

CHAPTER 8

BUSINESS

ARTICLE 8-1 Peddlers

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Section 8-1-1 Registration Required

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

Section 8-1-2 Application to Clerk

Applicants for registration under the terms of Section 8-1-1 shall be required to furnish two satisfactory photographs of the applicant, one to be attached to the applicant's registration card and the other to be retained by the Clerk. The Clerk shall require the applicant to file his/her fingerprint identification.

Such applicants for registration shall be required to furnish to the Clerk a complete description of the product to be sold in the Town, together with information regarding sales methods to be used and references that will enable the Clerk to determine whether or not such applicant is qualified to receive a registration card as provided in Section 8-1-3. Investigation by the Clerk under the provisions of this chapter shall be completed within 15 days after the applicant has given the required information.

Section 8-1-3 Issuance of Registration Cards

Registration cards under this chapter shall be given without charge to all applicants who have complied with Section 8-1-2, unless the Clerk discovers that any such applicant is deemed not to be a proper person to be permitted to go from house to house because of any of the following reasons: (1) he/she has a criminal record, (2) he/she is associated with a company that has engaged in fraudulent dealings, or (3) the proposed sales proposition includes some element of trickery, fraud or deceit, in which case, in the interest of public safety and protection, the applicant shall not be registered.

Section 8-1-4 Revocation of Registration Cards

Registration cards under this chapter may be revoked by the Town at any time if deemed necessary in the interest of public safety and protection.

Section 8-1-5 Peddling Without Registration Cards Prohibited

It is unlawful for any person to take part in the act of soliciting, peddling, hawking, selling or vending of goods, wares, merchandise, newspapers, magazines or services from house to house, or to only one house, in the Town without having registered with the Clerk and without having obtained a registration card; without having such card in possession; or failing to exhibit such card when request is made for the registration card by any resident of the Town.

Section 8-1-6 Permission Required for Selling on Streets or Sidewalks

It is unlawful for any person to erect or maintain any booth, stand or counter on any sidewalk in the Town for the purpose of barter, sale or trade, or keep or maintain upon the streets or alleys any wagon, cart, wheel, vehicle, movable booth or stand for the purpose of barter or trade without obtaining permission of the Council.

Section 8-1-7 Signs to be Observed

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

Section 8-1-8 Newsboys Exempt

Newsboys are exempt from the provisions of this chapter for the sale of newspaper subscriptions.

ARTICLE 8-2 Transaction Privilege Tax

8-2-1 Adoption of Model City Tax Code

Section 8-2-1 Adoption of Model City Tax Code

The Model City Tax Code adopted pursuant to Ordinance No. 216, and any amendments thereto adopted by the Town of Jerome, are made a part of this code as if fully set forth in this Section, and shall be referred to as the Tax Code of the Town of Jerome. Pursuant to Resolution No. 220, three copies of the Tax Code shall be on file in the office of the Town Clerk.

[Ord. 183, 8/14/1979; Ord. 186, 9/9/1980; Ord. 187, 9/9/1980; Ord. 190, 7/29/1982; Ord. 194, 6/14/1983; Ord. 216, 12/19/1988; Ord. 235, 6/26/1990; Ord. 274, 4/11/1994; Ord. 289, 1/14/1997; Ord. 300, 6/01/1998; Ord. 304, 11/23/1999; Ord. 309, 4/24/2001; Ord. 311, 11/16/2001; Ord. 318, 4/22/2003; Ord. 334, 6/6/2006; Ord. 344, 1/09/2007; Ord. 353, 8/12/2008; Ord. 354, 8/12/2008; Ord. 361, 10/13/2009; Ord. 362, 11/10/2009; Ord. 370, 3/15/2010; Ord. 373, 6/8/2010; Ord. 375, 8/10/2010; Ord. 376; 8/10/2010]

ARTICLE 8-3 **Business License Tax**

- 8-3-1 License Required; Definitions
- 8-3-2 Issuance of License
- 8-3-3 Payment Procedure
- 8-3-4 Posting of License
- 8-3-5 Business License Fees
- 8-3-6 Nonprofit, Charitable, Governmental and Other Exemptions
- 8-3-7 Reasons for Revocation, Suspension or Denial of Business Licenses
- 8-3-8 Procedure for Denial, Suspension or Revocation
- 8-3-9 Appeal Procedure
- 8-3-10 Validity of Business License During Appeal
- 8-3-11 Licensing After Revocation
- 8-3-12 Penalty

Section 8-3-1 **License Required; Definitions**

It is unlawful for any person, firm, organization, corporation or other entity to commence, transact or carry on any trade, calling, profession, occupation or business within the corporate limits of the Town of Jerome without having procured a business license from the Town in compliance with the provisions of this Article.

A. For purposes of this Article:

“Any trade, calling, profession, occupation or business” means any activity which is performed for profit whether in cash payment or trade in equivalent value.

“Person” shall include individuals, partnership, association, company or corporation.

“Home Occupation” is any occupation, profession, activity or use, which use is incidental and subordinate to the use of a dwelling unit for dwelling purposes and does not change the character of the neighborhood by externally detectable lighting, noise, odor or appearance associated with the activity, and in connection with which there are no employees other than a member of the immediate family, which member resides in the dwelling unit.

