall violate any criminal law which would disqualify any applicant for registration, the Department may recommend to the Health Officer that the registration privilege be revoked, and the Health Officer may, at his own discretion, after notice and opportunity to be heard has been accorded the chauffeur or attendant, revoke such registration privilege. A driver's license may be revoked for any of the following reasons:

- (1)\ \Upon conviction of violation of any federal or state law involving moral turpitude.
- (2)\ \For operating an ambulance while under the influence of intoxicating liquor.
- (3)\ \For leaving the scene of an accident in which the ambulance is involved.

4\IIO.42 BURKBURNETT - AMBULANCE TRANSPORTATION COMPANIES 16

(4)\ \For failure to make a full report of an accident to the Police Department within 24 hours of the time of occurrence.

(5)\ \For permitting any other person to use his license.

(6)\ \For obliterating or erasing any official entry on his license identification card.

(7)\ \Upon conviction of a third traffic violation while operating an ambulance during any one license year.

(8)\ \Misrepresentation of any material facts by a driver in his application for a license.

(9)\\For not operating or driving an ambulance in the best interest of the general public.

(B)\\An ambulance driver's license may be suspended for a period of not to exceed 90 days for any of the following reasons:

(1)\\First and second offenses of any traffic violation.

(2)\\Violation of any ordinances of the city, which violation reflects unfavorably on the fitness of the licensee to offer public service.

(C)\\Whenever an ambulance driver's license is revoked, the Health Officer shall take up the ambulance driver's license and license identification card and forward same to the City Clerk together with a full report of reasons of revocation.

(D)\\No person whose license has been revoked shall be eligible to receive a new license until one year from the date of such revocation.

(E)\\Whenever an ambulance driver's license is suspended the Health Officer shall take up the license identification card and forward same to the City Clerk, together with the reasons for such suspension and the term thereof.

(F)\\The provisions of this section are supplementary to penalties provided by other sections of this chapter.

(G)\\Before the revocation or suspension of an ambulance driver's license, as provided in this section, a written notice shall be sent to the holder of the license involved by having same delivered to the holder in person, or by mailing same to the business address of such holder on file in the office of the City Clerk. Such notice shall be sent at least five days prior to the time a hearing is to be held and shall advise the holder of the license involved as to the nature of the reason for suspension or revocation and advise that such holder shall have the opportunity to

show why the license should not be suspended or revoked. The Health Officer at the time and place stated in such notice, shall hold a hearing to determine whether the license should be suspended or revoked for any of the reasons provided in this chapter.

(Ord. 281, passed 4-18-67)

4\110.43\CERTAIN ACTS PROHIBITED.

No chauffeur or attendant registered and licensed hereunder shall:

(A)\Refuse to promptly transport or attend any sick or injured person after responding to a call, without good cause.

(B)\Demand or receive compensation other than that established and prescribed herein, or fail to give a receipt for moneys received.

(C)\Give or allow rebate, commission, discount, or any reduced rate not provided in the established rate.

(D)\Induce or seek to induce a change in the destination to or from a hospital or other place specified by the person engaging the ambulance.

(E)\Induce or seek to induce any person engaging an ambulance to patronize or retain the services of any hospital, convalescent home, mortuary, cemetery, attorney, private accident investigator, nurse, or any person that could benefit financially as a result of the inducement.

(F)\Fail to keep his person clean and presentable when on duty.

(G)\Release his patient from his care until he is assured that some responsible person is available to receive such patient.

(H) Use a siren or flashing red light, unless on an emergency call as defined in 4\110.01.

(I) Disobey the lawful orders of a police officer at the scene of an accident, or other similar emergency.

(J) Smoke while driving an ambulance when occupied by a patient or while being the attendant for a patient, as attendant is defined in 4 \110.01.

(K) Exceed the legally posted speed limit by more than ten miles per hour when on an emergency call as defined in 4\110.01.

(L) Fail to slow to ten miles per hour, or less, at any traffic signal showing red or at any stop sign while on an emergency call as defined in 4\110.01.

(Ord. 281, passed 4-18-67) Penalty, see 4\110.99

4\110.99 BURKBURNETT - AMBULANCE TRANSPORTATION COMPANIES 18

4\110.99\PENALTY.

Any person who shall violate any of the provisions of this chapter shall be guilty of an offense and upon conviction thereof shall be punished by a fine not to exceed the sum of \$200.
(Ord. 281, passed 4-18-67)

Section

Carnivals, Circuses, and Shows

- III.01\\Permit required
- III.02\\Application; issuance of permit
- III.03\\Permit fee
- III.04\\Approval or disapproval of permit
- III.05\\Police control and supervision
- III.06\\Standards to be approved
- III.07\\Certain acts prohibited; revocation
- III.08\\Location restriction
- III.09\\Exemptions

Public Dance Halls

- III.25\\Application for public dancing in connection with a
business
- III.26\\Permit nontransferable
- III.27\\Investigation of applicant
- III.28\\Premises
- III.29\\Forfeiture or revocation of license
- III.30\\Gambling prohibited

Private Clubs

- III.40\\Definitions
- III.41\\Classification
- III.42\\Compliance
- III.43\\Permit required
- III.44\\Issuance of permit; fee
- III.45\\Permit nontransferable
- III.46\\Articles of incorporation to be filed

- III.47\\Site restrictions; exceptions
- III.48\\Entry and inspection powers
- III.49\\Alcoholic beverages; gambling

- III.99\\Penalty

CARNIVALS, CIRCUSES, AND SHOWS

4\\III.01\\PERMIT REQUIRED.

(A)\\It shall be unlawful to hereafter hold, sponsor, operate, or run a carnival in the city limits, unless a permit to hold such carnival is first obtained from the city in accordance with this subchapter.

(B)\\Each person aiding or abetting in the holding of such carnival or its subsidiary shows, concessions, amusements, and businesses shall be equally guilty of a violation of this

subchapter, when that carnival, circus, or temporary show operates or runs without such permit. (Ord. 256, passed 8-14-61) Penalty, see 4\\III.99

4\\III.02\\APPLICATION; ISSUANCE OF PERMIT.

A permit shall be issued by order of the City Manager to hold such carnival or circus only when a proper application in writing is made therefor. Such application shall state in detail the different component parts of the carnival including all concessions, shows, amusements, and

businesses; the proposed location of the carnival; the time it is to run; the number of persons regularly traveling therewith, if any; and the number of local persons connected therewith; and shall give a complete and full plan of the proposed carnival.

(Ord. 256, passed 8-14-61)

4\III.03\PERMIT FEE.

The applicant for a permit, if the City Manager shall determine that a permit shall be issued, shall then pay a license fee of \$50 together with \$5 per extra police officer, for the number of officers that the City Manager shall determine shall be necessary per day as set forth in 4\III.05, for so many days that the carnival is issued a permit to run. The City Clerk shall issue the permit specifying the length of time and the location. The applicant shall also be subject to any and all additional inspection fees as may be provided by existing ordinances governing such.

(Ord. 256, passed 8-14-61)

4\III.04\APPROVAL OR DISAPPROVAL OF PERMIT.

Any application for a permit may be referred by the City Manager to the Board of Commissioners for their approval or disapproval, and such action by the Board of Commissioners shall be final.

(Ord. 256, passed 8-14-61)

4\III.05\POLICE CONTROL AND SUPERVISION.

(A)\If the proposed carnival appears to be entirely composed of lawful amusements and lawful enterprises, the City Manager shall determine the number of extra police necessary to properly superintend such carnival and regulate the anticipated crowds and carnival. The City Manager shall instruct the City Clerk as to how many extra officers shall be needed and whether to issue such permits.

(B)\The Chief of Police shall have supervision of the policing of those carnivals, circuses, and shows.

(Ord. 256, passed 8-14-61)

4\III.06\STANDARDS TO BE APPROVED.

All electrical wiring, eating establishments, and other activities where the public health, safety, and interest is

21

BURKBURNETT - AMUSEMENTS

4\III.25

involved, must meet the approval of the Chief of Police and the City Inspector.
(Ord. 256, passed 8-14-61)

4\III.07\CERTAIN ACTS PROHIBITED; REVOCATION.

If the proposed carnival or show consists in whole or in part of any unlawful games, the permit shall be refused. If such carnival is issued a permit and it conducts itself in an unlawful manner in whole or in part, its permit may be revoked by the City Manager and fees paid shall be forfeited.

(Ord. 256, passed 8-14-61)

4\III.08\LOCATION RESTRICTION.

It shall be unlawful for any carnival, circus, or temporary show, to operate in whole or in part within 200 feet of any private residence, church, school, or after its permit expires or is revoked for cause. All persons assisting in such operation shall be deemed guilty of violating this subchapter.

(Ord. 256, passed 8-14-61) Penalty, see 4\III.99

4\III.09\EXEMPTIONS.

Fairs or local shows, composed of local people for purely local charitable purposes without

profit may be exempt from the provisions of this subchapter as applicable to fees charged for permits or licenses upon approval of the Board of Commissioners, except the Board of Commissioners may levy another fee commensurate with any additional expense placed upon the operation of such local fairs or shows.

(Ord. 256, passed 8-14-61)

PUBLIC DANCE HALLS

4\III.25\APPLICATION FOR PUBLIC DANCING IN CONNECTION WITH A BUSINESS.

Applications to conduct public dances as a business or as an incident to a restaurant, dance hall, or other business, except as a dancing school, shall be made on forms provided by the City Clerk, shall be filed in the office of the City Clerk, accompanied by an annual fee of \$250, and shall include:

(A)\A complete identification of the applicant and all persons, partners, or corporate membership directly or indirectly interested in the permit.

(B)\The name, residence, and business address of the manager or person in charge.

(C)\The address, the exact nature of the business, the name under which it is to be operated, and the hours of operation (12:00 p.m. through 12:00 a.m.).

4\III.26

BURKBURNETT - AMUSEMENTS

22

(D)\The square foot area to be used and the seating capacity.

(E)\Whether or not the applicant or anyone having a beneficial interest in the permit, directly or indirectly, has had a permit for the same or a similar business anywhere and if that permit has been suspended or revoked, the circumstances thereof.

(Ord. 428, passed 1-20-86)

4\III.26\PERMIT NONTRANSFERABLE.

The permit shall be issued to one person, association, firm, or corporation and is nontransferable.

(Ord. 428, passed 1-20-86) Penalty, see 4\III.99

4\III.27\INVESTIGATION OF APPLICANT.

It shall be the duty of the Chief of Police to make or cause to be made an investigation into the character of each applicant and report the results of such investigations to the Board of Commissioners at their next regular meeting. The Board of Commissioners shall act on the application and issue a license if they deem it advisable.

(Ord. 428, passed 1-20-86)

4\III.28\PREMISES.

No license shall be issued until it is found that the premises comply and conform to all ordinances and regulations of the city and the county. No public dance hall shall be opened in a residential area.

(Ord. 428, passed 1-20-86) Penalty, see 4\III.99

4\III.29\FORFEITURE OR REVOCATION OF LICENSE.

The license of any aforementioned business shall be forfeited or revoked by the Board of Commissioners for disorderly or immoral conduct on the premises or for the violation of any of the regulations, ordinances, or laws applicable to public places or public dancing in connection with a business.

(Ord. 428, passed 1-20-86)

4\III.30\GAMBLING PROHIBITED.

It shall be unlawful for any officer, director, stockholder, owner, or manager thereof licensed pursuant to the provisions of this subchapter to violate any of the provisions of the gambling

laws of the state, or knowingly permit the violation thereof on any premises subject to the control of that dance or public dance hall.

