

SEXUALLY ORIENTED BUSINESS LICENSE APPLICATION

To obtain information on a Sexually Oriented Business License, you can review the Application Form and Code Section. You can fill out the application online, then print and send it with the fee and other applicable documents to Thornton City Clerk's office, 9500 Civic Center Drive, Thornton, CO 80229. If you have questions, please call 303-538-7230.



SEXUALLY ORIENTED BUSINESS

Checklist

City Clerk's office 303-538-7230
 9500 Civic Center Drive
 Thornton, Colorado 80229-4326

ALL Documents must be properly executed and correspond with name of applicant exactly.

Please type or print legibly in BLACK ink.

Clear copies of all other information may be submitted.

New License Application:

	Completed Application.
	\$800.00 Annual License Fee plus \$200.00 non-refundable application fee.
	City Sales Tax Application - submitted to Sales Tax Division 303-538-7400.
	Zoning Referral Form signed by City Development Department.
	Sketch or detailed diagram of establishment.
	Attach Legal Description of Premises.
	Contact the Building Inspection Division 303-538-7250 to apply for a Certificate of Occupancy. <ul style="list-style-type: none"> ➤ If new construction, submit six sets of plans for review before starting construction. ➤ If a development permit is required it must be issued before a Certificate of Occupancy can be issued. ➤ The City can not issue the license until the Certificate of Occupancy has been issued.
	A current certificate and straight-line drawing prepared within thirty (30) days prior to an initial application by a Colorado registered land surveyor evidencing compliance with the locational restrictions.
	A copy of the deed or lease showing the applicant's right to possession of the property.
	Authorization to Release and Background Investigation forms (attached) to be completed for investigation of the background, character and financial responsibility of each individual applicant, partner, officer, director and/or holder of the corporate stock, and all managers of the proposed establishment.
	Each individual must be fingerprinted at the Thornton Police Department on Wednesday between 12:30 p.m. and 4:30 p.m.
	If a Corporation, a Certificate of Incorporation (if corporation is less than two years old) or a current Certificate of Good Standing.
	Manager's Registration (if applicable – include \$75.00 registration fee).

Renewal Application:

	Completed Application.
	\$800.00 Annual License Fee plus \$200.00 non-refundable application fee.
	If there are any new individuals (i.e., manager, applicant, partner, officer, director and/or holder of the corporate stock), Authorization to Release and Background Investigation forms will need to be completed for investigation of the background, character and financial responsibility.
	Each new individual must be fingerprinted at the Thornton Police Department on Wednesday between 12:30 p.m. and 4:30 p.m.
	Manager's Registration (if applicable – include \$75.00 registration fee).



SEXUALLY ORIENTED BUSINESS LICENSE APPLICATION

Chapter 42, Article VIII

City Clerk's office 303-538-7230

9500 Civic Center Drive

Thornton, Colorado 80229-4326

Application Date:	<input type="checkbox"/> New License Fee <input type="checkbox"/> Renewal Fee
Date License Fees Paid:	(\$800.00 Annual License Fee plus \$200.00 non-refundable application fee)

Name of Applicant:	
Mailing Address:	Zip Code:
Trade Name of Establishment:	Phone:
Address:	Zip Code:
Are the premises owned or rented?	If rented, by whom?
Colorado Sales Tax Number:	Thornton Sales Tax Number:

Manager of Establishment Name: (If not applicant, please complete Manager's Registration Form)		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:

Complete one of the following sections (Corporation/Individual/Partnership):

Corporation Name:		Phone:
Address:		Zip Code:
President Name:		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:
Vice-President Name:		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:
Secretary Name:		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:
Treasurer Name:		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:

Individual Name:		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:



SEXUALLY ORIENTED BUSINESS LICENSE APPLICATION

City Clerk's office – Page 2

If more than two Partners please attach separate sheet

Partner Name:		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:
Partner Name:		Phone:
Address:		Zip Code:
Social Security Number:	Driver's License Number:	Date of Birth:

If applicable, please attach information showing the name, address, home phone number, driver's license number, date of birth, and social security number of Stockholders holding 10% or more.

If Corporation or Limited Liability Company:

Registered Agent (Name):	
Address:	Zip Code:

Has the applicant, owner, principal owner, or any other person holding any type of interest in the proposed business, ever had a Sexually Oriented Business License issued by any other city, county or other governmental agency? Yes No If yes, complete the following:

Name	Type of Business	Governmental Agency that issued the license	Location	When

If the applicant or any other individual, including owner, principal owner, or any person with 10% interest or more ever had an interest in, or been a partner, limited partner, or corporate shareholder in a Sexually Oriented Business License, which has ever been revoked or suspended? Yes No If so, explain in detail:

List Hours of Operation each day:	Beginning Time:	Ending Time:
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		

I declare under the penalty of perjury, that this application, including the background investigation and authorization forms, and any accompanying statements, has been examined by me and to the best of my knowledge and belief are true, correct and complete. I also declare that I have been given a copy of Chapter 42, Article VIII of the Thornton City Code pertaining to Sexually Oriented Businesses:

Signature of Applicant:	Date:
Signature of Applicant:	Date:
Signature of Applicant:	Date:

(Each individual that completes a background investigation report and authorization will need to sign here also)
 (If necessary, please make additional copies for all applicant signatures)



**AUTHORIZATION AND CONSENT TO RELEASE INFORMATION
SEXUALLY ORIENTED BUSINESS LICENSE**

City Clerk's office 303-538-7230
9500 Civic Center Drive
Thornton, Colorado 80229-4326