[Ord. 233, 1/09/1990; Ord. 415, 3/10/2015]

Section 8-3-2 **Issuance of License**

- A. It is the responsibility of any person conducting business to apply for and renew the required license. It shall be the duty of the Town Clerk or his/her designee to prepare and to issue a license under this article for every person, firm, company, corporation or other entity liable therefor, and to state in each license the amount thereof, the period of time covered, the name of the person, firm, company, corporation or other entity for whom issued, the type of business licensed, and the location or place of business where said trade, calling, profession, occupation or business is carried on.
- B. In no case shall any mistake of the Clerk in stating the amount of a license prevent or prejudice the collection for the Town of what shall be actually due from anyone carrying on a trade, calling, profession, occupation or business, subject to license under this article. It shall be the obligation of the applicant to provide satisfactory proof to the Clerk as to which license fee shall be charged.

- C. Where any business activity is subject to a certificate of health or sanitary examination, before commencing operation, the applicant must produce a current license, certificate or permit from Yavapai County Community Health Services, a copy of which shall be kept on file in the Town Clerk's office.
- D. Where any business activity is subject to sales tax, before any license is issued, the applicant must produce a current State of Arizona Transaction Privilege Tax License (TPT), a copy of which shall be kept on file in the Town Clerk's office.
- E. Where any business is physically located within the Town of Jerome, no license may be issued until the Zoning Administrator has provided verification that the business is in an approved zoning district. The owner of the business shall grant the Zoning Administrator or his/her designee access to the premises where the business operates to accomplish this verification. The Zoning Administrator shall furnish such verification within five (5) business days of the date that the license application is received by the Town. This provision shall not apply to home occupations, provided the home occupation is in a residential zone.
- F. Where any business is physically located within the Town of Jerome, no license may be issued or renewed until the Fire Department and Building Department have approved the premises to be occupied by the business. The owner of the business shall grant the Fire Chief, Building Inspector and/or his/her designee(s) access to the premises where the business operates to accomplish any inspection deemed necessary by the Fire Chief and/or Building Inspector. The Fire Department and Building Department shall furnish such inspection and issue approval or denial within five (5) business days of the of the date that the license application is received by the Town. This provision shall not apply to home occupations, provided the home occupation is in a residential zone.
- G. Issuance of a business license does not imply that the Town in any way regulates or warrants the manner in which the operator does business.

[Ord. 233, 1/09/1990; Ord. 415, 3/10/2015]

Section 8-3-3 Payment Procedure

- A. Following all necessary approvals, all business license fees shall be paid at the office of the Town Clerk or in such manner as may be specified by the Town Clerk.
- B. Business licenses are issued for a 12-month period. Annual renewal payments are due on or before the license's expiration date.
- C. A full fee shall be paid for each licensing period.
- D. Except as provided in Section 8-3-3-F, a separate license must be obtained for each occupation or branch establishment or separate place of business in which any trade, calling, profession, occupation or business is carried on. Each license shall authorize the person obtaining such license to carry on, pursue or conduct, only that trade, calling, profession, occupation or business described in such license and only at the location or place of business which is indicated.
- E. Every person engaged in more than one business in the same location shall obtain a license for each business.

- F. A separate license is not required for each type of business activity provided that each type of business activity is conducted by the same person, using the same business name, and at the same business location. Every person shall have his or her license updated with the Town Clerk before engaging in any new business activity.
- G. All changes in ownership or business location shall be considered to be a new business and, as such, shall be required to obtain a new license and pay the required license fee.

[Ord. 233, 1/09/1990; Ord. 415, 3/10/2015]

Section 8-3-4 Posting of License

Every person, firm, company, corporation or other entity having a business license under the provisions of this Article shall keep such license posted and exhibited while in force, in some conspicuous part of the place of business. Every person having such a business license and not having a fixed place of business shall carry such license with him/her at all times while carrying on that business for which the same was granted. Every person, firm, company, corporation or other entity having a license under the provisions of this Article shall produce and exhibit the same when applying for a renewal thereof, and whenever requested to do so by any police officer or code enforcement official.

[Ord. 233, 1/09/1990; Ord. 415, 3/10/2015]

Section 8-3-5 Business License Fees

All businesses, occupations, professions, trades or callings shall pay a set fee as set forth in the following schedule annually, unless otherwise specified herein. Fees are non-refundable and are not set on a pro rata basis.

- A. Any business that anticipates generating more than ten thousand and one dollars (\$10,001.00) gross income in cash, trade, or barter in a calendar year: fifty dollars (\$50.00) per year.
- B. Any business that anticipates generating more than two thousand five hundred and one dollars (\$2,501.00) through ten thousand and one dollars (\$10,001.00) gross income in cash, trade, or barter in a calendar year: twenty dollars (\$20.00) per year.
- C. Retail Liquor Licenses: fifty dollars (\$50.00) per year.
- D. Liquor Licenses – Special Event Application: seventy-five dollars (\$75.00)

[Ord. 233, 1/09/1990; Ord. 322, 12/09/2003; Ord. 415, 3/10/2015].

Section 8-3-6 Nonprofit, Charitable, Governmental and Other Exemptions

- A. In the event any circus, carnival, ride, theatrical production, tent show, dog or pony show or similar production is sponsored by any local nonprofit, charitable or religious organization, the fees specified in Section 8-3-6 of this article may be waived by the Council upon terms as it may deem advisable.
- B. Nonprofit or charitable organizations operated for the public benefit only shall be exempt from the provisions of this article upon sufficient proof to the Town Clerk.

- C. The provisions of this article do not apply to governmental agencies. However, this exemption does not apply to persons independently contracting with the Town on specific projects.
- D. Wholesale distributors who do not maintain a permanent business location within the corporate limits of the Town of Jerome shall be exempt from the requirements of this Article, provided that they sell goods only to retail establishments for resale to the public, and do not collect sales tax on such goods.
- E. Any business that anticipates generating less than two thousand five hundred dollars (\$2,500.00) gross income in cash trade, or barter in a calendar year shall be exempt from the provisions of this Article.