(Ord. 428, passed 1-20-86) Penalty, see 4\III.99

PRIVATE CLUBS

4\III.40\DEFINITIONS.

For the purpose of this subchapter the following definitions

23

BURKBURNETT - AMUSEMENTS

4\III.43

shall apply unless the context clearly indicates or requires a different meaning.

"PRIVATE CLUB."\Any association, person, firm, or corporation, key club, bottle club, locker club, pool club, or any other kind of club or association which excludes the general public from its premises or places of meeting, congregation, or operation, or which exercises control over any other place where persons are permitted to drink alcoholic beverages other than in a private home.

"STOCKHOLDERS."\Those "STOCKHOLDERS" who receive, or whose rights as a "STOCKHOLDER" are ordinarily intended to cause him to receive a financial return on his stock.
(Ord. 374, passed 12-18-79)

4\III.41\CLASSIFICATION.

For the purpose of a permit and regulations, private clubs shall be divided into three classes:

(A)\Class A private clubs shall include those clubs, associations, or corporations, falling

within the general term "PRIVATE CLUB" as defined in 4\III.40, which are charitable, eleemosynary, educational, recreational, and which are not operated for profit, and which hold and maintain an income tax exempt status under the regulations and rulings of the Internal Revenue Service of the United States.

(B)\Class B shall include restaurants open to the general public but maintaining a private room opening into the restaurant, which private room is used as a "PRIVATE CLUB" as defined in 4\III.40.

(C)\Class C shall include any other "PRIVATE CLUB" as defined in 4 \III.40.
(Ord. 374, passed 12-18-79)

4\III.42\COMPLIANCE.

Every private club licensed or any applicant for a private club permit pursuant to this subchapter shall be subject to all other ordinances of the city, including but not limited to the applicable provisions of the building code, fire prevention code, health regulations, food handling ordinances, restaurant ordinances, and the provisions of the Southern Standard Building Code as amended.

(Ord. 374, passed 12-18-79)

4\III.43\PERMIT REQUIRED.

It shall be unlawful for any association, person, firm, or corporation to maintain or operate any private club without first paying in advance to the City Clerk the permit fee hereinafter prescribed in 4\III.44, and making application for a permit therefor

on forms provided by the Clerk, and receiving a permit from the City Clerk to which application

shall be attached a copy of any and all documents applying for a private club permit filed or to be filed with the State Alcoholic Beverage Commission. Application for such permit shall be on file with the City Clerk for 14 days prior to the regular monthly meetings of the Board of Commissioners.

(Ord. 374, passed 12-18-79) Penalty, see 4\III.99

4\III.44\ISSUANCE OF PERMIT; FEE.

The City Clerk shall cause the Chief of Police, the Building Official, Fire Marshall, and the Health Officer to make due investigation of the application and upon being notified by them that all of the applicable ordinances of the city have been complied with, shall issue the permit. The permit fee for such permit shall be \$250.

(Ord. 374, passed 12-18-79)

4\III.45\PERMIT NONTRANSFERABLE.

The permit shall be issued to one person, association, firm, or corporation and is nontransferable.

(Ord. 374, passed 12-18-79) Penalty, see 4\III.99

4\III.46\ARTICLES OF INCORPORATION TO BE FILED.

Any applicant for a permit for a private club shall file with the City Clerk true copies in duplicate of the articles of incorporation and bylaws, if the applicant is a corporation; true copies of any articles of association and bylaws, if the applicant is an association; and a list of the officers, directors, owners, and managers of the club and stockholders.

(Ord. 374, passed 12-18-79)

4\III.47\SITE RESTRICTIONS; EXCEPTIONS.

(A)\The following restrictions shall be:

(1)\The club site and parking site shall be on same or adjacent properties.

(2)\No building shall be located within 30 feet of any other property line.

(3)\The site may have one and not more than one permanent dwelling unit which may be detached, and which shall be used only as the residence of an employee or owner of the private club.

(4)\The maximum number of people allowed shall not exceed one person per 15 net square feet of floor space, exclusive of working and storage area, as per the Southern Standard Building Code Chapter II adopted by the city by Ordinance 272, passed July 19, 1965.

(5)\Off-street parking space. An area of off-street (on

25

BURKBURNETT - AMUSEMENTS

4\III.99

premise) parking shall be provided by the owner. The number of parking spaces shall be determined as follows: there shall be one parking space per each four persons allowed in the building as determined by division (A) of this section. A plat of the premises showing floor space and the proposed parking area shall be included in the application for a permit. The lot on which the structure is located and parking lot or lots for all vehicles shall be enclosed by a solid wall or fence at least six feet high except on any side facing any street.

(B)\The limitations of this section shall not apply to a private club which is in operation at the time of the passage of this subchapter.

(Ord. 374, passed 12-18-79) Penalty, see 4\III.99

4\III.48\ENTRY AND INSPECTION POWERS.

The right of entry and inspection of any premises subject to the control of any private club by any officer or agent of any department of the city charged with enforcement of the provisions hereof shall be a condition on which every permit shall be issued, and the application for, and the acceptance of any permit hereunder shall conclusively be deemed to be consent of the

applicant and permittee to such entry and inspection.

(Ord. 374, passed 12-18-79)

4\III.49\ALCOHOLIC BEVERAGES; GAMBLING.

It shall be unlawful for any private club or any officer, director, stockholder, owner, or manager thereof licensed pursuant to the provisions of this subchapter to violate any of the provisions of the state alcoholic beverage law or any of the gambling laws of the state, or knowingly permit the violation thereof on any premises subject to the control of that private club.

(Ord. 374, passed 12-18-79) Penalty, see 4\III.99

4\III.99\PENALTY.

(A)\Any person, firm, or corporation violating any provisions of this chapter for which another penalty has not been provided, shall be deemed to be guilty of a misdemeanor and shall upon conviction be punished by a fine not to exceed \$200 for each offense. A separate offense shall be deemed committed on each date during or on which a violation occurs or continues.

(B)\Any person, partnership, or corporation violating any provisions of 44\III.25 through III.30 by operating a business pertaining to public dancing without obtaining a license, shall be guilty of a misdemeanor and shall upon conviction be subject to a fine of \$50 for each day these sections are violated by failure to procure a license. Any person, partnership, or corporation who

shall violate any other provision of 44\III.25 through III.30 shall be deemed guilty of a misdemeanor and shall upon conviction be punished by a fine not to exceed \$200 for each offense. (Ord. 374,

passed 12-18-79)

CHAPTER 12: \ \ PEDDLERS AND SOLICITORS

Section

General Provisions

12.01 \ \ Definitions

12.02 \ \ Police power of state and city

12.03 \ \ Hours of operation restricted

12.04 \ \ Certain peddling and soliciting prohibited in fire limits

12.05 \ \ Entering upon property without invitation prohibited

12.06 \ \ Exemptions

Permit Procedure

12.15 \ \ Permit Board

12.16 \ \ Permit required; fee

12.17 \ \ Itinerant merchant or vendor; permit required

12.18 \ \ Application for permit; information required

12.19 \ \ Investigation of application

12.20 \ \ Bond

12.21 \ \ Issuance of permit

12.22 \ \ Expiration

12.23 \ \ Permit to be carried upon person while so engaged

12.24 \ \ Revocation

12.25 \ \ Appeal

GENERAL PROVISIONS

4\112.01\DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ITINERANT MERCHANT."\\Any person, firm, or corporation, whether as owner, agent, consignee, or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares, merchandise, or personal property of any nature whatsoever within the city; and who in furtherance of such purpose, uses or occupies any building, structure, motor vehicle, or public room in a hotel or motel, for the exhibition and sale of such goods, wares, merchandise, or other personal property, or for the purpose of securing orders for future delivery. However, such definition shall not include any individual who is licensed by the state as an auctioneer or associate auctioneer and who complies with all applicable provisions of Article 8700, Revised Civil States of Texas.

"PEDDLER."\\Any individual, whether a resident of the city or not, traveling either by foot or by automobile or other type of

conveyance, from place to place, from house to house, or from street to street, carrying or transporting goods, wares, merchandise, or personal property of any nature whatsoever (including tickets and coupon books), offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or

offer the same for sale from an automobile or any other type of conveyance.

"SOLICITOR."\Any individual, whether a resident of the city or not, traveling either by foot or by automobile or other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares, merchandise, or personal property of any nature whatsoever (including tickets for shows and books of coupons which may be traded in for goods or services) for future delivery, or for services to be furnished or performed in the future, whether or not he is collecting advance payments on such sales.
(Ord. 436, passed - -87)

4\112.02\POLICE POWER OF STATE AND CITY.

This chapter shall be deemed an exercise of the police power of the state and of the city for the public safety, comfort, convenience, and protection of the city and the citizens thereof, and all of the provisions of this chapter shall be construed for the accomplishment of that purpose.

(Ord. 436, passed - -87)

4\112.03\HOURS OF OPERATION RESTRICTED.

Even with a permit granted to a person by the Permit Board, it shall still be unlawful for any person to solicit sales at all private residences from 5:30 p.m. to 9:00 a.m., except at the request of the resident of such private residence or by appointment with such resident of such private residence.

(Ord. 436, passed - -87) Penalty, see 4\112.99

4\112.04\CERTAIN PEDDLING AND SOLICITING PROHIBITED IN FIRE LIMITS.

(A)\It shall be unlawful for solicitors and peddlers to carry on their business on the streets, sidewalks, and other public places in the fire limits.

(B)\Nothing in this section shall prohibit the sale of newspaper or the sale or giving away of religious literatures in the fire limits.

(C)\Standing or stopping on streets limited. It shall be unlawful for any peddler, who is selling or offering for sale goods, wares, and merchandise from an automobile or other type of vehicle, to take a stand, or stop, or stand his vehicle on any public street or public right-of-way within the city for a longer period of time than ten minutes.

(Ord. 436, passed - -87) Penalty, see 4\12.99

29 BURKBURNETT - PEDDLERS AND SOLICITORS 4\12.16

4\12.05\ENTERING UPON PROPERTY WITHOUT INVITATION PROHIBITED.

The issuance of a permit under this chapter does not authorize the holder to go on private property for the purpose of engaging in his business, when he has notice that his entrance is forbidden or he has received notice to depart.

(Ord. 436, passed - -87) Penalty, see 4\12.99

4\12.06\EXEMPTIONS.

(A)\The provisions of this chapter shall not apply to the sale or soliciting of orders for the sale of vegetables, poultry, eggs, and other farm and garden products which have been raised or produced by the vendor; daily deliveries of milk and bakery and other food products; newspaper distribution; sales made to dealers by commercial travelers or sales agents in the usual course of business; or sales made under authority and by order of law.

(B)\This chapter shall not apply to the sale or soliciting of orders for sales by youth members of the Y.M.C.A., Y.W.C.A., Boys Clubs, Girls Clubs, Boy Scouts, Girl Scouts, and Campfire Girls, when such youth members are soliciting or peddling as a part of a program sponsored by the organization nor shall it apply to sales or soliciting of orders for sales by youth members of any club, organization, fraternity, or sorority sanctioned and approved by the local schools, when such youth members or regular members are soliciting or peddling as a part of a

program sponsored by the organization.

(C)\ \Nothing in this chapter shall prohibit the sale of newspapers or the sale or giving away of religious literature.

(Ord. 436, passed - -87)

PERMIT PROCEDURE

4\112.15\ \PERMIT BOARD.

There is hereby established a permit board of the city, the name of which shall be the Permit Board of the city. The Permit Board shall be composed of the City Clerk, the Chief of Police, and the City Attorney.