APPLICANTS & MANAGERS – COMPLETE BELOW AND SIGN	
Name of Corporation/Sole Proprietorship/Partnership	
Name of Individual (please print):	
Position:	
Trade Name of Establishment:	
Address of Establishment:	

➤ I fully understand that an investigation of my background, character and financial responsibility is necessary for the approval of said license. I understand that this investigation may solicit information from and include contact with the references listed on my background investigation report, former employers, business associates, police agencies, financial institutions, credit bureaus, neighbors, friends and relatives. Moreover, I request and authorize those people or organizations selected by the Thornton Police Department to release any and all information of a confidential or privileged nature concerning me. However, upon the express condition, that said release is limited to an investigation conducted pursuant to the aforesaid licensing and operation thereunder, but this authorization shall continue to operate so long as above-named licensee shall hold said license, if granted, and for the term or terms of any renewals or extensions thereof.

➤ I hereby release you, your organization or others from any liability or damage which may be incurred as a result of furnishing information to the City of Thornton ("City") as requested. I further waive any claims that I might have against the City arising from this request for information concerning my background investigation or such information and dissemination of information to the appropriate individuals employed by the City.

➤ I hereby release and agree to hold harmless and indemnify the City against any claims that third parties should make against the City based on the City's request for information on my background or its receipt of such information from other individuals or agencies.

Signature	Date Signed
------------------	--------------------

SEAL	Subscribed and sworn to before me by:
	in the County of Adams, State of Colorado, this day of , 20
	Notary Public:
	My Commission Expires:



**CONFIDENTIAL BACKGROUND INVESTIGATION REPORT
SEXUALLY ORIENTED BUSINESS LICENSE**

City Clerk's office 303-538-7230
9500 Civic Center Drive
Thornton, Colorado 80229-4326

REFERRAL TO THORNTON POLICE DEPARTMENT	PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK ATTACH SEPARATE SHEET IF NECESSARY
Name of Individual (please print):	
Position:	
Trade Name of Establishment:	
Address of Establishment:	

Pursuant to Chapter 42, Article VIII of the Thornton City Code, the Thornton Police Department will investigate the background, character and financial responsibility of each individual applicant and of the partners, officers, directors and/or holders of stock of a corporate applicant, as well as each person named as a manager of a proposed sexually oriented business. The Background Investigation Report provides basic information about the applicant, which is necessary for the investigation.

Every answer you give will be checked for its truthfulness. A deliberate falsehood will jeopardize the application, as such falsehood within itself constitutes evidence regarding the reputation and character of the applicant.

**THE MOST IMPORTANT CONSIDERATION IN THE ANSWERS
MADE BY YOU IN THE BACKGROUND INVESTIGATION REPORT IS HONESTY.**

I will notify the City Clerk's office within 5 (five) days of any changes in the financing of this business, should the changes occur during the period for which this license is issued and for the term or terms of any renewals or extension thereof.

I have read and I do understand the above statement. I further acknowledge that I have obtained and examined a copy of Chapter 42, Article VIII of the Thornton City Code of the City of Thornton, Colorado, pertaining to Sexually Oriented Business.

I further certify the facts contained within this Background Investigation Report to the Sexually Oriented Business Application are true and correct and I understand that any falsification or misrepresentation will result in a rejection of this application or a revocation of said license.

I further certify, under penalty of law that no other person, excluding the officers, partners and/or managers of the licensed premises has any direct or indirect financial interest in the business to be conducted under the license herein applied for.

Signature	Date Signed
------------------	--------------------

SEAL	Subscribed and sworn to before me by:
	in the County of Adams, State of Colorado, this day of , 20
	Notary Public:
	My Commission Expires:



**CONFIDENTIAL BACKGROUND INVESTIGATION REPORT
SEXUALLY ORIENTED BUSINESS LICENSE – Page 2**

SECTION I - TO BE COMPLETED BY ALL APPLICANTS – INCLUDING MANAGERS

Aliases:			
Home Phone:		Date of Birth:	Place of Birth:
Sex:	Race:	Height:	Weight:
Social Security Number:		Hair Color	Eye Color:

Home Address:	Zip Code
How long at current address?	

Driver's License Number:	State Issued:	
Has your driver's license ever been suspended or revoked? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, complete the following:		
Where:	When:	Reason:

Military Service (branch):	From:	To:	Type of Discharge:

List residences and dates lived there within the past five years and all previous states resided within (including military service):	

Current occupation:	
Employer:	Phone:
Address:	Zip Code:

Starting with current employment, list all for the past 10 years	Name	Address	Position	Dates Employed

If ever discharged from a position, complete the following:	Where:	When:	Reason:

List four References - two Professional & two Personal:	Name	Address	Phone	Time Known

List all CONVICTIONS, including traffic:	Violation	When	Where	Final Disposition



**CONFIDENTIAL BACKGROUND INVESTIGATION REPORT
SEXUALLY ORIENTED BUSINESS LICENSE – Page 3**

SECTION II - THE FOLLOWING SECTION DOES NOT APPLY TO MANAGERS

All Sexually Oriented Businesses must meet lighting regulations in Section 42-554(e).
Attach a detailed diagram evidencing compliance.

For adult theaters and adult cabarets, licensee must meet requirements in Section 42-554(f).
Attach a detailed diagram showing the stage and seating areas.