[Ord. 192, 1/11/1983; Ord. 233, 1/09/1990; Ord. 415, 3/10/2015]

Section 8-3-7 Reasons for Revocation, Suspension or Denial of Business Licenses.

- A. After a person has made application to the Town for a business license, the application may be denied for any of the following reasons:
 - 1. The Building Official, Fire Chief or Zoning Administrator has disapproved the application pursuant to any applicable provision of the Town Code.
 - 2. False or incomplete information given on the application.
 - 3. Failure to establish an appropriate utility account with the Town.
 - 4. Noncompliance with any requirement or condition set by the Town Council or Planning & Zoning Commission under a conditional use permit.
 - 5. Noncompliance with any town, county, state or federal ordinances, statutes or regulations governing the applicant's proposed business.
- B. An existing business license may be suspended or revoked for any of the following reasons:
 - 1. False or incomplete information given on the application.
 - 2. The licensee has violated or is violating any provision of the Town Code or county, state or federal statutes or regulations governing the licensee's business.
 - 3. The licensee has failed to establish an appropriate utility account with the Town, or is more than 30 days delinquent with payments on such account.
 - 4. The licensee has failed to obtain a Transaction Privilege Tax License or to pay said tax.
 - 5. The licensee has interfered with authorized representatives of the Town while in the performance of their duty, including inspections.
 - 6. The licensee is not complying with any requirement or condition set by the Town Council or Planning & Zoning Commission under a conditional use permit.
 - 7. Violation of this Article by the agents or employees of a licensee and/or violations of any other laws by the agents or employees, committed while acting as an agent or employee of the licensee.

[Ord. 416, 5/12/2015]

Section 8-3-8 Procedure for Denial, Suspension or Revocation.

- A. The Town Manager shall have the authority to deny, suspend or revoke a business license, without a hearing, for reasons provided for in this Article. However, any suspension or revocation shall not take effect until the time period for appealing the decision as set forth in this Article has passed.
- B. In denying, suspending or revoking any business license, the Town Manager shall cause written notice to be given by personal service or registered mail to the licensee of his or her decision to deny, suspend or revoke a license, the reason for such decision, that operation of the business prior to obtaining a license or after the effective date of the suspension or revocation would incur penalties as set forth in this Article, the applicant or licensee's right to appeal the Town Manager's decision and have a hearing, and the appeal procedure.

[Ord. 416, 5/12/2015]

Section 8-3-9 Appeal Procedure.

- A. Appeals of the Town Manager's decision to deny, suspend or revoke a license may be made by filing a notice of appeal with the Town Clerk within 15 days of receipt of the notice of denial, suspension or revocation.
- B. The notice of appeal shall be in writing, and shall set forth with specificity the reasons for which the appeal is taken.
- C. After the notice of appeal is determined to be complete, the Town Clerk shall schedule a hearing before the Town Council at their next regular meeting. Prior to the hearing, the Town Manager shall transmit to the Town Council all papers constituting the record of the action which is appealed.
- D. At the hearing, the Town Manager, or his/her designee, shall present the reasons for the decision to deny, suspend or revoke the license.
- E. The applicant or licensee, in person or through his or her attorney, may then present any evidence showing reasons why the decision was in error.
- F. If the denial, suspension or revocation appealed from is based on a finding by the Building Official, Zoning Administrator, Fire Chief, County Health Department or Police Department that the business was or would be in violation of any applicable law, including (without limitation) ordinances or regulations, then that finding shall be conclusive on the Town Council, and the Council's decision may be based only on whether the license was properly denied, suspended or revoked because of the Building Official, Zoning Administrator, Fire Chief, County Health Department or Police Department' finding.
- G. If the denial, suspension or revocation appealed from is based on a determination by the Town Manager that grounds existed pursuant to the Town Code, the Town Council may examine the factual nature of the grounds and determine whether such grounds are sufficient to sustain the decision of the Town Manager.
- H. The Town Council may affirm or reverse the decision of the Town Manager. The decision shall be in writing and shall be based only upon findings of fact. After the Town Council makes a decision, the Town Manager shall give the applicant or licensee written notice of the decision.
- I. Any decision of the Town Council may be appealed by the applicant or licensee to the Superior Court within thirty (30) days from the date of the written decision.

[Ord. 416, 5/12/2015]

Section 8-3-10 Validity of Business License During Appeal.

Throughout the administrative appeal process outlined herein, a licensee holding a suspended or revoked license may continue to operate his or her business pending final decision on the appeal, or until the time for appeal has passed, whichever occurs first.

[Ord. 416, 5/12/2015]

Section 8-3-11 Licensing After Revocation.

A person whose license has been finally revoked may not be issued a license for a period of twelve (12) months after the revocation.

[Ord. 416, 5/12/2015]

Section 8-3-12 Penalty.

Violations of this Article shall be punishable as follows:

- A. For the first offense, any violation of this article shall constitute a petty offense, and shall be subject to a fine of up to seventy-five (\$75.00) dollars.
- B. For a second or subsequent offense, any violation of this article shall constitute a Class I misdemeanor, punishable by a fine of up to \$2,500.00, incarceration of up to six months, or both; with each day during which any violation of this Ordinance is committed, continued or permitted constituting a separate offense.