(Ord. 436, passed - -87)

4\112.16\ \PERMIT REQUIRED; FEE.

(A)\ \It shall be unlawful for any solicitor, peddler, hawker, itinerant merchant, or transient vendor of merchandise to go in and upon private residences in the city without having been requested or invited so to do by the owner or occupant of such private residence for the purpose of soliciting orders for the sale of goods, wares, and merchandise, or for the selling, peddling, or hawking the same, without first securing a permit from the City Clerk as herein provided.

4\112.17 BURKBURNETT - PEDDLERS AND SOLICITORS

30

(B)\ \Each applicant for a permit shall be charged a fee of \$15, regardless of the term of the permit. If the applicant is other than an individual, the applicant will be charged an additional fee of \$1 for each employee working as a solicitor or peddler under the permit.

(Ord. 436, passed - -87) Penalty, see 4\112.99

4\112.17\ITINERANT MERCHANT OR VENDOR; PERMIT REQUIRED.

It shall be unlawful for any itinerant merchant or vendor to engage in any activity mentioned in this chapter without first having applied for and having obtained a permit to do so from the city.

(Ord. 436, passed - -87) Penalty, see 4\112.99

4\112.18\APPLICATION FOR PERMIT; INFORMATION REQUIRED.

(A)\Any person desiring to engage in the business of going in and upon private residences in the city for the purpose of soliciting orders for the sale of goods, wares, or merchandise, or of selling, hawking, or peddling the same, shall make an application for a permit to the City Clerk, who shall, if same is in proper form, refer such application to the Permit Board. The members shall investigate applicants and report their findings and recommendations to the City Clerk as soon as is reasonably possible. The City Clerk shall then either grant or refuse such permit, as recommended by the Permit Board.

(B)\Any person desiring a permit required by this chapter shall make written application therefor to the City Clerk for a permit so to do, which application shall show the following:

(1)\The full name and post office address of the applicant.

(2)\The state, county, town, or city in which the applicant permanently resides.

(3)\The age, height, weight, complexion, color of hair, and color of eyes of the applicant.

(4)\The occupation in which the applicant desires to engage and for which he desires a permit.

(5)\A full and complete description of the goods, wares, and merchandise or other articles or tokens which the applicant desires to sell, which description shall give in detail the grade and character of the property to be sold. Further description as to grade and quality may be required by the Permit Board.

(6)\ \Whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude.

(7)\ \The Permit Board may, upon good cause, waive any or all of the foregoing requirements, or the permit fee.

31 BURKBURNETT - PEDDLERS AND SOLICITORS 4\112.20

(8)\ \Description and license number of all vehicles to be used by the applicant, and a driver's license for identification.

(C)\ \There shall be attached to each application for a permit the following:

(1)\ \Two recent photographic likenesses of the applicant's face, which photograph shall not exceed one inch square in size or a copy of driver's license with picture.

(2)\ \A certificate or letter from the president, a vice president, general manager, sales manager, assistant sales manager, or district or area manager of the company for which the applicant works, sells, or solicits, stating that the applicant is an employee or agent of such company.

(3)\ \A reference to a recognized financial rating publication, which reference shall show the page on which the company's or firm's financial standing can be found; or a letter or a certificate from an association or organization which has as its purpose the protection of citizens of the United States against illegal or unsavory business practices stating that the firm or company is a member in good standing of such association or organization, or a letter from the Better Business Bureau.

(4)\In the event that the applicant is an individual who is not working, selling, or soliciting for any firm or company, letters of recommendation from two citizens of the applicant's permanent residence shall be submitted along with a letter of credit from the bank where the individual banks.

(Ord. 436, passed - -87)

4\112.19\INVESTIGATION OF APPLICATION.

(A)\Upon the filing of an application for a permit under this chapter, it shall be the duty of the City Clerk to retain the application and have the Permit Board consider the application as soon as it is reasonably possible.

(B)\Upon the filing of an application for a permit, it shall be the duty of the City Clerk to circulate the application to the other members of the Permit Board for their consideration. The members of the Board may consider the application either in a meeting or individually.

(Ord. 436, passed - -87)

4\112.20\BOND.

Every holder of a solicitor's permit, before doing business under such permit shall file with the City Clerk a surety bond in the amount of \$1,000, payable to the city. Such bonds shall be approved by the City Attorney. Such bonds shall inure to the benefit of any and all persons who sustain any loss or damage on account of any breach of the conditions of the bonds. Such bonds shall be conditioned as follows:

(A)\The solicitor's permit bond shall be conditioned that the holder shall comply fully with all the provisions of the ordinances of the city and statutes of the state regulating and concerning

the business of solicitor, and guaranteeing to any citizen that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor and further guaranteeing that the property purchased will be delivered according to the representations of the solicitor.

(B)\The itinerant merchant's permit bond shall be conditioned that the holder shall comply fully with all provisions of the ordinances of the city and statutes of the state regulating and concerning the sale of goods, wares, and merchandise, and will pay all judgments rendered against the holder for any violation of those ordinances or statutes, together with all judgments and costs that may be recovered against him by any person for damages growing out of any misrepresentation or deception practiced on any person transacting business with such holder, whether said misrepresentations or deceptions were made or practiced by the holder or by his employees or agents, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares, and merchandise sold or any part thereof.

(Ord. 436, passed - -87)

4\112.21\ISSUANCE OF PERMIT.

(A)\If, upon hearing, it shall appear to the Permit Board or a majority thereof that the statements contained in an application for a permit under this chapter are true, and that the applicant has the right, under the Constitution and laws of this state and under the ordinances of this city, to engage in business, and that the applicant has not been convicted of a felony or a misdemeanor involving moral turpitude, the Permit Board shall issue such permit to the applicant.

(B)\Each permit issued under this chapter shall contain the following:

(1)\The name of the applicant and his address.

(2)\The date the permit was issued.

(Ord. 436, passed - -87)

4\112.22\EXPIRATION.

All permits shall expire on December 31 of the calendar year in which it is issued.

(Ord. 436, passed - -87)

4\112.23\PERMIT TO BE CARRIED UPON PERSON WHILE SO ENGAGED.

It shall be unlawful for any itinerant merchant or vendor to engage in any activity for which a permit is required by this

33 BURKBURNETT - PEDDLERS AND SOLICITORS 4\112.99

chapter unless he carries such permit on his person while so engaged.

(Ord. 436, passed - -87) Penalty, see 4\112.99

4\112.24\REVOCATION.

If, after the permit provided for in this chapter has been issued, the permit was obtained by false representation in the application, such permit may be revoked by the Permit Board. Such permit may also be revoked, if it shall appear to the Permit Board that the holder of such permit has violated any ordinance of the city or any law of the state in connection with any soliciting by such holder or in connection with the collection, or attempted collection, of any account due to such permit holder or his employer or in connection with the repossession or attempted repossession of goods sold by such permit holder or any other person employed by the employer of such permit holder.

(Ord. 436, passed - -87)

4\112.25\APPEAL.

If the applicant for a permit under this chapter or the holder of such a permit is dissatisfied with any holding or finding of the Permit Board, he shall have the right to appeal to the Board of Commissioners by filing a written notice of such appeal with the Permit Board within ten days from the making and filing of such decision of the Permit Board. Upon the filing of such notice

of appeal, the application for the permit and all papers possessed by the Permit Board in connection with such application and such permit shall be delivered to the Board of Commissioners, and such matters as may be in controversy shall be heard by the Board of Commissioners at its next regular meeting after the filing of the notice of appeal. The Board of Commissioners shall have the same powers and authority at such hearing on such appeal as is vested in the Permit Board by this chapter.

(Ord. 436, passed - -87)

4\112.99\ \PENALTY.

Any person violating the provisions of this chapter shall be subject to a fine of not more than \$200. Each and every day's violation of this chapter shall constitute a separate offense.

(Ord. 436, passed - -87)

CHAPTER 113: BODY ART ESTABLISHMENTS

Section

113.01 Purpose

113.02 Definitions

113.03 Location Restrictions for body art establishments

113.04 Permit required to establish or operate a body art establishment

113.05 Inspections

113.06 General offense

113.07 Exceptions

113.99 Penalty

' 113.01 PURPOSE.

Minors who do not have the consent of their parents are prohibited, by state law, from obtaining a tattoo or body piercing. Location of body art establishments near areas frequented by minors would significantly increase the burden on law enforcement authorities in the interdiction of violations of the state law. Moreover, the location of body art establishments affects the value of property in the area where a studio is located. The following sections regulate the establishment and location of body art establishments to promote the health, safety and general welfare of the citizens of the city. Further, periodic inspections of body art establishments authorized by the city to insure compliance with state law is a legitimate law enforcement endeavor to promote the general health and welfare of the citizens of the city. (Ord. 577, passed 10-22-99)

' 113.02 DEFINITIONS.

(A) Adoption of State Law Definitions. Unless otherwise defined in this Code, all terms used in this chapter shall have the respective meanings assigned to them in Chapter 146 of the

Texas Health and Safety Code as amended from time to time, and all regulations issued by the Texas Department of Health (or its successor agency) pursuant to the authority granted under Chapter 146 of the Texas Health and Safety Code. In the event of any conflict between the definitions or terms used in this chapter with terms defined or construed under state law, the state law definition or construction will prevail.

(B) Body Art. The practice of physical body adornment by permitted establishments and operators utilizing, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification.

(C) Body Art Establishment. Any place or premise, whether public or private, temporary or permanent in nature or location, where the practices of body art, whether or not for profit are performed.

(Ord. 577, passed 10-22-99)

' 113.03 LOCATION RESTRICTIONS FOR BODY ART ESTABLISHMENTS.

A body art establishment shall not be established or operated within 1,500 feet of a child care facility, church or place of worship, dwelling, public building, public park or retail establishment in which minors are permitted to enter. Temporary body art locations, such as craft fairs and public events, are prohibited.

(Ord. 577, passed 10-22-99) Penalty, see ' 113.99

' 113.04 PERMIT REQUIRED TO ESTABLISH OR OPERATE A BODY ART ESTABLISHMENT.

(A) Permit Required. No one may establish or operate a body art establishment within the city limits unless such individual has a permit issued by the city under this section.

(B) Permit Application Procedure. Any person who seeks to establish or operate a body art establishment may apply for a permit as follows:

(1) The applicant shall complete an application and submit the application together with such information or documents as may be required by the application to the officer or employee of the city designated in the application including a photocopy of the applicant's identification.

(2) The applicant shall submit a fee of \$250.00 with the application to defray the cost to the city of processing the application, verifying the information therein and issuing a permit.

(3) The City Manager or his designee shall issue a permit, if the following requirements have been met:

(a) The applicant has a current license issued by the Texas Department of Health authorizing him to conduct a tattooing or body piercing business or body art establishment

at the location for which the permit is sought;

(b) All persons who are to engage in the body art business at the location have a current license issued by the Texas Department of Health;

(c) The body art establishment for which a city permit is sought is not located in an area in violation of ' 113.03 above;

(d) The applicant has provided evidence of compliance with applicable law regarding the maintenance of records;

(e) The applicant is not a party to any action by the Texas Department of Health seeking the forfeiture of his license or the imposition of a civil penalty;

(f) Neither the applicant nor any person practicing tattooing, body piercing or body art at the location has, within three years of the date the application is filed with the city, been:

(i) Convicted of any violation of Chapter 146 of the Texas Health and Safety Code or any similar law or regulation;

(ii) The subject of a final judgement suspending or forfeiting his license for operation of a tattoo or body piercing studio or body art establishment by any state or governmental agency; or

(iii) The subject of a final judgement brought by or on behalf of the Texas Department of Health imposing a civil penalty under Chapter 146 of the Texas Health and Safety Code (or the regulations promulgated thereunder).