For peep booths, list the following and include a diagram showing this area in detail:	Number	Size	Location of Manager's Stations

Provide the land owner information upon which the premises is situated	Full Name (Individual or other entity)	<input type="checkbox"/> Residence –OR– <input type="checkbox"/> Business Address

Will the applicant, or anyone else, conduct any business other than sexually oriented business on the premises?
 Yes No If yes, complete the following for the person who is to operate it:

Full Name:	Date of Birth:
Residence Address:	Business:

If the applicant does not reside in Colorado, provide the following for your authorized agent in Colorado upon whom service of process can be made in any proceedings against the applicant pursuant to any statute, ordinance, or regulation applicable to the conduct of said business:

Name:	Date of Birth:
Residence Address:	

Has the applicant agreed to permit any person to receive, or agreed to pay to any employee or other person (by way of rent or otherwise) all or any portion or percentage of the gross or net profits or income derived from the business to be conducted under the license applied for? Yes No If yes, please explain in detail: _____

Does applicant own or have an interest in any real property used as a Sexually Oriented Business in the State of Colorado? Yes No If yes, please explain in detail: _____

Are the premises owned or leased by the applicant?	
Please provide complete details concerning the lease agreement (If business is being purchased, provide a copy of the contract.):	



MANAGER'S REGISTRATION FORM SEXUALLY ORIENTED BUSINESS LICENSE

City Clerk's office 303-538-7230
9500 Civic Center Drive
Thornton, Colorado 80229-4326

Sexually Oriented Businesses employing a separate and distinct manager or supervisor must have the manager or supervisor complete this form and submit the \$75.00 fee.
ALL questions must be completed in black ink or typewritten and both the manager/supervisor and Licensee must sign.
Any false statement or answer made by the licensee and/or manager constitutes "perjury" and may result in the revocation of the license.

Name of Manager/Supervisor (any aliases):	
Address:	Zip Code:
Effective date of Employment as Manager:	

Name of Licensee (same as on application):	
Trade Name (or DBA) of Establishment:	Phone Number of licensed premises:
Address of Premises:	

Have you ever managed any other Sexually Oriented Business in any state? Yes No If yes, complete the following:

Name:	Address of Establishment:	Dates of Employment:

Have you ever been a partner, in a partnership or a principal owner in any Sexually Oriented Business? Yes No
If yes, please explain:

OATH OF MANAGER	
I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct and complete to the best of my knowledge.	
Signature of Manager:	Date:

VERIFICATION OF LICENSEE	
The Manager of the above licensed establishment and I have read the foregoing manager's registration form and verify that the contents thereof are true and correct to the best of my knowledge.	
Signature of Licensee:	Date:
Title:	



ZONING REFERRAL

Form 5

City Clerk's office 303-538-7230
 9500 Civic Center Drive
 Thornton, Colorado 80229-4326

Applicant - complete the first three questions, check appropriate box, and submit this form with a copy of the site plan of the premises to the City Development Department
Return the signed form with your application to the Deputy City Clerk in the City Clerk's office

Applicant – Complete this Section Only

Business Name:		
Business Address:		
Type of License applying for:		
Is the existing building going to be expanded/enlarged?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> New License <input type="checkbox"/> Change of Location <input type="checkbox"/> Modification of Premises		

To Be Completed & Signed By City Development / Zoning Division

Zoning for the property is:		
Is the property zoned for the type of license applied for?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Will the Development Review Process be required for this application?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If so, what type of Development Permit is required?	<input type="checkbox"/> Major	<input type="checkbox"/> Minor

If a review is scheduled, please indicate the anticipated hearing date for the Development Permits and Appeals Board (DPAB)*:	
-------------------------------------------------------------------------------------------------------------------------------	--

Is there sufficient parking for the proposed use?	
---------------------------------------------------	--

Comments:	

***If this matter goes to DPAB, please attach the staff report and minutes.**

City Development/Zoning Division Signature:	Date:

ARTICLE VIII. SEXUALLY ORIENTED BUSINESSES

DIVISION 1. GENERALLY

Sec.42-551. Purpose and intent.

It is the purpose and intent of this article to impose reasonable time, place and manner regulations on sexually oriented business in order to promote the health, safety, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the deleterious effects caused by the location and concentration of sexually oriented businesses within the City, thereby reducing or eliminating the adverse secondary effects which have been shown to exist from such sexually oriented businesses. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials and activities. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials and activities protected by the First Amendment of the United States Constitution or the State Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

(Code 1975, § 18-1; Ord. No. 2367, § 1, 1-23-95)

Sec.42-552. Definitions.

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

Adult arcade means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image-producing machines, for viewing by five or fewer persons each, are used to show films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult bookstore means:

(1) A commercial establishment which (i) devotes a significant or substantial portion of its stock-in-trade or interior floor space to; or (ii) receives a significant or substantial portion of its revenues from; or (iii) devotes a significant or substantial portion of its advertising expenditures to the promotion of: the sale or viewing, for any form of consideration, of books, magazines, periodicals or other printed matter, or photographs, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(2) An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas, and still be categorized as an adult bookstore. Such other business purposes will not serve to exempt such establishment from being categorized as an adult bookstore so long as the provisions of Subsection (1) of this definition are otherwise met.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment, whether or not alcoholic beverages are served, which features: (i) persons who appear nude or in a state of nudity or seminude; (ii) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or (iii) films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel means a motel, hotel or similar commercial establishment which:

(1) Offers public accommodations, for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which can be described as depicting specified sexual activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television;

(2) Offers a sleeping room for rent for a period of time less than ten hours; or

(3) Allows a tenant or occupant to subrent a sleeping room for a time period of less than ten hours.

Adult motion picture theater means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions depicting or describing specified sexual activities or specified anatomical areas are regularly shown for any form of consideration and to six or more persons.