[Ord. 415, 3/10/2015; Ord. 416, 5/14/2015]

ARTICLE 8-4 Sexually Oriented Business Code

- 8-4-1 Purpose and Intent
- 8-4-2 Definitions
- 8-4-3 Classification
- 8-4-4 License Required
- 8-4-5 Issuance of License
- 8-4-6 Fees
- 8-4-7 Inspection
- 8-4-8 Expiration of License
- 8-4-9 Suspension
- 8-4-10 Revocation
- 8-4-11 Transfer of License
- 8-4-12 Location of Sexually Oriented Businesses
- 8-4-13 Additional Regulations for Adult Motels
- 8-4-14 Additional Regulations for Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms
- 8-4-15 Additional Regulations for Escort Agencies
- 8-4-16 Additional Regulations for Nude Model Studios

- 8-4-17 Additional Regulations Concerning Public Nudity
- 8-4-18 Prohibition Against Children in a Sexually Oriented Business
- 8-4-19 Hours of Operation
- 8-4-20 Exemptions
- 8-4-21 Penalty; Injunction

Section 8-4-1 Purpose and Intent

It is the purpose of this Article to regulate adult-oriented businesses, to promote the public health, safety and general welfare of the citizens of the city, and to avoid and mitigate the detrimental secondary effects of adult-oriented businesses through content neutral regulations. It is not the purpose of this Article to impose a limitation or restriction on the content of any communicative materials, including sexually oriented materials, or to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. This Article is not intended to interfere with or suppress legitimate expression or any speech activities protected by the First Amendment to the United States Constitution nor is it intended to permit any use or activity which is otherwise prohibited or made punishable by law.

[Ord. 326, 8/8/2006]

Section 8-4-2 Definitions

In this Article, unless the context otherwise requires:

- A. *“Adult Arcade”* means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.
- B. *“Adult Bookstore, Adult Novelty Store or Adult Video Store”* means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:
 1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
 2. Instruments, devices or paraphernalia which are designed for use in connection with “specified sexual activities.”

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of Specified Sexual Activities” or Specified Anatomical Areas.

- C. *“Adult Cabaret”* means a nightclub, bar, restaurant or similar commercial establishment which regularly features:
1. Employees who appear in a state of nudity or semi-nude; or
 2. Live performances which are characterized by the exposure of Specified Anatomical Areas or Specified Sexual Activities; or
 3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
- D. *“Adult Motel”* means a hotel, motel or similar commercial establishment which:
1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motions pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
 2. Offers a sleeping room for rent for a period of time that is less than ten hours; or
 3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.
- E. *“Adult Motion Picture Theater”* means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are predominantly characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas. Adult Motion Picture Theater does not include a theater where all viewing occurs in a common area with seating for fifty (50) or more persons.
- F. *“Adult Theater”* means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of Specified Anatomical Areas or Specified Sexual Activities.

- G. *“Employee”* means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
- H. *“Escort”* means a person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- I. *“Escort Agency”* means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
- J. *“Establish or Establishment”* means and includes any of the following:
1. The opening or commencement of any sexually oriented business as a new business; or
 2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
 3. The additions of any sexually oriented business to any other existing sexually oriented business; or
 4. The relocation of any sexually oriented business.
- K. *“Licensee”* means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.
- L. *“Nude Model Studio”* means any place where a person who appears semi-nude, in a state of nudity, or who displays Specified Anatomical Areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Arizona or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:
1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
 2. Where in order to participate in a class a student must enroll at least three days in advance of the class.

- M. *“Nudity or State of Nudity”* means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.
- N. *“Person”* means an individual, proprietorship, partnership, corporation, limited liability company, association or other legal entity.
- O. *“Semi-Nude”* or in a *“Semi-Nude Condition”* means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part.
- P. *“Sexual Encounter Center”* means a non-medical business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
1. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude; or
 2. The matching and/or exchanging of persons for Specified Sexual Activities.
- Q. *“Sexually Oriented Business”* means an Adult Arcade, Adult Bookstore, Adult Novelty Store, Adult Video Store, Adult Cabaret, Adult Motel, Adult Motion Picture Theater, Adult Theater, Escort Agency, Nude Model Studio, or Sexual Encounter Center.
- R. *“Specified Anatomical Areas”* means:
1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 2. Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.
- S. *“Specified Criminal Activity”* means any of the following offenses:
1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries for which:

- a. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or
 - b. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - c. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.
2. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.
- T. *“Specified Sexual Activities”* means any of the following:
1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or
 2. Sex acts, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or
 3. Excretory functions as part of or in connection with any of the activities set forth in paragraphs 1 and 2 above.
- U. *“Substantial Enlargement”* of a sexually oriented business means the increase in floor area occupied by the business by more than twenty-five (25) percent, as the floor area exists on the date this Article takes effect.
- V. *“Transfer of Ownership or Control”* of a sexually oriented business means and includes any of the following:
1. The sale, lease or sublease of the business; or
 2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
 3. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

[Ord. 326, 8/8/2006]

Section 8-4-3 Classification

Sexually oriented businesses are classified as follows:

1. Adult Arcades;
2. Adult Bookstores, Adult Novelty Stores or Adult Video Stores;
3. Adult Cabarets;
4. Adult Motels;
5. Adult Motion Picture Theaters;
6. Adult Theaters;
7. Escort Agencies;
8. Nude Model Studios;
9. Sexual Encounter Centers.