(g) The applicant has made the location for which the city permit is sought available for inspection by the city and no violations of state law or this chapter have been found.

(4) The City Manager or his designee shall act upon the application within ten days of the date the city is provided all information requested by the application, including any verifications of information from third parties such as officers or employees of the Texas Department of Health, and all inspections are completed. An applicant dissatisfied with the decision of the City Manager or his designee may appeal the decision to the City Manager (if the City Manager has delegated the initial decision to another person). If the applicant is dissatisfied with the decision of the City Manager, he may appeal the City Manager's decision to the Board of Commissioners of the city by delivering written notice of appeal to the City Secretary ten days from the date the applicant is notified of the City Manager's decision. The City Manager's decision shall be considered "delivered" to the applicant at the address set forth in the application on either the third day following the date the decision is mailed to the applicant at the address set forth in the application or the date the decision is personally delivered to the

applicant by an officer or employee of the city.

(C) Development of Application. The City Manager or the City Manager's designee shall develop an application form which will have all information required to carry out the terms of this chapter as well as all information necessary or useful in the city's discharge of its duty to enforce any laws applicable to body art establishments. The application may be amended, from time to time, by the City Manager or his designee.

(D) Expiration of Permits. Each permit granted by the city shall expire on the next anniversary date of the date the permit is issued to an applicant by the Texas Department of Health. Further, the permit issued by the city shall only be valid for the location stated in the applicant's application to the city and shall become void if the

applicant moves the body art establishment from the location stated in the application. Upon expiration of a permit issued by the city, the applicant shall apply for a permit in the manner stated in ' 113.04 (B) above.

(Ord. 577, passed 10-22-99)

' 113.05 INSPECTIONS.

Body art establishments may be inspected by a qualified sanitation inspector, from time to time, prior to the issuance of a permit by the city or afterwards, to insure compliance with the provisions of this chapter and state law. The body art establishment will be responsible for all costs associated with these inspections. In the event an inspection reveals that a body art establishment is in violation of any provision of this chapter, the city may revoke the permit issued by the city. The decision of whether a permit issued by the city should be revoked shall be made by the City Manager. Such decision shall be delivered by the City Manager to the permittee in writing. A permittee may appeal the City Manager's decision to the Board of Commissioners of the city in the same manner specified in ' 113.04 (B) (4) above. In the event an inspection reveals that a body art establishment is in violation of any provision of state law, such violation shall be reported by the city official to the Texas Department of Health. The permittee or applicant and all agents and employees of the permittee or applicant shall cooperate with the city inspector with any relevant information requested to insure compliance with this chapter and state law and complete access to the body art establishment.

(Ord. 577, passed 10-22-99)

' 113.06 GENERAL OFFENSE.

It shall be unlawful for any person:

(1) To establish a tattoo studio, a body piercing studio or a body art establishment within the corporate limits of the city without first obtaining a permit from the city;

(2) To operate a tattoo studio, a body piercing studio or a body art establishment within the

corporate limits of the city without a current, non-expired permit from the city; or

(3) To fail to provide an inspector, who is in the course of an inspection authorized by ' 113.05 above, access to any relevant information requested to insure compliance with this chapter or state law and complete access to the body art establishment.

(Ord. 577, passed 10-22-99)

' 113.07 EXCEPTIONS.

Notwithstanding any other provision herein, nothing in this chapter shall apply to the following:

(1) A doctor of medicine, doctor of osteopathic medicine or a registered nurse licensed and regulated by the State of Texas while operating within the scope of that person's license;

(2) A clinic or hospital operated by a doctor of medicine or doctor of osteopathic medicine; or

(3) Persons licensed or practicing by authority of the Texas Cosmetology Commission or the Texas Board of Barber Examiners, so long as these persons practice within the scope of the license or permit duly issued by the Texas Cosmetology Commission and who, as an incidental part of their business or vocation, engage in tattooing or body piercing, so long as they comply with the provisions of Chapter 146 of the Texas Health and Safety Code with respect to such practices. For the purposes of this subsection, "incidental" shall mean less than 50% of their business revenue and less than 50% of their floor space is devoted to tattooing, body piercing or body art.

(Ord. 577, passed 10-22-99)

' 113.99 PENALTY.

Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine in any sum not to exceed \$500. Each day's operation in violation of this chapter shall constitute a separate offense.

(Ord. 279, passed 2-20-67; Am. Ord. 577, passed 10-22-99)

CHAPTER 114: TAXICABS

Section

114.01 Definitions

114.02 License required; fee

114.03 Issuance of license

114.04 Insurance requirement

114.05 Driver's license required

114.06 Display of company name and driver's license

114.07 Rates to be posted

114.08 Number of passengers

114.09 Records to be kept

114.10 Lost property

114.11 Accident reports

114.12 Change of address

114.13 Suspension or revocation of licenses for violation

114.14 Refusal of passengers to pay charge

114.15 Enforcement

114.99 Penalty

114.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"DRIVER." Includes every person in charge of or operating any taxicab, as defined below, either as agent, employee, or otherwise.

"OWNER." Any person, firm, or corporation who has the bona fide legal title to or control, direction, operation, maintenance, or leasing of a taxicab, as defined below, or the collection of revenue derived from taxicabs so operated for hire on the streets of the city.

"TAXICAB." Any motor vehicle propelled and operated for passage or hire, subject to call from a garage, office, or other place, or otherwise operating for hire, except motor buses running and operating on established routes, sight-seeing buses, and funeral vehicles.

4\114.02\ \LICENSE REQUIRED; FEE.

(A)\ \No person, firm, or corporation shall operate or conduct a taxicab business in the city without first having obtained the required taxicab license from the City Clerk, and fully paying for it. No license to operate or conduct a taxicab business shall be granted until and unless the applicant therefor shall file in the office of the City Clerk an application on forms provided by the city.

(B)\ \Each person, firm, or corporation owning or operating taxicabs in the city shall pay an annual license fee in the amount established by the city from time to time, for each taxicab operated. The licenses shall be for one year.

Penalty, see 4\114.99

4\114.03\ \ISSUANCE OF LICENSE.

Upon receipt of an application for a license to operate a taxicab, the City Clerk shall investigate all the facts stated in the application. If the City Clerk deems it advisable that the applicant should be permitted to operate or conduct a taxicab business in the city, he shall approve the application and shall thereupon issue the license upon the payment of the fee and the filing of the insurance policy as provided in 4\114.04. If the City Clerk does not deem it advisable that the applicant should be permitted to conduct this business, he shall reject the application and no license shall be

issued to the applicant. The applicant may appeal from this decision by filing a statement of appeal with the Board of Commissioners, whereupon the Board shall pass upon the application and shall approve or reject it.

4\114.04\INSURANCE REQUIREMENT.

(A)\Before any license is issued for a taxicab, as defined in4 \114.01, the owners shall file with the office of the City Clerk an indemnifying bond or insurance policy, to be approved by the Board of Commissioners, in some good and solvent incorporated insurance company licensed and admitted to do business in the state. The policy shall continuously cover each taxicab owned, operated, or leased by the applicant, and the insurance company shall be liable in the sum of not more than \$300,000 for any one accident resulting in bodily injuries to or the death of one person, and not more than \$300,000 total liability on account of any one accident resulting in bodily injuries to or the death of more than one person, regardless of whether the taxicab was being driven by the owner or his agent or lessee. The policy shall further provide that the insurance company shall be liable in the sum of \$100,000 for any property damage which may occur by reason of the negligence or careless operation of any taxicab covered by the policy, regardless of whether the taxicab was being driven by the owner, his agent or lessee, or a licensee.

(B)\This required insurance bond or policy shall further provide that insolvency or bankruptcy of the insured shall not release the surety or insurance company from any payment due under the policy, and if by reason of insolvency or bankruptcy an exception on a judgment against the insured is returned unsatisfied, the judgment creditor shall have a right of action against the company to cover the amount of the judgment to the same extent that the insured would have had to recover against the company had the insured paid the judgment.

(C)\The policy shall further provide that it may not be cancelled until after 15 days' notice to the office of the City

Clerk. If the owner shall fail within this 15 days to provide another policy of like kind and manner, then the permit and license, provided for herein, shall be revoked by the City Clerk as of the day the insurance ceases to be in effect.

Penalty, see 4\114.99

4\114.05\DRIVER'S LICENSE REQUIRED.

(A)\It shall be unlawful for any person to drive, operate, or be in charge of any taxicab without having first obtained a permit, in writing, from the office of the City Clerk to do so. Applicants for taxicab permits shall file with the office of the City Clerk an application, in writing, upon blanks to be furnished by the city, a statement and doctor's certificates. Applicants shall also be fingerprinted by the Police Department. The application shall be accompanied by a license fee in the amount established by the city, which shall be returned to the applicant if the application is not approved.

(B)\The City Clerk shall investigate the facts in the application before approving the license. In the event that the City Clerk refuses to issue a driver's license, applicants may appeal from the decision by filing a statement of appeal with the Board of Commissioners, which shall approve or reject the application.

(C)\The holding of a taxicab driver's license shall permit the holder thereof to drive a taxicab for one current license year. The City Clerk shall issue to the holder of the permit a card of a design and bearing the words and numerals as prescribed by the Board of Commissioners, containing the name and picture of the driver.

Penalty, see 4\114.99

4\114.06\DISPLAY OF COMPANY NAME AND DRIVER'S LICENSE.

(A)\Every taxicab used for carrying passengers for hire shall have the name of the taxicab company painted on each side of the taxicab so as to be readily visible and in a manner approved by the city.

(B)\It shall be unlawful for any owner or driver to operate a taxicab in the city unless the driver's permit card is displayed in the taxicab in a conspicuous place so that it is in full view of the

passengers.

Penalty, see 4 \114.99

4 \114.07 \ \ RATES TO BE POSTED.

An up-to-date schedule of rates in effect shall be continually posted in each taxi, and a copy shall be filed with the City Clerk. A new schedule shall be filed with the City Clerk, and a new schedule shall be filed and posted whenever any change is made.

Penalty, see 4 \114.99

4 \114.08

BURKBURNETT - TAXICABS

40

4 \114.08 \ \ NUMBER OF PASSENGERS.

No driver of a licensed taxicab shall carry any person or persons in the back seat other than the passenger or passengers by whom he has been engaged, nor shall he carry more than five passengers on any one trip.

Penalty, see 4 \114.99

4 \114.09 \ \ RECORDS TO BE KEPT.

Every taxicab operator, owner, and driver shall keep a daily record of all calls made, the number of passengers transported, and the time and place each passenger was secured and discharged. These records shall be kept by the owner or operator at his place of business for one year, and shall be subject to inspection by any police or other officer of the city at all times.

Penalty, see 4 \114.99

4 \114.10 \ \ LOST PROPERTY.

Drivers of taxicabs shall promptly report to the Police Department all property of value left in

the vehicles by passengers, together with all information in his possession regarding the same.

Penalty, see 4\114.99

4\114.11\ACCIDENT REPORTS.

It shall be the duty of every taxicab driver to report, in writing, to the Chief of Police, upon blanks to be approved by the city, of injuries to persons or property, accidents, or casualties in which the taxicab driven by him participated, directly or indirectly. This shall be made within 24 hours after the happening thereof and shall give in detail the time, place, nature, and cause of the injury, or the name, address, and license number of the driver submitting the report. Physical disability shall alone constitute excuse for noncompliance with the foregoing provisions.