Adult novelty business means a commercial establishment which (i) devotes a significant or substantial portion of its stock-in-trade or interior floor space to; or (ii) receives a significant or substantial portion of its revenues from; or (iii) devotes a significant or substantial portion of its advertising expenditures to the promotion of the sale of devices which simulate human genitals or devices which are designed for sexual stimulation. Other business purposes will not serve to exempt such establishment from being categorized as an adult novelty business.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which, for any form or consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.

Applicant means the person listed as an applicant on the application for a license and a person applying for renewal of an existing license and who shall be an owner or principal owner of the business.

Building Inspection Division means the Building Inspection Division for the City of Thornton.

Business means a sexually oriented business as defined in this section.

Employee means a person who works or performs in and/or for a sexually oriented business, including the manager, regardless of whether or not the person is paid a salary, wage or other compensation by the manager of the business.

Escort means a person who, for any form of 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.

Escort agency means a person who furnishes, offers to furnish, or advertises to furnish escorts as part of its business purposes for a fee, tip, or any form of consideration.

Establishment of a sexually oriented business means and includes any of the following:

(1) The opening or commencement of any such business as a new business;

(2) The conversion of an existing business into a sexually oriented business;

(3) The addition of a sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of a sexually oriented business.

License means a sexually oriented business license applied for or issued pursuant to Division 2 of this article.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued and who shall be an owner or principal owner of the business.

Manager means an employee, other than a licensee, who is employed by a sexually oriented business to act as a manager or supervisor of employees or is otherwise responsible for the operation of or in charge of a permitted or licensed sexually oriented business.

Nude model studio means any place where a person, who appears in a state of nudity or displays specified anatomical areas, is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

Nudity or state of nudity means:

(1) The appearance of a human bare buttock, anus, genitals, or the areola or nipple of the female breast; or

(2) A state of dress which fails to opaquely and fully cover a human buttocks, anus, genitals, or areola or nipple of the female breast.

Owner means a person owning, directly or beneficially, any interest or part interest, however identified, in a sexually oriented business. However, the term owner shall not include corporate stockholders unless such stockholders are also officers, directors or employees who have direct management responsibilities.

Peep booth means a viewing room of less than 150 square feet of floor space.

Person means an individual, sole proprietorship, partnership, corporation, limited liability company, association, organization, or other recognized entity, including an applicant, licensee, manager, owner, or principal owner.

Premises or licensed premises means any premises that requires a license and that is classified as a sexually oriented business.

Principal owner means any person owning, directly or beneficially:

- (1) Ten percent or more of a corporation's corporate stock;
- (2) Ten percent or more of a membership interest in a limited liability company;
- (3) In the case of any other recognized entities, ten percent or more of the ownership interests in the entity; or
- (4) The general partner of a limited partnership, regardless of the percentage of ownership.

However, the term principal owner shall not include corporate stockholders unless such stockholders are also officers, directors or employees who have direct management responsibilities.

Private room means a room in an adult motel that is not a peep booth, that has a bed and a bath in the room or adjacent room, and that is capable of being used for lodging.

Public park means public land which has been designated for park or recreational activities, including but not limited to a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis court, pedestrian/bicycle path, open space, wilderness area, or similar public land within the City which is under the control, operation, or management of the City park and recreation authorities.

Religious institution means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

School means any public or private educational facility, including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, special education schools, junior colleges and universities. The term "school" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

Seminude means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual encounter establishment means a business or commercial establishment that, as one of its primary business purposes, offers, for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas or activities when one or more of the persons is in a state of nudity. An adult motel will not be classified as a sexual encounter establishment by virtue of the fact that it offers private rooms for rent.

Sexually oriented business means an adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, adult novelty business, adult theater, sexual encounter establishment, escort agency or nude model studio or any business that holds a license issued under Division 2 of this article. The definition of a sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person engages in medically approved and commonly recognized sexual therapy.

Specified anatomical areas means human genitals less than completely or opaquely covered, including the pubic region, buttocks, or anus; female breasts below a point immediately above the top of the areola; or human male genitals in a discernible turgid state, even if completely or opaquely covered.

Specified criminal acts means sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business, including but not limited to distribution of obscenity, prostitution, or pandering.

Specified sexual activities means and includes any of the following:

- (1) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts.
- (2) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy.
- (3) Masturbation, actual or simulated.
- (4) Human genitals in a state of sexual stimulation, arousal or tumescence.

(5) Excretory functions as part of or in connection with any of the activities set forth in Subsections (1) through (4) of this definition.

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.

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means.

(3) The establishment of trust, management arrangement, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

(Code 1975, § 18-2; Ord. No. 2367, § 1, 1-23-95; Ord. No. 2404, § 1, 2-12-96)

Cross reference(s)--Definitions generally, § 1-2.

Sec.42-553. Violations and penalties.

(a) It shall be unlawful for any licensee, owner, principal owner, or a manager to knowingly operate or cause to be operated a sexually oriented business if the business:

(1) Does not have a sexually oriented business license.

(2) Has a license which is under suspension.

(3) Has a license which has been revoked.

(4) Has a license which has expired.

(5) Has an employee acting as a manager without a sexually oriented business manager's license.

(6) Has not paid an application fee, a license fee, or a manager's license fee.

(b) It shall be unlawful for a licensee, owner, principal owner, or a manager to knowingly allow or permit the following:

(1) Operation of licensed premises in violation of any municipal ordinance, State or federal law or any applicable State or County Health Department's regulation.