[Ord. 326, 8/8/2006]

Section 8-4-4 License Required

- A. It is unlawful:
 1. For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the Town pursuant to this Article.
 2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the Town pursuant to this Article.
 3. For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this Article.
- B. An application for a license must be made on a form provided by the Town Clerk of Jerome.
- C. All applicants must be qualified according to the provisions of this Article. The application may request and the applicant shall provide such information (including fingerprints) as to enable the Town to determine whether the applicant meets the qualifications established in this Article.
- D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business in other than an individual, each individual who has a ten percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

- E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
1. If the applicant is:
 - a. An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is eighteen years of age;
 - b. A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
 - c. A corporation or limited liability company, the corporation or limited liability company shall state its complete name, the date of its incorporation, evidence that the corporation or limited liability company is in good standing under the laws of its state of incorporation, the names and capacity of all officers directors and stockholders or all members if the entity is a limited liability company, and the name of the registered statutory agent and the address of the registered office for service of process.
 2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he/she or she must state the sexually oriented business' fictitious name and submit the required registration documents.
 3. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this Article, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.
 4. Whether the applicant, or a person residing with the applicant, has had a previous license under this article or other similar sexually oriented business ordinances from another municipality or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a limited liability company that is licensed under this article whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
 5. Whether the applicant or a person residing with the applicant holds any other licenses under this article or other similar sexually oriented business ordinance from another municipality or county and, if so, the names and locations of such other licensed businesses.
 6. The single classification of license for which the applicant is filing.

7. The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone numbers, if any.
 8. The applicant's mailing address and residential address.
 9. A recent photograph of the applicant(s).
 10. The applicant's driver's license number, Social Security number and/or his/her state or federally issued tax identification number.
 11. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
 12. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within fifteen hundred (1,500) feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within fifteen hundred (1,500) feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
 13. If an applicant wishes to operate a adult oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (50) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict Specified Sexual Activities or Specified Anatomical Areas, then the applicant shall comply with the application requirements set forth in Section 8-4-14.
- F. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit, on a form to be provided by the Town, the following information:
1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
 2. Age, date and place of birth;
 3. Height, weight, hair and eye color;
 4. Present residence address and telephone number;
 5. Present business address and telephone number;

6. Date, issuing state and number of driver's license or other identification card information;
 7. Social Security number; and
 8. Proof that the individual is at least eighteen (18) years of age.
- G. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:
1. A color photograph of the applicant clearly showing the applicant's face and the applicant's fingerprints on a form provided by the Jerome Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.
 2. A statement detailing the license history of the applicant for the five years immediately preceding the date of filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, or state has ever had a license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
 3. A statement whether the applicant has been convicted of a specified criminal activity as defined in this article and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

[Ord. 326, 8/8/2006]

Section 8-4-5 Issuance of License

- A. Upon the filing of said application for a sexually oriented business employee license, the Town Clerk shall issue a temporary license to said applicant. The application shall then be referred to the appropriate Town departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty days from the date the completed application is filed. After the investigation, the Town Clerk shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
1. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form; or
 2. The applicant is under the age of eighteen (18) years; or

3. The applicant has been convicted of a “specified criminal activity” as defined in this article; or
 4. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this article; or
 5. The applicant has had a sexually oriented business employee license revoked by the Town within two years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to procedures and appeal as set forth in sections 8-4-10.
- B. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the Town that the applicant has not been convicted of any specified criminal activity as defined in this article or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in section 8-4-6.
- C. Within thirty (30) days after receipt of a completed sexually oriented business application, the Town Clerk shall approve or deny the issuance of a license to an applicant. The Town Clerk shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
1. An applicant is under eighteen (18) years of age;
 2. An applicant or a person with whom applicant is residing is overdue in payment to the Town of taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to any business;
 3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
 4. An applicant or a person with whom applicant is residing has been denied a license by the Town to operate a sexually oriented business within the preceding twelve months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months;
 5. An applicant or a person with whom applicant is residing has been convicted of a specified criminal activity defined in this article;

6. The premises to be used for the sexually oriented business have not been approved by the Yavapai County Health Department, Jerome Fire Department or the building official as being in compliance with applicable laws and ordinances.
 7. The license fee required by this article has not been paid;
 8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions in this article.
- D. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to section 8-4-3. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
 - E. The Yavapai County Health Department, Jerome Fire Department and the building official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the Town.
 - F. A sexually oriented business license shall issue for only one classification as found in section 8-4-3.

[Ord. 326, 8/8/2006]

Section 8-4-6 Fees

- A. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a five hundred dollar (\$500.00) non-refundable application and investigation fee.
- B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the Town an annual non-refundable license fee of five hundred dollars within thirty days of license issuance or renewal.
- C. Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual one hundred dollar (\$100.00) non-refundable application, investigation and license fee.
- D. All license applications and fees shall be submitted to the Town Clerk.

[Ord. 326, 8/8/2006]

Section 8-4-87 Inspection

- A. An applicant or licensee shall permit representatives of the Jerome Police Department, the Yavapai County Health Department, Jerome Fire Department, Town zoning Department, or

other Town departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

- B A person who operates a sexually oriented business or his/her agent or employee commits a misdemeanor if he/she refuses to permit such lawful inspection of the premises at any time it is open for business.

[Ord. 326, 8/8/2006]

Section 8-4-8 Expiration of License

- A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in section 8-4-4. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.
- B. When the Town Clerk denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Town Clerk finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.

[Ord. 326, 8/8/2006]

Section 8-4-9 Suspension

The Town Clerk shall immediately suspend a license for a period not to exceed thirty (30) days if a licensee or an employee of a licensee has:

1. Violated or is not in compliance with any section of this article; or
2. Refused to allow an inspection of the sexually oriented business premises as authorized by this article.