Penalty, see 4\114.99

4\114.12\CHANGE OF ADDRESS.

It shall be the duty of every driver to notify the office of the City Clerk in writing, of any change in his address, giving his new address in full.

Penalty, see 4\114.99

4\114.13\SUSPENSION OR REVOCATION OF LICENSES FOR VIOLATION.

(A)\The taxicab license or chauffeur license granted under this chapter may be revoked at any time by the City Clerk if the vehicle is used for immoral or illegal purposes; if the driver of the vehicle is convicted of the violation of any city, state, or federal law; or if the owner or driver violates any of the terms of this chapter. The taxicab license or chauffeur license may also be

suspended or revoked at any time if the vehicle is not in good operating condition and appearance. Licenses when so suspended or revoked shall not be reissued until the vehicle and all appurtenances are put into proper condition for the use of the public.

(B)\ Notice of the hearing for revocation or suspension of a license shall be given in writing stating the grounds of the complaint and the time and place of the hearing. This notice shall be mailed, postage prepaid, to the licensee at the address given on the application for the license, at least ten days prior to the date set for the hearing.

(C)\ Any person aggrieved by the decision made during the hearing shall have the right to appeal to the Board of Commissioners. This appeal shall be taken by filing a written statement of the grounds for the appeal within a specified time after notice of the decision has been given. A time and place for hearing the appeal shall be set, and notice of the time and place shall be given in the manner provided in division (B) above for notice of a hearing for a license revocation or suspension.

4\114.14\ REFUSAL OF PASSENGERS TO PAY CHARGE.

It shall be unlawful for any person, with intent to defraud the owner or operator of any public vehicle for hire, to engage carriage therein. Refusal to pay the lawful charge for the carriage, absconding without payment or offering to pay the charges shall be prima facie evidence of the intent to defraud.

Penalty, see 4\114.99

4\114.15\ ENFORCEMENT.

Enforcement of the provisions of this chapter shall be under the control of the city.

4\114.99\ PENALTY.

Any person, firm, or corporation violating any of the provisions of this chapter, for which another penalty is not provided, shall be guilty of a misdemeanor and in addition to having his license revoked shall be fined not more than \$200 for each offense.

CHAPTER 115: ADULT BUSINESSES

Section

- 115.01 Definitions
- 115.02 Prohibited in certain areas
- 115.03 Defense to prosecution
- 115.04 Conditional use permit; when required

115.99 Penalty

' 115.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ADULT BOOK STORE." An establishment having as a substantial or significant portion of its stock-in-trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to a "SPECIFIED SEXUAL ACTIVITIES" separate segment or section devoted to the sale or display of such material.

"ADULT MOTION PICTURE THEATER." An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "SPECIFIED SEXUAL ACTIVITIES" or "SPECIFIED ANATOMICAL AREAS" for observation by patrons therein.

"SEMI-NUDE." A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of female breasts, as well as portions of the body covered by supporting straps or devices.

"SPECIFIED ANATOMICAL AREAS." Shall mean:

(1) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breasts 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 SEXUAL ACTIVITIES." Shall mean:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse, or sodomy; and/or

(3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.

(Ord. 458, passed 3-20-89)

' 115.02 PROHIBITED IN CERTAIN AREAS.

(A) A person commits an offense if he operates or causes to be operated within 1,000 feet of a church, a public or private elementary or secondary school, a residential dwelling unit in which one or more persons maintain a residence, a public park, or another business of a type hereinafter enumerated in this section, a business of one of the following types:

(1) An adult book store as hereinafter defined.

(2) An adult motion picture theater as hereinafter defined.

(3) A business or enterprise which offers for a consideration nude human modeling.

(4) A business or enterprise that offers for a consideration physical contact between persons when one or more of such persons are nude or semi-nude.

(B) For the purpose of this chapter, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building used as a business or enterprise enumerated in division (A) to the nearest portion of the building used by another business or enterprise so enumerated or the nearest property line of the premises of a church, a public or private elementary or secondary school, a public park, or to the nearest portion of a building used as a residential dwelling unit in which one or more persons maintain a residence.

(Ord. 458, passed 3-20-89)

' 115.03 DEFENSE TO PROSECUTION.

It shall be a defense to prosecution under ' 115.02 (A)(3), that the business or enterprise is a proprietary school licensed by the State of Texas.
(Ord. 458, passed 3-20-89)

' 115.04 CONDITIONAL USE PERMIT; WHEN REQUIRED.

No person shall operate a business of the type described in ' 115.02 without a conditional use permit authorizing such operation. The City Clerk shall provide the necessary forms and shall establish the

procedures for the application for, and issuance of such permits. Such permits shall be issued by the City Clerk, for which a fee of \$50 shall be charged.

(Ord. 458, passed 3-20-89)

' 115.99 PENALTY.

A person who violates a provision of this chapter is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued or permitted, and each offense is punishable by a fine not to exceed \$200.

(Ord. 458, passed 3-20-89)

1990 S-2

CHAPTER 116: STREET VENDORS

Section

116.01 Permit required

116.02 Permit fee

116.03 Health certificate required for sale of foodstuff

116.04 Permit application

116.05 Applicant

116.06 Liability insurance

116.07 Issuance of permit

116.08 Rules and regulations

116.99 Penalty

' 116.01 PERMIT REQUIRED.

It shall be unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity on any street in the city, without first securing a permit and paying the fee therefor.

(Ord. 411, passed 5-21-84) Penalty, see ' 116.99

' 116.02 PERMIT FEE.

The permit fee shall be \$25 for a three-month period for each vehicle used in street vending.

(Ord. 411, passed 5-21-84)

' 116.03 HEALTH CERTIFICATE REQUIRED FOR SALE OF FOODSTUFF.

In the event the applicant sells or intends to sell any form of foodstuff (including, but not limited to ice cream, pastries or snow cones), then no vendor's permit shall be issued without the applicant first obtaining a valid and current health certificate.

(Ord. 411, passed 5-21-84) Penalty, see ' 116.99

' 116.04 PERMIT APPLICATION.

A permit application shall be prepared by the City Secretary and shall include the following information:

- (A) Name;
- (B) Address;
- (C) Phone number;
- (D) Driver's license number;
- (E) Employer, if any;
- (F) Suppliers;
- (G) Commodity;

(H) Proof of liability insurance.

(Ord. 411, passed 5-21-84)

' 116.05 APPLICANT.

The applicant for such permit must also be the holder of the health permit and be the licensed operator of any vehicle used for street vending.

(Ord. 411, passed 5-21-84) Penalty, see ' 116.99

' 116.06 LIABILITY INSURANCE.

The applicant shall furnish proof of liability insurance for the operation of any vehicle used for street vending. The minimum coverage shall be the same as required by law for the operation of any motor vehicle.

(Ord. 411, passed 5-21-84)

' 116.07 ISSUANCE OF PERMIT.

If the applicant meets the foregoing requirements, and has not been convicted of a felony or a crime involving moral turpitude, then the City Secretary shall issue a permit.

(Ord. 411, passed 5-21-84)

' 116.08 RULES AND REGULATIONS.

The following rules and regulations shall be complied with by each person using a vehicle for street vending.

(A) It shall be unlawful for any street vendor to sell or attempt to sell any commodity:

(1) By means of any outcry, sound, speaker or amplifier, or any instrument, or device

which can be heard for a distance greater than 300 feet, or when passing a hospital, or a church or other place of worship during the hours when services are being held;

(2) Within 500 feet of any school or school grounds during the school year.

(B) It shall be unlawful for any such vendor to use, play or employ the use of, any sound, outcry, amplifier, loudspeaker, radio, phonograph with loud speaker or amplifier, tape player or any other instrument or device when the vehicle such vendor is using is stopped for the purposes of making a sale.

(C) The use by any such vendor of any outcry, sound, amplifier, loud speaker, radio, phonograph with a loud speaker or amplifier, tape player or any instrument or device which emits sounds shall be prohibited before the hours of 9:00 a.m. on weekdays and 10:00 a.m. on Sundays, or after 7:00 p.m. on any day.

(D) It shall be unlawful for any such vendor to:

(1) Exceed a speed of 12 miles per hour when cruising neighborhoods seeking sales or when attempting to make a sale;

(2) Make more than two stops in any one block to make any sale;

(3) Stop anywhere within 50 feet of an intersection when making a sale or attempting to make a sale;

(4) Double park, or park more than two feet from the right side of the road as measured from the curb or edge of pavement, whichever the case may be, when attempting a sale or when making a sale;

(5) Make a U-turn on any block;

(6) Drive his or her vehicle backwards to make or attempt any sale;

(7) Sell to any person who is standing in the street;

(8) Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant or assistants;

(9) Remain standing or stopped at any place for a period of time exceeding five minutes;

(10) Sell or attempt to sell along any particular route more than one time during a 24-hour period.

(11) Sell or attempt to sell any foodstuff without a valid and current health certificate from the Wichita County Health Unit.

(Ord. 411, passed 5-21-84) Penalty, see ' 116.99

' 116.99 PENALTY.

Any person, firm or corporation violating any provision of this chapter shall be fined not less than \$5 nor more than \$200 for each offense. In the event any such vendor is convicted of a violation of this chapter for two or more separate offenses, then his or her permit shall be automatically terminated, and no new permit may be issued for a period of 30 days.

(Ord. 411, passed 5-21-84)

CHAPTER 117: ALCOHOLIC BEVERAGES

Section

General Provisions

- 117.01 Applicability of chapter
- 117.02 Compliance with zoning and subdivision ordinances and other regulations
- 117.03 Restrictions on sales within prescribed distances of public or private schools, churches and public hospitals
- 117.04 Hours of sale and consumption
- 117.05 Alcoholic beverage sales for on-premises consumption must be incidental to hotel, motel, or restaurant

Business Licenses and Permits

- 117.20 Application; contents
- 117.21 Review of application by City Secretary; certification as to zoning; objections to issuance
- 117.22 Fees generally
- 117.23 Fees to be paid in advance; separate license or permit required for each place of business
- 117.24 Issuance; contents
- 117.25 Display of license or permit
- 117.26 Refund of fees
- 117.27 Records
- 117.28 License and permit renewals
- 117.29 Application to private clubs

- 117.99 Penalty

GENERAL PROVISIONS

' 117.01 APPLICABILITY OF CHAPTER.

The storage, sale, possession or serving of any alcoholic beverages, when permitted by the laws of the state shall be regulated and governed as provided herein.

(Ord. 744, passed 12-17-07)

' 117.02 COMPLIANCE WITH ZONING AND SUBDIVISION ORDINANCES AND OTHER REGULATIONS.

The storage, possession, sale or serving of alcoholic beverages by anyone for the consumption, either on or off the premises, shall be prohibited unless:

(A) On land located in a commercial/business or industrial zone, as defined by the city's zoning ordinance (Ordinance No. 589, adopted April 17, 2000, as amended, from time to time);

(B) On land developed in compliance with the city's land usage regulations (Title XV of this Code of Ordinances); and

(C) In a manner consistent with all other application ordinances, rules, regulations, statutes or law of the City of Burkburnett, Texas, the State of Texas or the United States of America including this Chapter 117 of the Code of Ordinances of the City of Burkburnett, Texas.

(Ord. 744, passed 12-17-07) Penalty, see ' 117.99

' 117.03 RESTRICTIONS ON SALES WITHIN PRESCRIBED DISTANCES OF PUBLIC OR PRIVATE SCHOOLS, CHURCHES AND PUBLIC HOSPITALS.