(2) Operation of licensed premises in violation of any of the regulations contained in Section 42-554.

(3) Noncompliance with the requirements of Subsection 42-581(d).

(4) Transfer or attempt to transfer a license without complying with Section 42-586.

(5) Change, alter, or modify the licensed premises of a sexually oriented business, or attempt to do so without complying with Section 42-587.

(6) In the case of a corporation licensee, operation of a sexually oriented business when the corporation is suspended or not in good standing with the Secretary of State's office where the corporation is incorporated, or authorized to do business.

(c) It shall be unlawful for an owner, principal owner, or a manager to knowingly:

(1) Make a false statement on an application for a license or fail to disclose facts as required by Subsection 42-581(d).

(2) Permit any person, employee or patron on the licensed premises who has not attained the age of 18 years, except for establishments which offer on-premises viewing of films or videos or have live entertainment, in which case, the age restriction shall be 21 years.

(3) Engage in or allow patrons or employees to be engaged in any specified sexual activity on the licensed premises.

(4) Fail to comply with or allow any patron or employee to violate any of the regulations contained in Section 42-554.

(d) It shall be unlawful for any person to knowingly:

(1) Enter or remain on the licensed premises when such a person has not attained the age of 18 years, except for establishments which offer on-premises viewing of films or videos or have live entertainment, in which case, the age restriction shall be 21 years.

(2) Commit or engage in any specified sexual activity on the licensed premises.

(3) Touch, fondle, caress or come in physical contact with the specified anatomical areas of any performer, entertainer, waitress, waiter, or employee of the sexually oriented business.

(e) Penalties.

- (1) Any violation of Subsection (a) or (b) of this section shall be punishable by a fine in a minimum amount of \$250.00 and a maximum amount of \$1,000.00, plus all applicable court costs.
- (2) Any violation of Subsection (c) or (d) of this section shall be punishable by a maximum penalty prescribed in Section 1-8(b).
- (3) Each day a licensed premises is in violation of Subsection (a) or (b) of this section shall be considered a separate and distinct offense.
- (f) It is an affirmative defense to prosecution for a violation of this article that an owner, principal owner, patron or employee of a sexually oriented business exposed any specified anatomical area during such person's bona fide use of a restroom, or in the case of an employee during the employee's bona fide use of a dressing room which is accessible only to employees.
(Code 1975, § 18-15; Ord. No. 2367, § 1, 1-23-95; Ord. No. 2404, § 3, 2-12-96)

Sec.42-554. Regulations for operation.

- (a) Inspection of the premises. An applicant, licensee, owner, principal owner, or manager shall permit representatives of the Building Inspection Division, the Tri-County Health Department, the Fire Department, or the Police Department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied by anyone or open for business.
- (b) Exhibition of sexually explicit films or videos in peep booths. A licensee, owner, principal owner, or manager who operates or causes to be operated a sexually oriented business which exhibits, on such sexually oriented business premises, a film, videocassette or other video reproduction in a peep booth, which depicts specified sexual activities or specified anatomical areas, shall comply with the following:
 - (1) The business shall have one or more manager's stations. A manager's station may not exceed 32 square feet of floor area. No alteration in the configuration or location of a manager's station as provided for in this subsection and Subsection 42-587(b)(4) may be made without the prior approval of the City Clerk.
 - (2) At least one employee must be on duty and situated at a manager's station at all times that any patron is present inside the sexually oriented business premises.
 - (3) The interior of the sexually oriented business premises shall be configured in such a way that there is an unobstructed view from a manager's station of every area to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video display equipment. If the sexually oriented business premises has two or more manager's stations designated, the interior of the sexually oriented business premises shall be configured in such a manner that there is an unobstructed view of each area 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. The view area shall remain unobstructed by any doors, walls, merchandise, display racks or other materials at all times, and no patron shall be permitted access to any area which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Section 42-581.
 - (4) No peep booth may be occupied by more than one person at any one time.
 - (5) No door shall be placed on any peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two adjacent peep booths.
- (c) Hours of operation.
 - (1) A sexually oriented business shall not be open for business nor shall the licensee, owner, principal owner, manager or any employee allow patrons upon the licensed premises:
 - a. On any Monday through Friday from 12:00 a.m. to 8:00 a.m. and on any Saturday from 2:00 a.m. to 8:00 a.m.
 - b. On any Sunday, except that sexually oriented businesses which do not provide on-premises live entertainment, films, or video are allowed to operate on Sunday between the hours of 12:00 p.m. and 10:00 p.m.
 - (2) This subsection shall not apply to those areas of an adult motel which have private rooms.

(d) Minimum age. The licensee, owner, principal owner, manager or any employee of the licensee shall not allow or permit anyone under the age of 18 years to be in or upon licensed premises, except for establishments which offer on-premises viewing of films or videos or have live entertainment, in which case the age restriction shall be 21 years.

(e) Lighting regulations. Excluding a private room of an adult motel, each licensee, owner, principal owner or manager must ensure that the interior portion of the premises of a sexually oriented business, to which patrons are permitted access, is equipped with overhead lighting fixtures of sufficient intensity to illuminate every place, including peep booths, at an illumination of not less than five foot-candles as measured at the floor level.

(f) Adult theaters and adult cabarets. Any adult cabaret or adult theater shall have one or more separate areas designated as a stage in the diagram submitted as part of the application for the license. Entertainers shall perform only upon the stage. The stage shall be fixed and immovable. No seating for the audience shall be permitted within three feet of the edge of the stage. No members of the audience shall be permitted upon the stage or within three feet of the edge of the stage.