[Ord. 326, 8/8/2006]

Section 8-4-10 Revocation

- A. The Town Clerk shall revoke a license if a cause for suspension in section 8-4-9 occurs and the license has been suspended within the preceding twelve months.
- B. The Town Clerk shall revoke a license if:
 1. A licensee gave false or misleading information in the material submitted during the application process; or
 2. A licensee has knowingly allowed possession, use or sale of controlled substances on the premises; or

3. A licensee has knowingly allowed prostitution on the premises; or
 4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended; or
 5. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises; or
 6. A licensee is delinquent in payment to the Town, County, or State for any taxes or fees past due.
- C. When the Town Clerk revokes a license, the revocation shall continue for one year, and the licensee shall not be issued any sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the Town Clerk finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.
- D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

[Ord. 326, 8/8/2006]

Section 8-4-11 Transfer of License

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

[Ord. 326, 8/8/2006]

Section 8-4-12 Location of Sexually Oriented Businesses

- A. A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district not permitted in the Town of Jerome Zoning Code.
- B. A person commits a misdemeanor if the person operates or causes to be operated a sexually oriented business within fifteen hundred (1,500) feet of:
 1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities; or
 2. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private

schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school; or

3. A boundary of a residential district as defined in the Town of Jerome Zoning Code; or
 4. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the Town which is under the control, operation or management of the Town park and recreation authorities; or
 5. The property line of a lot devoted to a residential use as defined in the Town of Jerome Zoning Code; or
 6. An entertainment business which is oriented primarily towards children or family entertainment; or
 7. A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State.
- C. A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1000) feet of another sexually oriented business.
- D. A person commits a misdemeanor if that person causes or permits the operation, establishment or maintenance of more than one sexually oriented business in the same building, structure or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.
- E. For the purpose of subsection B of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection B. Presence of a Town, county or other political subdivision boundary shall be irrelevant for purposes off calculating and applying the distance requirements of this section.
- F. For purposes of subsection C of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

[Ord. 326, 8/8/2006]

Section 8-4-13 Additional Regulations for Adult Motels

- A. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this article.
- B. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented business license, he/she rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, he/she rents or subrents the same sleeping room again.
- C. For purposes of subsection B of this section, the terms “rent” or “subrent” mean the act of permitting a room to be occupied for any form of consideration.

[Ord. 326, 8/8/2006]

Section 8-4-14 Additional Regulations for Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms

- A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
 - 1. An application for a sexually oriented business license shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more Manager’s stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A Manager’s station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer’s or architect’s blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Town Clerk may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
 - 2. The application shall be sworn to be true and correct by the applicant;
 - 3. No alteration in the configuration or location of a Manager’s station may be made without the prior approval of the Town Clerk.

4. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each Manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a Manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more Manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the Manager's stations. The view required in this subsection must be by direct line of sight from the Manager's station.
6. It shall be the duty of the licensee to ensure that the view area specified in paragraph 5 of this subsection remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to paragraph 1 of this subsection.
7. No viewing room may be occupied by more than one person at any time;
8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five foot-candles as measured at the floor level.
9. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
10. No licensee shall allow openings of any kind to exist between viewing rooms or booths.
11. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
12. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist
13. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
14. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48) inches of the floor.

- B. A person having a duty under subsection A of this section commits a misdemeanor if he/she knowingly fails to fulfill that duty.

[Ord. 326, 8/8/2006]

Section 8-4-15 Additional Regulations for Escort Agencies

- A. An escort agency shall not employ any person under the age of eighteen (18) years.
- B. A person commits a misdemeanor if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

[Ord. 326, 8/8/2006]

Section 8-4-16 Additional Regulations for Nude Model Studios

- A. A nude model studio shall not employ any person under the age of eighteen years.
- B. A person under the age of eighteen years commits a misdemeanor if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen years was in a restroom not open to public view or visible to any other person.
- C. A person commits a misdemeanor if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

[Ord. 326, 8/8/2006]

Section 8-4-17 Additional Regulations Concerning Public Nudity

- A. It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.
- B. It shall be a misdemeanor for a person who knowingly or intentionally, in a sexually oriented business, appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least five feet from any patron or customer and on a stage at least two feet from the floor.
- C. It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.
- D. It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer.

[Ord. 326, 8/8/2006]

Section 8-4-18 Prohibition Against Children in a Sexually Oriented Business

A person commits a misdemeanor if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business.

[Ord. 326, 8/8/2006]

Section 8-4-19 Hours of Operation

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of two o'clock a.m. and eight o'clock a.m. on weekdays and Saturdays, and two o'clock a. m. and noon p.m. on Sundays.

[Ord. 326, 8/8/2006]

Section 8-4-20 Exemptions

It is a defense to prosecution under section 8-4-17 above that a person appearing in a state of nudity did so in a modeling class operated:

- A. By a proprietary school, licensed by the State of Arizona; a college, junior college, or university supported entirely or partly by taxation;
- B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- C. In a structure:
 - 1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - 2. Where, in order to participate in a class, a student must enroll at least three days in advance of the class.

[Ord. 326, 8/8/2006]

Section 8-4-21 Penalty; Injunction

- A. Violation of any requirement or prohibition state in this article is a class one (1) misdemeanor. With respect to a violation that is continuing in nature, each day that the violation occurs is a separate offense.

- B. In addition to other penalties, a sexually oriented business which operated without a valid license shall constitute a public nuisance, which, in addition to any other enforcement mechanisms in this Code, may be abated by a suit for injunctive relief.