(A) It shall be unlawful for any person who is engaged in the business of selling alcoholic beverages to sell alcoholic beverages where the place of business of any such person is within 300 feet of any church, public or private school, or public hospital.

(B) The measurement of the distance between the place of business where alcoholic beverages are sold and a church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in right angles through intersections.

(C) The measurement of the distance between the place of business where alcoholic beverages are sold and a public or private school shall be in a direct line from the property line of the public or private school to the property line of the place of business and in right angles through intersections.

(D) The Board of Commissioners may allow a variance to this section if it determines that the enforcement of the regulation in a particular instance is not in the best interests of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on the applicant for a license or permit, does not serve its intended purpose, or is not effective or necessary or for any other reason the Board of Commissioners determines, after consideration of the health, safety and welfare of the public and the equities of the situation that the variance is in the best interest of the community.

(E) The term "PRIVATE SCHOOL", including a parochial school, means a school offering a course of instruction for students in one or more grades from kindergarten through grade 12 and has more than 25 students enrolled and attending courses at a single location.

(Ord. 744, passed 12-17-07) Penalty, see ' 117.99

' 117.04 HOURS OF SALE AND CONSUMPTION.

The hours of sale and consumption shall be as required by the Texas Alcoholic Beverage Commission.

(Ord. 744, passed 12-17-07) Penalty, see ' 117.99

' 117.05 ALCOHOLIC BEVERAGE SALES FOR ON-PREMISES CONSUMPTION MUST BE INCIDENTAL TO HOTEL, MOTEL, OR RESTAURANT.

No person shall sell, store, dispense or otherwise handle for the purpose of sale or engage in the business of selling, storing, dispensing, or otherwise handling for sale any alcoholic beverage in the city for on-premises consumption except in a location where such activity is either incidental and secondary to use on the same premises or where incidental and secondary to the sale of food for human consumption such as a hotel, motel or restaurant. An establishment that derives 51% or more of the establishment's gross revenue from the on-premise sale of alcoholic beverages shall not be considered one where the sale of alcoholic beverages is incidental or secondary to the use of the premises or to the sale of food for human consumption.

(Ord.744, passed 21-17-07) Penalty, see ' 117.99

BUSINESS LICENSES AND PERMITS

' 117.20 APPLICATION; CONTENTS.

Any person applying for a permit or license issued by authority of the Texas Alcoholic Beverage Commission or a renewal of such permit or license or to change the location of the place of business designated in such permit or license shall deliver to the City Secretary, for filing, one copy of the appropriate forms prescribed by the Texas Alcoholic Beverage Commission, together with scale drawings showing the proposed location of the applicant's business in relation to streets, property lines and the nearest church, public or private school, or public hospital. Such person shall also provide a statement of his name, current address, addresses for the previous ten, years, age, all other city permits or licenses held, and the names and addresses of all persons with an interest in such business, which statement shall include an affidavit that the information given is true and correct. The applicant shall give permission for his fingerprints, height, weight, race and other description to be obtained by the police department.

(Ord. 744, passed 12-17-07) Penalty, see ' 117.99

' 117.21 REVIEW OF APPLICATION BY CITY SECRETARY; CERTIFICATION AS TO

ZONING; OBJECTIONS TO ISSUANCE.

The City Secretary shall review the application as submitted by the applicant, note verification from all appropriate staff agencies, that local city taxes and municipal fees are current. If, from the City Secretary's examination, it appears that the applicant is disqualified, or that the applicant's place of business is inadequate, unsafe, unsanitary or does not comply with all the terms of this Code, the City's zoning ordinance (Ordinance No. 589 adopted April 17, 2000, as amended), the Texas Alcoholic Beverage Commission, or that any lawful reason exists why the permit or license should not be issued, it shall

be the duty of the City Secretary to file objections to the issuance of the permit or license with the Texas Alcoholic Beverage Commission or with the county judge.

(Ord. 744, passed 12-17-07)

' 117.22 FEES GENERALLY.

(A) No permittee or licensee under this chapter shall engage in the business authorized by his permit or license without first having paid to the city the permit or license fee levied by this section. It shall be the duty of the City Attorney to petition the Texas Alcoholic Beverage Commission to cancel the permit or license of any permittee or licensee who shall engage in the business authorized by the permit or license of such person without first having paid the fees levied by this section.

(B) There is hereby levied on each person granted and holding a license or permit under this chapter and engaged in the business authorized by such license or permit in the city an annual fee in an amount equal to one-half of the amount charged or taxed by the state pursuant to the Alcoholic Beverage Code for each type of business or occupation.

(Ord. 744, passed 12-17-07)

' 117.23 FEES TO BE PAID IN ADVANCE; SEPARATE LICENSE OR PERMIT REQUIRED FOR EACH PLACE OF BUSINESS.

The fees required for licenses and permits as required by ' 117.22 shall be paid in advance for one year. A separate license or permit as required by this chapter shall be obtained for every place of business where the business of alcoholic beverage manufacture, distribution, or sale is conducted and fees for each such license or permit shall be paid.

(Ord. 744, passed 12-17-07) Penalty, see ' 117.99

' 117.24 ISSUANCE; CONTENTS.

Upon approval by the City Manager and payment of the required fees, the City Secretary shall

issue a license or permit in the name of the city, which shall acknowledge receipt of such amount and shall contain the number, name, and expiration date of the state permit or license, the name of the permittee or licensee, the trade name of such permittee or licensee, the address of the business, and the date of issuance.

(Ord. 744, passed 12-17-07)

' 117.25 DISPLAY OF LICENSE OR PERMIT.

The license or permit issued by the City Secretary under this chapter shall be displayed at all times in a conspicuous place within the licensed or permitted place of business.

(Ord. 744, passed 12-17-07) Penalty, see ' 117.99

' 117.26 REFUND OF FEES.

No refund of a fee paid the city under the terms of this chapter shall be made for any reason except when the permittee or licensee is prevented from continuing in business by reason of the result of a local option election or an amendment of the zoning regulations of the city concerning the property on which the place of business is situated.

(Ord. 744, passed 12-17-07)

' 117.27 RECORDS.

All persons operating establishments engaging in the sale of alcoholic beverages within the city for on-premises alcoholic beverage consumption shall comply with the reporting requirements of this section.

(A) During the first year of any license for on-premises alcoholic beverage consumption issued to a new license-holder, the owner, operator or person in control of an establishment licensed by the state for on-premises alcoholic beverage consumption shall, on a quarterly basis with the quarters ending March 31, June 30, September 30 and December 31, file with the City Secretary an affidavit, on an officially approved form provided by the City Secretary, that reflects gross sales for the preceding three months, indicating the sales of non-alcoholic items and alcoholic beverages. The quarterly reports for the previous three-month period shall be due on or before the 25th day of April, July, October and January. In the event that no violation occurs during the first year, then the business will only be required to report on an annual basis, thereafter; which annual report and information shall be due on or before the 25th day of January following the calendar year to which it relates.

(B) The party shall also file on a quarterly basis, at the same time the affidavit on sales is filed, a copy of the filing(s) supplied to the state for sales tax and alcoholic beverage tax purposes for the previous three-month period.

(C) Such affidavit and copies of filing(s) supplied to the state for sales tax and alcoholic

beverage tax purposes shall be reviewed by the City Manager or designee for compliance with the provisions of ' 117.05 regarding the ratio of non-alcohol items to alcohol beverage sales.

(D) If any of the reports or information submitted pursuant to this section indicates that the filing establishment does not comply with the percentage requirements of ' 117.05, the establishment shall have until the next due date of a quarterly report to bring the establishment into compliance with city ordinances. The licensee shall be notified by certified mail by the City Secretary that a violation of this section has occurred. Such notification shall specify the date by

which the licensee must be in compliance with ' 117.05. A report containing the information specified in divisions (A) and (B) above must be filed with the City Secretary on or before the date required for compliance as stated in the letter of notification of violation.

(E) If any report or information required by this section is not timely submitted to the City Secretary, the City Secretary shall notify the licensee by certified mail that a quarterly report has not been submitted. The licensee shall have a period of ten days after the date of delivery marked on the certified mail return receipt to file the quarterly report.

(F) Failure to file any report or provide any of the information required by this section or failure to bring the establishment into compliance by the next due date of a required report shall constitute a violation of this section. The City Attorney may inform the Texas Alcoholic Beverage Commission that the establishment is no longer in compliance with the city ordinances as previously certified to by the City Secretary and request that the Texas Alcoholic Beverage Commission take whatever action is available under the Texas Alcoholic Beverage Code to revoke the state license.

(G) The person operating an establishment subject to the reporting requirements of this chapter shall permit the City Manager or a designated agent to view and copy the books, records and receipts relative to sales of non-alcohol items and alcoholic beverages at any time after 24 hours notice. In the event the City Manager finds a violation then the business will be required to comply with divisions (A) and (B) above for the succeeding 12 months.

(H) The city shall, at any time, have the right to request the establishment to provide a prior quarters report(s) in order to determine the business has remained in compliance. In the event the establishment fails to be in compliance then in that event the business will be subject to the quarterly reporting requirements for another year.

(Ord. 744, passed 12-17-07) Penalty, see ' 117.99

' 117.28 LICENSE AND PERMIT RENEWALS.

No license or permit issued under this chapter shall be renewed for any location where the

records required by ' 117.27 indicate that such location is not in compliance with the gross receipts requirements of ' 117.05. In the event a license or permit is not renewed, no new license or permit shall be granted for alcoholic beverage sales at such location for a period of six months.

(Ord. 744, passed 12-17-07)

' 117.29 APPLICATION TO PRIVATE CLUBS.

The provisions of this chapter shall apply to private clubs except it shall not apply to private clubs incidental to a hotel or motel, as

defined in the zoning ordinance; nor to private clubs licensed by the state which are owned and operated by nonprofit service organizations, such as Veterans of Foreign Wars and the American Legion.

(Ord. 744, passed 12-17-07)

' 117.99 PENALTY.

It shall be unlawful for any person to store, sell, possess or serve any alcoholic beverage within the city in violation of any of the provisions of this chapter. Upon proper proof of a violation of this chapter, the person violating same shall be deemed guilty of a misdemeanor punishable by a fine not to exceed \$500 for each violation. Each day a violation of this chapter occurs shall be deemed a separate offense.

(Ord. 744, passed 12-17-07)

CHAPTER 118: LODGING ESTABLISHMENTS

Section

- 118.01 Definitions
- 118.02 Records required; retention
- 118.03 Permit required; posting
- 118.04 Application; renewal
- 118.05 Inspections
- 118.06 Compliance required; term; fee
- 118.07 Safety and sanitation standard
- 118.08 Potable drinking water approved source
- 118.09 Approved sewage
- 118.10 Personnel
- 118.11 Procedures when infection is suspected
- 118.12 Poisonous or toxic chemical materials
- 118.13 Suspension
- 118.14 Appeal
- 118.15 Revocation of permit
- 118.16 Service of notice; conduct of hearings

- 118.99 Penalty

' 118.01 DEFINITIONS.

The following words, terms and 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:

ACLEAN.@ Free from dirt, impurities or multiple stains; hygienic conditions and practices that serve to promote or preserve health.

ACONTINUAL, CONTINUED, OR REPEAT VIOLATION.@ A particular condition of construction, operation, or maintenance which is found in violation of these rules on three or more consecutive inspections or laboratory analyses within a twelve month period.

CONTAGIOUS DISEASE. A diagnosis of an illness due to Norovirus; hepatitis A virus, Salmonella typhi; Shigella spp, shiga toxin-producing Escherichia coli; or similar organism clinically suspected to cause symptoms of vomiting, diarrhea, jaundice or sore throat with fever and considered transmissible.