(g) Conduct for sexually oriented businesses.

(1) No licensee, owner, principal owner, manager or employee mingling with the patrons or serving food or drinks shall be in a state of nudity.

(2) No licensee, owner, principal owner, manager or employee shall knowingly encourage or permit any person upon the premises to touch, caress or fondle the breasts or specified anatomical areas of any person.

(3) A licensee, owner, principal owner, or manager shall comply, in addition to the regulations contained in this subsection, with those specific regulations concerning the conduct of liquor licensed premises contained in Section 42-157, which section is incorporated in this article by this reference.

(h) Sexually oriented businesses dealing with employee tips.

(1) No employee of a sexually oriented business shall receive tips from patrons except as set forth in Subsection (h)(2) of this section.

(2) A licensee, owner, principal owner or manager wanting to provide for tips from its patrons shall establish one or more boxes or other containers to receive tips. All tips for such employees shall be placed by patrons into the tip box. Any sexually oriented business which offers tip boxes as provided for in this subsection shall post one or more signs to be conspicuously visible to the patrons on the premises in capital letters at least one inch in height, and the coloring of the letters is to be in clear contrast to the background and is to read as follows:

All tips are to be placed in the tip box and not handed directly to the employees. Any physical contact between the patron and employees is strictly prohibited.

(Code 1975, § 18-14; Ord. No. 2367, § 1, 1-23-95; Ord. No. 2404, § 2, 2-12-96)

Secs. 42-555--42-580. Reserved.

DIVISION 2. LICENSE

Sec.42-581. Required; application.

(a) All sexually oriented businesses operating in the City must have a valid annually renewable license issued by the City.

(b) A license can be obtained through the application and licensing process described in this division.

(c) Any sexually oriented business operating in the City upon the effective date of the ordinance from which this article derives and subject to Subsection 18-308(6) shall have 60 days to file an application with the City Clerk for a license. During the 60 days and throughout the application process, the business will be allowed to operate. Once an application has been accepted by the City Clerk, the business will be allowed to remain open until notification that a request for a license has been denied.

(d) Any person desiring to operate a sexually oriented business shall file with the City Clerk an original and two copies of a fully completed and sworn license application on the standard application form supplied by the City Clerk. Completeness of the application shall be determined by the City Clerk. Each such person and each owner and principal owner, member of a limited liability company, officer, director, or any person holding ten percent or more of the corporate stock of a corporation, and all managers, shall be named in the application form, and each of the persons so named shall be

photographed and fingerprinted by the Police Department.

(1) A completed application shall contain the following information and shall be accompanied by the following documents:

a. If the applicant is:

1. An individual, the individual shall state such individual's legal name and any aliases, date of birth, and submit satisfactory proof that such individual is 21 years of age; or

2. A legal entity, or other recognized entity, the applicant shall state its complete name; the date and place of its organization; evidence that it is in good standing under the laws of the State in which it is organized, and if it is organized under the laws of a state other than this State, that it is registered to do business in this State; the names and any aliases, dates of birth, and capacity of all officers, directors, managers, and principal owners; and the name of the registered agent and the address of the registered office for service of process, if any.

b. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the applicant must state the sexually oriented business' fictitious name.

c. Whether the applicant or any other individual listed in Subsection (d)(1)a of this section has been convicted of a specified criminal act within the times set forth in Subsection 42-583(d)(1)i and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

d. Whether the applicant or any other individual listed in Subsection (d)(1)a of this section has had a previous license under this or any other type of sexually oriented business licensing process, law or ordinance from any type of governmental entity anywhere in the United States denied, suspended or revoked and, if so, the name and location of the sexually oriented business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension, or revocation.

e. Whether the applicant or any other individual listed in Subsection (d)(1)a of this section has been a partner in a partnership or a principal owner of a corporation or legal entity or other recognized entity whose license has previously been denied, suspended or revoked and, if so, the name and location of the sexually oriented business for which the license was denied, suspended or revoked as well as the date of denial, suspension or revocation.

f. Whether the applicant or any other individual listed in Subsection (d)(1)a of this section holds any other licenses under this division or any other type of sexually oriented business licensing process, law or ordinance from any type of governmental entity anywhere in the United States, and if so, the names and locations of such other permitted businesses.

g. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number, if any.

h. Proof of ownership or the applicant's right to possession of the property.

i. The applicant's mailing address and residential address.

j. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business, and showing all interior walls and rooms. The sketch or diagram need not be professionally prepared, but it must be oriented to the north or to some designated street or object and shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

k. A current certificate and straight-line drawing prepared within 30 days prior to an initial application by a state-registered land surveyor depicting the property lines and the structures containing any established existing uses regulated by this article or Chapter 18 as applied to sexually oriented businesses which are located within 750 feet of the property to be certified; and the property lines of any religious institution, school, public park, public building, residentially zoned property with a density of three or more dwellings units per acre or any other sexually oriented business (the survey). 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.

l. If a person who wishes to operate a sexually oriented business is an individual, such person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each owner and principal owner of the business must sign the application for a license as applicant.