[Ord. 326, 8/8/2006]

ARTICLE 8-5 Tour Business Code

- 8-5-1 Purpose and Intent
- 8-5-2 Definitions
- 8-5-3 Compliance with Town Regulations
- 8-5-4 Location
- 8-5-5 Routes
- 8-5-6 General Provisions
- 8-5-7 Exclusions
- 8-5-8 Existing Tour Businesses
- 8-5-9 Violations and Penalties

Section 8-5-1 Purpose and Intent. It is the purpose and intent of this Article to regulate tour businesses within the Town of Jerome, to promote the public health and safety and general welfare of citizens and visitors to the Town, and to mitigate the detrimental secondary effects of tour businesses through reasonable regulations.

Section 8-5-2. Definitions. For the purposes of this Article, a “tour business” is defined as follows: the carrying or guiding of persons, for compensation, on foot or in any mode of transportation, around any portion of the Town of Jerome for the purpose of viewing the Town or portions thereof, and not for the primary purpose of transportation from one location to another.

Section 8-5-3. Compliance with Town Regulations.

- A. All tour businesses must be licensed by the Town to conduct business, in accordance with Article 8-3 of the Jerome Town Code.
- B. All tour businesses are subject to the requirements of the Jerome Zoning Ordinance regarding parking, signage and all other matters, and all other laws of the Town of Jerome.

Section 8-5-4. Location.

- A. All tour businesses shall be operated out of premises located in the C-1 Zone of the Town of Jerome and shall have a leasehold or ownership interest in said premises, supported by delivery of documents to the Town Manager evidencing such interest. Said location shall be the bona fide place where the business is conducted and available for service of legal process.
- B. Any change in business location must be approved in writing by the Town Manager.

- C. If the ownership or leasehold interest in a tour business location ceases, then the tour business's business license expires concurrently, with no refund of unused fees and no notice by the Town required.

Section 8-5-5. Routes.

- A. Tour businesses shall not operate in, conduct tours through, or traverse residential areas of the Town of Jerome.
- B. The proposed routes of all tour businesses shall be approved in advance by the Town Council. The submittal seeking approval shall include a legible map of the Town clearly showing all routes, stopping points, pick-up and drop-off points, and the business's parking area.
- C. Deviation from the approved route at any time during a tour shall be grounds for revocation of the business license.

Section 8-5-6. General Provisions.

- A. A tour business may not create congestion on any Town right of way during its operations.
- B. Sales and related literature of the tour business may not be distributed on any public property or right of way within the Town of Jerome except at the business location of the tour business.
- C. A tour business shall not utilize external sound amplification devices within Town of Jerome limits.
- D. No tour business shall operate within the jurisdiction of the Town of Jerome unless it has first provided acceptable evidence of liability insurance naming the Town of Jerome as an additional insured. The minimum limit of liability for each applicable coverage shall be \$1,000,000.00.
- E. All drivers of tour vehicles shall maintain a current driver's license issued by the State of Arizona. A copy of each driver's license shall be filed by the tour business with the Town prior to that driver operating any tour business vehicle.
- F. Open alcoholic beverages shall not be carried in any tour business vehicle during operations.

Section 8-5-7 Exclusions. This section shall not apply to the Annual Home Tour conducted by the Jerome Chamber of Commerce.

Section 8-5-8 Existing Tour Businesses. Tour businesses lawfully operating within the Town of Jerome as of the effective date of this Ordinance shall comply fully with all of the provisions herein within sixty (60) days.

Section 8-5-9 Violations and Penalties. A person commits a Class 1 misdemeanor if that person operates or causes to be operated a tour business within the Town of Jerome unless in full compliance with this Article.

[Ord. No. 400, 12/11/12; Ord. No. 401, 3/12/13]

ARTICLE 8.6 **Mobile Food Vendors**

- Section 8.6.1 Purpose.
- Section 8.6.2 Definitions
- Section 8.6.3 Compliance with State Licensing Requirements
- Section 8.6.4 Licensing Requirements
- Section 8.6.6 Operational Requirements
- Section 8.6.7 Penalties

Section 8.6.1 Purpose. This article is adopted to protect the health, safety and welfare of the community of the Town of Jerome by enacting reasonable regulation for mobile food vendors, their employees, agents, lessees or independent contractors by requiring compliance with minimum standards for safety and security.

Section 8.6.2 Definitions. The below words and phrases, wherever used in this article shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- A. "Legal parking space" means an area designated for vehicle parking in the Town of Jerome that may be paved or unpaved and may be delineated by road surface markings.
- B. "Mobile food unit" means a food establishment that is licensed by the State of Arizona, that is readily movable and that dispenses food or beverages for immediate service and consumption and other incidental retail items from any vehicle as defined in Arizona Revised Statutes Section 28-101.
- C. "Mobile food vendor" means any person who owns, controls, manages or leases a mobile food unit or contracts with a person to prepare foods and vend from, drive or operate a mobile food unit.
- D. "Person" means an individual, partnership, corporation, association or any other entity of whatever kind or nature.
- E. "Right-of-way" means an area of land that is owned or leased by the Town of Jerome and used for street or highway purposes.
- F. "Semi-permanent structure" means equipment, or any dining area, including, but not limited to, tables, chairs, booths, bar stools, benches, and standup counters.

Section 8.6.3 Compliance with State Licensing Requirements. It shall be unlawful for any person to operate a mobile food unit or act as a mobile food vendor without having first obtained a valid license from the State of Arizona Department of Health Services pursuant to A.R.S. § 36-1761.

- A. It shall be a class one misdemeanor to violate this section.

Section 8.6.4 Licensing Requirements. It shall be unlawful for a person to operate a mobile food unit at any location within the Town of Jerome without obtaining a business license from the Town of Jerome in accordance with Article 8-3 of the Jerome Town Code.