EASILY CLEANABLE. Surfaces, which are readily accessible, and made of such materials and finishes and so fabricated that residue, may be effectively removed by normal cleaning methods.

EQUIPMENT. Any items used in connection with the operation of a lodging establishment including but not limited to any washer, dryer, ice machine, fans, air conditioning units, heaters, refrigerators, or cooking units.

EXCESSIVE. More than a usual, multiple or an unreasonable number.

EXTENDED STAY. Guests that stay for a week or longer in length.

FIXTURES. Any sinks, bathtubs, showers, toilet fixtures, or any other such items used in connection with the operation of a lodging establishment.

FURNISHINGS. Any bedding, furniture, lamps, or any such items used in connection with the operation of a lodging establishment.

GUEST. Any person who rents and occupies a guest room in a lodging establishment.

GUESTROOM. Any room or unit where sleeping accommodations are regularly offered to the public.

IMMINENT HEALTH HAZARD. A situation that is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, immediate threat of serious adverse health effects, or a serious risk of irreparable damage to the environment if immediate action is not taken.

INSPECT OR INSPECTION. An examination by the Director of Health or his or her designee of the lodging establishment structure, facilities, equipment, and operations. The inspection area shall include, but not be limited to, the public and guest rooms; fixtures; furnishings; equipment and utensils; water supply and waste disposal facilities; and the buildings' surroundings. It shall also include a determination of the cleanliness and maintenance of the building, furnishings fixtures, equipment and utensils, and any other examination necessary to determine the degree to which any lodging establishment complies with the provisions of these rules. Inspections are performed on a routine schedule or as a result of a complaint.

KITCHENETTES. A small kitchen with refrigeration, vented cooking range, dishwashing sinks and cooking utensil storage.

LAW. All federal, state, and local statutes, ordinances, and/or rules.

ALINENS.@ mean The fitted sheets, top sheets, and pillows excluding coverlets and comforters.

ALODGING ESTABLISHMENT.@ Any building, group of buildings, structure, facility, place, or places of business where two or more guest rooms are provided, which is owned, maintained, or operated by any person and which is kept, used, maintained, advertised or held out to the public for hire. It can be construed to be a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabins, tourist home, bunkhouse, bed and breakfast, or other similar place by whatever name called, and includes all such accommodations operated for hire as lodging establishments for either transient guests, permanent guests,

or for both transient and permanent guests. The term does not include duplexes, quadriplexes, dormitories, and apartment complexes.

MANAGER OR OPERATOR. The owner's agent or representative, who is directly responsible for operation of the lodging establishment.

NUISANCE. Any condition as defined in Tex. Health and Safety Code ' 341.011.

NUMERICAL SCORE. The score determined by deducting the values of all items found in violation from 100.

OWNER. A person(s) who holds legal possession or ownership of a total or partial interest in the structure or property on which exists a lodging establishment.

REGULATORY AUTHORITY. means The director of the Wichita Falls-Wichita County Public Health District or his or her designee.

RULES. City and county ordinances or state statutes.

SANITARY. Free from harmful elements, including pathogens that endanger public health.

SANITIZE. The effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemical for sufficient time to reduce the bacterial count, including pathogens, to a safe level on cleaned surfaces.

SEALED. Free of multiple cracks or other openings that permit the entry or passage of excessive moisture that causes water damage to the property.

SINGLE SERVICE ARTICLES OR UTENSILS. Cups, containers, ice bucket liners, stirrers, paddles, straws, napkins, doilies, wrapping materials and similar articles intended for one time use and then discarded.

(Ord. 782, passed 7-19-10)

' 118.02 RECORDS REQUIRED; RETENTION.

It shall be the duty of the regulatory authority to provide inspection records for review. Records shall be kept for a minimum of five years and shall be available for review according to the public information act.

(Ord. 782, passed 7-19-10)

' 118.03 PERMIT REQUIRED; POSTING.

A person may not operate a lodging establishment without a permit issued by the regulatory authority. Permits are not transferable from one person to another or from one location to another location, except

as otherwise permitted by these rules. A valid permit must be conspicuously displayed in view of the guests within a common lobby area at all lodging establishments.

(Ord. 782, passed 7-19-10)

' 118.04 APPLICATION; RENEWAL.

(A) Any person desiring a lodging establishment permit must make a written application for a permit on forms provided by the regulatory authority. The application must contain the following:

- (1) Name.
- (2) Address.
- (3) Phone number.
- (4) Emergency contacts included, for each applicant.
- (5) Physical location.
- (6) Billing information and the applicable fee.

(B) An incomplete application will not be accepted. Failure to complete required information or falsifying information required may result in denial or revocation of the permit. Renewal of the permit is required on an annual basis and is the responsibility of the owner and manager of the lodging establishment both jointly and separately. The same information is required for a renewal permit as for an initial permit. New and existing lodging establishments shall be in compliance with this chapter to be issued a permit.

(Ord. 782, passed 7-19-10)

' 118.05 INSPECTIONS.

(A) Prior to the approval of an initial permit for lodging establishments or the renewal of an existing permit, the regulatory authority shall inspect the lodging establishment to determine compliance with these rules.

(B) A lodging establishment that does not comply with these rules will not be granted a permit to operate.

(C) The regulatory authority is authorized to conduct inspections, at intervals determined by the regulatory authority, to ensure compliance with all provisions of this chapter.

(D) The lodging establishment must achieve at minimum a numerical score of 70 to pass an inspection. Demerits will be equally weighted at two points each and multiple violations of the same deficiency shall constitute one violation on the inspection form. The numerical score shall be computed by subtracting the number of demerits from 100.

(E) If a lodging establishment receives a numerical score of 69 or below, there must be immediate corrective actions taken to correct deficiencies to raise the numerical score above a 69 within the following 24-hour period to avoid possible closure.

(F) Inspections will be conducted during normal business hours unless there is a report of a contagious disease or complaint that presents an imminent threat to public health and safety. The regulatory authority shall have the right to enter at any hour upon the premises where a lodging establishment is located as deemed necessary by the Director of Health.

(G) Occupied rooms may be inspected whenever there is a reasonable risk of a health hazard or imminent threat to the structure that if uncorrected would adversely affect adjoining rooms.

(H) The regulatory authority shall have the authority to collect samples for laboratory analysis.

(I) It shall be a violation to refuse or obstruct the regulatory authority or designee from conducting inspections.

(Ord. 782, passed 7-19-10)

' 118.06 COMPLIANCE REQUIRED; TERM; FEE.

Only persons and entities that comply with the requirements of these rules shall be entitled to receive and retain a permit required by this division. Permits to operate a lodging establishment expire one year after issuance, unless revoked or suspended for noncompliance. All lodging establishments must comply with provisions of this rule upon 30 days from passage, excluding procurement of permits which will be required on January 1, 2010. The permit fee will be paid annually to the regulatory authority at least five working days prior to expiration of the previous permit. All lodging establishments shall have a minimum of 75% of their guest rooms in a condition that meet the requirements of this subdivision in order to retain a permit to operate the lodging establishment.

(Ord. 782, passed 7-19-10)

' 118.07 SAFETY AND SANITATION STANDARDS.

All lodging establishments shall be maintained to meet the following requirements:

(A) Lodging establishment grounds shall be free of excessive litter and have garbage properly stored in covered containers with tight fitting lids and be free of any collection of items that could harbor rodents, cockroaches or mosquitoes and:

(1) Shall have all walking and driving surfaces of the immediate exterior areas surfaced with concrete or asphalt, or other approved material to minimize dust.

(2) There shall be no conditions that constitute a public health nuisance as set forth by the State of Texas.

(3) Non-essential articles, items, or equipment that cause a public nuisance or harbors roaches, rodents or other vectors shall be removed.

(4) Outside garbage containers shall be cleaned at least monthly or as needed to prevent a nuisance or odor. Liquid waste resulting from cleaning the containers shall be disposed in a manner that does not create a nuisance.

(5) Animals shall be excluded from the laundry, linen storage, utensil washing, food service, single-service storage and ice machine areas except as provided by law.

(B) Lodging establishments shall be sealed and free of leaks and excessive water damage or mold. Construction surfaces shall be easily cleanable in good physical condition and with carpets and curtains in clean condition and free of excessive stains. Further requirements are as follows:

(1) Furnishings shall be maintained in good condition and clean. Items with excessive wear, tears, or stains shall be replaced.

(2) Each unit shall have trash removed, be vacuumed, and have smooth surfaces sanitized after each occupancy.

(3) Glasses, pitchers, ice buckets, and eating and cooking utensils in the kitchenettes shall be cleaned and sanitized after each occupancy.

(4) All rooms and bedding shall be free from an accumulation or infestation of insects or ectoparasites. If a room becomes infested with insects of any type, the room shall not be occupied until the infestation is controlled.

(5) Soap shall be provided with a dispensed liquid or with new, individually wrapped

bar soap. Used bar soap shall be removed from the rooms when the guest ends the occupancy. Other toiletries provided by the lodging establishment which are opened by the guest, shall be removed when the guest ends the occupancy. Used soap and toiletries shall be discarded and shall not be used for any other purpose.

(6) A dispensed liquid soap shall be provided in all common and public bathrooms and toilets.

(7) Single service articles shall be replaced after each occupancy or when visibly damaged or the possibility of contamination exists.

(8) All toxic and hazardous substances shall be properly labeled with the common name of the content and appropriately stored to prevent contamination.

(C) Lodging establishments providing ice shall only produce ice from potable water and such shall be handled in a sanitary manner including that:

(1) Ice shall be free from visible trash and sediment.

(2) Ice shall not be made or stored in an owner's or manager's private refrigerator and/or private living areas.

(3) Ice that is not produced at the lodging establishment shall be obtained from an approved source, shall be properly labeled and protected from contamination during transportation and storage.

(4) Ice machines shall be of sanitary, durable, corrosion-resistant, and easily cleanable construction.

(5) Ice machines shall be kept sanitized and in good repair.

(6) Ice storage bins shall be drained into an approved sewage system and must have a physical air gap.

(7) When replacement of a self-service ice machine becomes necessary or additional machines are added, an automatic self-serve ice dispensing machine shall be installed.

(8) Ice machines shall be located in a place, which provides protection from the elements and possible sources of contamination. Exterior storage spaces shall provide, at a minimum, overhead protection. The area shall be kept clean and shall be free of accumulation of excessive moisture, drippage, or trash.

(9) Vending and ice machines shall be sanitized; with an ice scoop available and installed with a drain that includes a physical air gap to prevent back-siphonage. All ice machines with storage bins shall be equipped with an ice scoop that is attached to the ice bin with a tether of easily cleanable material. The tether shall be of such a length to prevent the scoop from touching the ground and maintained in a clean and sanitary condition.

(10) All lodging establishments with customer service ice machines in common areas prior to the adoption of these rules shall have automatic self service ice dispensing machines upon replacement. This requirement excludes kitchenettes and icemakers in refrigerators.

(D) All linens, towels, and laundry shall be provided in a clean sanitary condition without excessive stains or damage. In addition the following are required:

(1) During laundering; clean linens, towels, and laundry shall be kept in separate carts and stored away from soiled linens, towels, and laundry.

(2) Shall be protected from dust, dirt, vermin, or other contamination at all times.

(3) Linens shall be changed to clean linens after each occupancy in preparation for a different occupancy.