- (2) The City Clerk, upon receipt of an application, shall determine whether a proposed sexually oriented business, for which a license application has been submitted, complies with the requirements of this section and is a complete application. If the application complies with this section, it will be accepted.
- (e) An applicant for a license under this division shall have a continuing duty to promptly supplement application information required by this section in the event that the information changes in any material way from what is stated on the application. The failure to comply with such continuing duty within 30 days from the date of such change shall be grounds for suspension of a license.
- (f) In the event that the City Clerk determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, the City Clerk shall promptly notify the applicant of such fact and allow the applicant to properly complete the application.
- (g) The application process described in this section must be repeated for each year that a licensee wishes to renew a license.
- (h) The applicant shall pay a nonrefundable application fee, as established by resolution of the City Council, at the time of filing an application under this section and at the time of filing of each annual renewal.
- (i) The fact that a person possesses other types of State or City licenses does not exempt such person from the requirement for obtaining a license issued pursuant to this division.
- (Code 1975, § 18-3; Ord. No. 2367, § 1, 1-23-95)

Sec.42-582. Investigation.

Upon receipt of a completed application and upon payment of the nonfundable application fee as required in Section 42-581, the City Clerk shall immediately stamp the application as filed which shall constitute acceptance of the application. The City Clerk will then send photocopies of the application to the Police Department and the Building Inspection Division and any other affected department or agency. Each department or agency shall promptly conduct an investigation of the applicant, application and the proposed sexually oriented business in accordance with its responsibilities. The investigation shall be completed within 40 days of the date of the application was filed with the City Clerk. At the conclusion of an investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date and sign the photocopy of the application and, in the event of disapproval, state the reasons therefor. Each department or agency shall then return the photocopy of the application to the City Clerk. The Police Department shall only be required to provide the information specified in Subsection 42-583(d)(1)i.

(Code 1975, § 18-4; Ord. No. 2367, § 1, 1-23-95)

Sec.42-583. Issuance.

- (a) Acceptance of application. Once an application has been accepted by the City Clerk, it shall be considered a request for a license to operate a sexually oriented business. An application may be accepted under the requirements of Subsection 42-581(c) and Section 42-582, but the request for a license may be denied pursuant to Subsection (d) of this section.
- (b) Time limit for determination, decision. The City Clerk shall either issue a license or deny a request for issuance of a license within 60 days from the date the application is accepted by the City Clerk. Upon the expiration of the 60th day, the applicant shall be permitted to begin operating the business for which the license is sought, unless and until the City Clerk notifies the applicant of a denial of the application or license and states the reason for that denial.
- (c) Issuance.
- (1) The City Clerk shall issue a license unless one or more of the criteria set forth in Subsection (d)(1) of this section is present.
- (2) The license, if issued, shall state on its face the name of the person to whom it is issued, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place or at or near the entrance to the sexually oriented business. A license issued pursuant to this section shall be transferable only pursuant to Section 42-586.
- (d) Denial.

- (1) The City Clerk shall deny a request for issuance of a license for any of the following reasons:
 - a. An applicant is under 21 years of age;
 - b. In the case of renewal, if the applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed or imposed upon the sexually oriented business;
 - c. An applicant has failed to provide any information required by this division for the issuance of the license or has falsely answered a question on the application form or request for information;
 - d. The premises to be used for the sexually oriented business have been disapproved by an inspecting agency on the grounds that the proposed sexually oriented business is in violation of any standard, regulation, law or ordinance adopted or administered by such agency;
 - e. The application or license fees have not been paid;
 - f. An applicant is found to be in violation of, or is not in compliance with, any relevant statutes, codes, ordinances, regulations or other laws in effect in the City;
 - g. The granting of the application would violate a court order issued out of any court of competent jurisdiction;
 - h. The applicant has had a license issued under this division which had been suspended or revoked within the previous 12 months;
 - i. An applicant has been convicted of a specified criminal act or acts for which:
 1. Less than two years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense;
 2. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; or
 3. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanors.The fact that a conviction is being appealed shall have no effect on disqualification of the applicant. An applicant who has been convicted of a specified criminal act may qualify for a license only when the time period required in this subsection has elapsed;
 - j. The corporation for which a license has been issued or requested is not in good standing as required by the secretary of state of the State in which the corporation is incorporated; or
 - k. If an applicant has had a license issued under this division or any other similar sexually oriented business ordinance from another city or county denied, suspended, or revoked for cause within five years of the date of the application.
- (2) In the event that the City Clerk denies a request for issuance of a license, after having received and compiled information concerning the proposed business from all relevant sources, the City Clerk shall make written findings of fact stating the reasons for the denial and will so notify the applicant within five days of such decision. An applicant shall be entitled to a hearing on a decision to deny before the City Manager. A written request for such a hearing shall be made to the City Manager within 30 days of the date of the City Clerk's decision to deny a request for issuance of a license. This hearing shall follow all the relevant procedures set forth for a suspension or revocation of a license contained in Subsection 42-591(d).
- (3) If, at the hearing referred to in Subsection (d)(2) of this section, the City Manager determines that the applicant is ineligible for a license pursuant to Subsection (d)(1) of this section, the City Manager shall issue an order affirming the City Clerk's denial, within 30 days after the date of the hearing is concluded, based on the findings of fact advanced at the hearing. A copy of the order shall be mailed to, postage prepaid, or be served on the applicant at the address shown in the application.
- (4) The order of the City Manager made pursuant to Subsection (d)(3) of this section shall be a final decision and may be appealed to the district court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of an applicant to timely appeal the City Manager's decision constitutes a waiver by the applicant of any right to contest the decision.
- (5) Notwithstanding any other time periods set forth in this division, no license shall be issued by the City Clerk until the building in which the business is to be housed is ready for occupancy with such furniture, fixtures, and equipment in place as necessary to comply with the provisions of this article as well as any other requirements determined by the Building Inspection Division, and then only after inspection of the premises has been made by the Building Inspection Division to determine that the

applicant has complied with the plans and specifications submitted upon application. If the licensed location has been inactive, or if the construction of the building has not commenced within one year after approval of the request for issuance of a license, the City Clerk, at the City Clerk's discretion, may revoke, suspend or elect not to issue or renew the license. Such discretion also exists if the building fails to be in operation within two years of granting approval for the issuance of a license.