Section 8.6.5 Operational Requirements.

- A. It is unlawful for any person to operate a food truck that does not meet the requirements in this section.
- B. Fire Safety and Inspection. A mobile food vendor must ensure that all mobile food units comply with the version of the International Fire Code in effect at the time, State law, and the Town of Jerome Code relating to fire and explosion safety standards, also in effect at the time.
- C. A mobile food unit(s) shall be inspected by the Town of Jerome's Fire Department, or the mobile food vendor shall provide evidence that the mobile food unit passed a fire inspection by another city or town fire department in this state within the preceding twelve (12) months.
- D. Refuse, Trash and Litter Maintenance. A mobile food unit shall:
 - 1. Provide a minimum of one fifteen (15) gallon trash receptacle within fifteen (15) feet of each individual mobile food unit for customers and employees;
 - 2. Maintain an area around the mobile unit clear of litter, garbage, rubble and debris; and
 - 3. The mobile food vendor shall remove all trash generated by the mobile food vendor from Town limits. No trash generated by the mobile food vendor may be disposed of by the mobile food vendor in dumpsters or waste receptacles located in the Town.
 - a. The Town Council may establish, by Resolution, a daily fee to cover the cost of trash generated by the mobile food vendor and disposed of by its customers in public waste receptacles.
- E. Noise Restrictions. Noise levels from mobile food units shall not exceed the Town's noise ordinance standards pursuant to Section 10-1-13 of the Jerome Town Code.
- F. Security.
 - 1. The mobile food unit and the surrounding vending area shall be maintained in a safe and clean manner at all times.
 - 2. A mobile food unit shall have adequate lighting to ensure customer safety in the vending area. Lighting shall be directed downwards and away from rights-of-way and adjacent properties.

3. The mobile food unit and its customers shall not obstruct the movement of pedestrians or other vehicles using the sidewalk, street, alley, or other public right-of-way.

G. Insurance.

1. If the mobile food unit operates at an event sponsored by the Town of Jerome or operates on public property, including rights-of-way or property owned by the Town of Jerome, the mobile food vendor shall obtain insurance naming the Town of Jerome as an additional insured in amounts as required by the Town of Jerome and in accordance with the requirements of A.R.S. Title 9, Chapter 4, Article 7.2.
2. The insurance company issuing the policy shall be authorized to issue commercial liability policies in Arizona by the Arizona Department of Insurance.
3. The policy shall designate by manufacturer's serial or identification number all mobile food units for which coverage is granted.
4. The policy shall insure the person named in the policy and any other person using the mobile food vendor with the express or implied permission of the named insured against any liability arising out of the ownership, maintenance or use of the mobile food unit in Arizona.

H. Location. A mobile food vendor shall operate a mobile food unit only in the C-1 Zoning district in accordance with the Jerome Zoning Ordinance and to a limited extent in a residential area as set forth below, and subject to the following limitations and conditions:

1. Residential Area. A mobile food vendor shall not operate in an area zoned for residential use or within two hundred fifty (250) feet of an area zoned for residential use, except:
 - a. A mobile food vendor selling only ice cream may operate on public rights-of-way in areas zoned for residential use; or
 - a. Subject to applicable laws and the Jerome Town Code, a mobile food vendor may operate on private property in a residential area if the mobile food vendor obtains a separate agreement with the property owner to operate a mobile food unit for a maximum of six (6) hours within a twenty-four (24) hour period on the private property.
2. Town of Jerome-Owned Property. A mobile food vendor shall only operate in a legal parking space. If the mobile food vendor desires to operate on Town of Jerome property other than a legal parking space, the mobile food vendor shall obtain permission from the Jerome Town Council.
3. Private Property. A mobile food vendor shall obtain written permission to use any private property where a mobile food unit is operating and shall provide proof of such written permission on demand by the Town of Jerome.
 - a. Notwithstanding the permission of a person owning or having lawful control of private real property, a mobile food unit shall not remain in one location on private property for longer than ninety- six (96) consecutive hours, unless the Town of Jerome

grants permission for a permitted event greater than four (4) days. "One location" within this subsection means a any location within a parcel of land and includes movements from different parked positions within the same parcel.

- I. Parking. A mobile food unit shall comply with this subsection and applicable law as it pertains to parking.
 1. A mobile food unit shall only operate in a legal parking space or on private property or Town property as authorized by this Article.
 2. A mobile food unit, including any semi-permanent structure used or associated with the mobile food unit, may use no more than one (1) legal parking space, unless the mobile food vendor has a separate agreement with the Town of Jerome to use additional legal parking spaces.
 3. No mobile food unit exceeding twenty-four (24) feet may park diagonally in a diagonal parking space or park in any manner that occupies more than one (1) diagonal parking space.
 4. No mobile food unit shall operate with the serving window facing street traffic.
 5. A mobile food unit shall abide by all parking regulations, including posted time limits. A mobile food unit shall not occupy a legal parking space for more than six (6) hours in a twenty-four (24) hour period. "Occupy" within this subsection means within one hundred (100) feet of the place in which the mobile food unit was initially parked.
 6. A mobile food vendor shall not claim or attempt to establish any exclusive right to park at a particular street location, unless the parking space is part of a permitted event.

Section 8.6.6 Penalties.

- A. Each day of any violation of any provision of this article shall continue shall constitute a separate offense.
- B. Civil Penalty: Except as otherwise provided herein, violations of any provision of this article shall be civil code offenses which may be adjudicated and enforced by the Town of Jerome civil hearing process set forth in Article 18-3 of the Jerome Town Code.

[Ord. No. 450, 6/11/2019]