(E) Lodging establishments with non-guest laundry facilities shall be restricted to the washing and drying of linens, towels, uniforms, and aprons necessary to the operation of the lodging establishment. In addition the following are required:

(1) If such items are laundered on the premises, a commercial washing machine and dryer shall be provided and used in accordance with this section.

(2) Dryers shall be installed according to manufacturer's instructions.

(3) All lodging establishments with on premise laundries prior to adoption of these rules shall have commercial washing machines and dryers within one year after the date of the adoption of this chapter.

(4) Laundry facilities shall be separated from any other permanent living quarters by complete partitioning and solid self-closing doors.

(5) Traffic through or use by guests of the non-guest laundry facility is prohibited.

(F) Should separate laundry facilities be provided for the use of the lodging establishment guests, these shall be located in a different room or area of the lodging establishment than those provided for commercial laundry purposes. These facilities shall be clean and maintained in good repair.

(G) Fire safety of lodging establishments shall be the responsibility of the manager/operator and be in accordance with the applicable code and/or ordinance. In addition, the following are required:

(1) Shall have proper fire extinguishers available, fully charged, and have current inspections as required by current city code.

(2) Portable outside cooking grills of any type shall be no closer than ten feet from any enclosed or combustible structure.

(3) Only professionally installed and inspected cooking ranges with approved venting for kitchenettes shall be allowed in lodging establishments.

(4) Individual rooms may have a microwave oven and/or a coffee/ tea maker; kitchenettes are exempt from this limitation.

(5) Corded cooking or heating devices such as portable hot plates, or crock pots shall not be allowed in rooms. The operator shall either post signs; state this policy verbally; provide in writing during check-in procedures; or provide this information within the guest services book within each guest room to comply with this section.

(6) Storage and equipment rooms must be organized with all flammables properly labeled with common names.

(7) Rooms where fuel burning appliances are used shall be properly vented in accordance with the manufacturers' specifications and carbon monoxide monitors shall be provided in these rooms.

(8) Rooms shall have and maintain, in operating condition, an approved battery or electrically operated smoke detector device in each guest room. Owner and operators shall be required to test each smoke detector at a minimum of two times each calendar year to determine if each detector is in working order. Records of the testing shall be maintained and provided to the public health inspector upon request.

(9) Emergency phone numbers including 9-1-1, fire, police, and first aid equipment must be available at the front desk.

(10) Records shall be kept of all accidents or injuries of guests and employees that occur on the premises of a lodging establishment.

(H) Should swimming pools, spas, and similar facilities be installed; they shall be constructed

and maintained in accordance with the applicable code. Swimming pool water shall only be disposed of into an approved sanitary sewer.

(I) Insect and rodent control, in all lodging establishments, shall be kept in such a condition as to prevent the harborage or feeding of insects or rodents. Windows shall be screened and be in good condition without cracks or missing seals and shall be in good working order. Screening material shall be 16 mesh to the inch. Rooms with infestations of insects or rodents shall be subject to closure until treatment has been deemed effective by the regulatory authority. A licensed exterminator company shall provide routine treatment of a lodging establishment and receipts shall be kept on file.

(J) Lodging establishments shall, in general, be kept in a clean and sanitary condition, in good repair, and shall be maintained and

operated with strict regard to health and safety of the transient or permanent guest. Extended stay guests at all lodging establishments shall be moved to a new room after seven days to allow cleaning and sanitization of the guest room and bathroom if maid service is not provided at a minimum of once per week or facility repairs are necessary to adhere to these rules.

(K) Records shall be kept for a period of no less than 90 days of the cleaning frequency of rooms that are used for extended guests stays; noting last cleaning performed and any room damage or repairs.

(Ord. 782, passed 7-19-10)

' 118.08 POTABLE DRINKING WATER APPROVED SOURCE.

(A) An adequate, accessible supply of potable drinking water approved by the Texas Commission on Environmental Quality shall be provided at all lodging establishments.

(B) Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

(C) Water from a source other than a public water supply shall not be used until the department or other state regulatory authority has approved it.

(Ord. 782, passed 7-19-10)

' 118.09 APPROVED SEWAGE.

(A) Sewage and wastewater treatment and disposal shall be accomplished in a manner so as to not create a health hazard, pollute or contaminate groundwater, or create a nuisance. This includes draining swimming pool water and while performing plumbing repairs of any kind.

(B) Sewage and wastewater treatment systems with a discharge shall be installed and maintained in compliance with the state laws and local ordinances.

(Ord. 782, passed 7-19-10)

' 118.10 PERSONNEL.

(A) No employee of a lodging establishment, while infected with a contagious disease that can be transmitted to other employees or the guests, or who is a carrier of organisms that cause such a disease, or who is affected with a boil, an infected wound or acute respiratory infection shall work in a lodging establishment in any capacity in which there is a likelihood of such an employee contaminating ice, clean linens, or single service articles with pathogenic organisms or transmitting the disease to other persons.

(B) Employees working with and handling single service items, such as clean laundry, ice or beverages or performing tasks that would contaminate their hands shall thoroughly wash their hands and exposed areas of their arms before starting work, after smoking, eating or using the toilet. Employees shall keep their fingernails trimmed evenly and clean.

(C) Employees involved in guest services and housekeeping functions shall wear clean clothing, which is in good repair. When performing cleaning functions that could bring the employee into contact with guest's bodily fluids, the employee shall be provided protective gloves for optional use.

(Ord. 782, passed 7-19-10)

' 118.11 PROCEDURES WHEN INFECTION IS SUSPECTED.

(A) When the regulatory authority has reasonable cause to suspect possible contagious disease transmission by an employee of a lodging establishment, it shall immediately secure a medical history of the suspected employee, make other investigations as necessary, and notify the state epidemiologist. The regulatory authority may require any or all of the following measures and any other measures, which is deemed necessary for the protection of the public health:

(1) The immediate exclusion of the employee from employment in lodging establishments.

(2) The immediate closure of the lodging establishment concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists. Immediate suspension initiated without a hearing shall only occur upon personal order of the director of the Wichita Falls-Wichita County Public Health District.

(3) The restriction of the employee's services to specific areas of the lodging establishment operations where there would be no danger of transmitting disease.

(4) Adequate medical and laboratory examination of the employee and other lodging establishment employees including collection of appropriate medical specimens.

(B) When the regulatory authority has reasonable cause to suspect possible contagious disease transmission by a guest of a lodging establishment, the guest room shall not be occupied again until the regulatory authority has given its approval. The lodging establishment manager shall follow the regulatory authorities' instructions with respect to required cleaning and disinfection of the guest room, bathroom, furnishings, and equipment or the temporary removal of furnishings and equipment.

(C) The regulatory authority may require the immediate closure of any lodging establishment or any portion of a lodging establishment,

after proper notice has been given, if just cause to suspect the possibility of transmission of disease or other public health hazard will result from the operation of the lodging establishment or a particular portion of the lodging establishment. Immediate suspension initiated without a hearing shall only occur upon order of the director of the Wichita Falls-Wichita County Public Health District. (Ord. 782, passed 7-19-10)

' 118.12 POISONOUS OR TOXIC CHEMICAL MATERIALS.

(A) There shall be present in lodging establishments only those poisonous or toxic chemical materials necessary for maintaining and cleaning the premises, maintaining the landscaped ground, maintaining the swimming pool/spa(s), washing linens and towels, cleaning and sanitizing equipment and utensils, and controlling insects and rodents.

(B) All containers of chemical materials shall be prominently and distinctly labeled for easy identification and use of the contents.

(C) All chemical materials shall have the appropriate material safety data sheet; (MSDS) kept on file for emergency use.

(D) Storage of materials:

(1) Poisonous or toxic materials consist of the following categories:

(a) Insecticides and rodenticides.

(b) Detergents, sanitizers and related cleaning or drying agents, caustics, acids, polishes and other chemicals.

(c) Landscaping materials.

(2) Each of the three material categories shall be stored separately and kept in

chemical cabinets, separate rooms or physically located away from each other to prevent mixing and possible contamination. All poisonous or toxic materials shall be stored in cabinets or in similar physically separated place used for no other purpose. To preclude contamination, poisonous or toxic materials shall not be stored above ice, linens, towels, utensils, or single-service articles, except that this requirement does not prohibit the convenient availability of detergents and sanitizers at utensil or dishwashing stations, or laundry compounds in the vicinity of washing machines or dryers.

(E) Use of materials.

(1) Bactericides, cleaning compounds or other chemicals intended for use on food, beverage, or ice contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces or that creates a hazard to employees or other persons.

(2) Poisonous or toxic materials shall not be used in a way that contaminates ice, linens, towels, single-service articles or utensils, nor in a way that constitutes a hazard to guests, employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

(F) Personal articles and medications shall be stored in employee lockers or away from ice, linens, towels, single-service articles or utensils that could become contaminated.

(G) First aid supplies shall be stored away from ice, linens, towels, single-service articles or utensils that could become contaminated.

(Ord. 782, passed 7-19-10)

' 118.13 SUSPENSION.

(A) The regulatory authority may, without warning, notice, or hearing, suspend any permit to operate a lodging establishment if, the operation of the establishment constitutes an imminent health hazard to public health. A supervisor will confirm the hazard before suspension is effective when possible.

(B) Whenever a permit is suspended because of non-compliance or failure to maintain inspection minimum standards the holder of the permit or person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended.

(Ord. 782, passed 7-19-10)

' 118.14 APPEAL.

(A) Opportunity for a hearing will be provided if the holder of the permit files a written request with the regulatory authority within ten days. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing as soon as possible and not to exceed 20 days of receipt of the request for a hearing. If no written request for a hearing is filed within ten days, the suspension is sustained.

(B) The regulatory authority may end the suspension at any time if reasons for the suspension no longer exist.

(Ord. 782, passed 7-19-10)

' 118.15 REVOCATION OF PERMIT.

The regulatory authority may, after providing for a hearing, revoke a lodging establishment permit for serious or repeated violations of any of the requirements of this division or for interference with agents of the regulatory authority in the performance of their duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation. The permit shall be revoked

at the end of ten days following service of such notice unless the holder of the permit files a written request for a hearing with the regulatory authority within such ten-day period. If no request for a hearing is filed within the ten-day period, the revocation of the permit becomes final.

(Ord. 782, passed 7-19-10)

' 118.16 SERVICE OF NOTICE: CONDUCT OF HEARINGS.

(A) A notice as required in this subdivision is properly served when it is hand delivered to the general manager and a copy is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the regulatory authority.

(B) The regulatory authority shall conduct the hearings provided for in this subdivision at a time and location designated by the director of health. The hearing shall be conducted before a panel including the assistant director of health, who shall preside over the meeting, the health district's director of nursing, and a hotelier chosen by the city manager. This panel shall conduct the hearing with evidence presented by the inspection staff and by the involved lodging property staff to determine whether to recommend sustaining, modifying, or rescinding any order recommended by the general environmental division. The recommendation of the panel shall be conveyed to the director of health for his or her consideration and based upon the recorded evidence of such hearing; the director of health shall make final findings and shall sustain, modify or rescind any notice or order considered in the hearing. The director of health shall furnish a written report of the hearing to the holder of the permit.

(Ord. 782, passed 7-19-10)

' 118.99 PENALTY.

(A) A person commits a Class C misdemeanor if the person violates any part of this subdivision after being given a 72-hour notification of continual violations or allows conditions deemed an imminent health hazard. In accordance with Tex. Loc. Govt Code ' 54.001(b), an offense under this chapter is a misdemeanor punishable by a fine not to exceed \$2,000.00.

(B) Each day of a continuing violation is a separate offense.

(Ord. 782, passed 7-19-10)