(e) Notification. Notification under this division shall mean a mailing to the licensee by regular mail, postage prepaid, at the address listed on the license application, and the effective date for the notice shall be counted from the date of such mailing. Any notification made or required of the applicant, licensee, or other private party under this division shall be considered received by the City within the time periods specified.

(Code 1975, § 18-5; Ord. No. 2367, § 1, 1-23-95)

Sec.42-584. Annual license fees.

(a) The annual license fee, including renewal fees, for a license required under this division shall be as established by resolution of the City Council. This fee does not include the application fee required by Subsection 42-581(h).

(b) The annual license fee, including renewal fees, for a manager's license of a sexually oriented business is as established by resolution of the City Council.

(Code 1975, § 18-6; Ord. No. 2367, § 1, 1-23-95)

Sec.42-585. Expiration and renewal.

(a) Each license required under this division shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 42-581 and payment of the application fee; for renewals, filing of the original survey shall be sufficient. Application for renewal of a license shall be made at least 60 days before the expiration date of the license. If a renewal application is submitted less than 60 days before the expiration date of the license, the expiration date of the license will not be continued and the applicant/licensee will be accepting the risk that the request for a renewal of the license may not be completed in time to ensure continuous operation of the business. An expired license is invalid.

(b) The City Clerk may deny a request for renewal on the same grounds as stated in Subsection 42-583(d)(1). If the City Clerk denies a request for renewal of license and then finds that the basis for the denial has been corrected, the applicant shall be so notified and a renewal of the license will be processed if at least 30 days have elapsed since the date the application for renewal was denied and the correction has occurred within six months of submitting the application for renewal.

(Code 1975, § 18-7; Ord. No. 2367, § 1, 1-23-95)

Sec.42-586. Transfer.

(a) A licensee, owner, principal owner or manager shall not operate a sexually oriented business under the Authority of a license issued pursuant to this division at any address other than the address designated in the application for license.

(b) A licensee shall not transfer a license issued under this division either directly or indirectly to any person unless and until such person:

(1) Files the equivalent of a new application with the City Clerk and a new license is issued pursuant to this division; and

(2) Pays a transfer fee of 20 percent of the annual license fee.

(c) No license may be transferred when the City Clerk has notified the licensee that suspension or revocation proceedings have been or will be brought against the licensee.

(d) A license cannot be transferred to a different location.

(e) A license issued pursuant to this division is invalid if there is any attempt to transfer the license either directly or indirectly in violation of this section.

(Code 1975, § 18-11; Ord. No. 2367, § 1, 1-23-95)

Sec.42-587. Changing, altering, or modifying licensed premises.

(a) After the issuance of a license under this division, the licensee shall make no physical change, alteration or modification of the licensed premises which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license. If the licensee wishes to make a physical change, alteration, or modification, the licensee must apply for a new license under the application provisions in Section 42-581.

(b) For purposes of this section, physical changes, alterations or modifications of the licensed premises or in the usage of the licensed premises requiring prior written consent shall include but not be limited to the following:

(1) Any increase or decrease in the total size or capacity of the licensed premises.

(2) The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage permits access to the licensed premises from or between public streets or thoroughfares, adjacent or abutting buildings, rooms or premises.

(3) Any change, alteration or modification to a peep booth which would result in increasing the size of the peep booth to more than 150 square feet of floor space.

(4) Any change, alteration or modification of the manager's station for sexually oriented businesses which exhibit sexually explicit films or videos in peep booths.

(5) Any material change in the interior of the licensed premises that would alter or affect the physical structure that existed in the floor plan on file with the latest application. This shall not apply to painting and redecorating of premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment, and other similar changes.

(Code 1975, § 18-12; Ord. No. 2367, § 1, 1-23-95)

Sec.42-588. Manager's license.

(a) If a sexually oriented business desires to employ a manager, such business must have a manager licensed pursuant to this section, except an owner or principal owner may act as a manager, in which case such owner or principal owner need not have a manager's license.

(b) Any manager of a sexually oriented business shall submit an application for a manager's license on a form to be provided by the City Clerk. The application shall contain the applicant's name and any aliases, residential address, date of birth, phone number, and the information required in Subsection 42-581(d)(1)a. The City Clerk shall grant the application within 20 days of its filing unless:

(1) The applicant is under age 21.

(2) The applicant has failed to provide the information required by this section or has failed to completely fill out the application.

(3) The license fee for a manager's license, as required by Section 42-584, has not been paid.

(4) The applicant has been convicted of a specified criminal act within the times set forth in Subsection 42-583(d)(1)i.

(5) The applicant is a manager of a sexually oriented business that is not operating in compliance with any provisions of relevant statutes, codes, ordinances, regulations or other laws in effect in the City.

(c) There is no requirement that a sexually oriented business must have a manager separate and distinct from an owner or principal owner.

(d) A manager's license will be valid as long as the manager is employed in that capacity. Each new manager for a business must have a manager's license issued pursuant to this section.

(Code 1975, § 18-13; Ord. No. 2367, § 1, 1-23-95)

Sec.42-589. Suspension.

(a) The City Clerk shall suspend a license issued under this division if the City Clerk finds that:

(1) A licensee, owner, principal owner or manager has:

a. Violated or is not in compliance with any section of this article including the regulations provided for in Section 42-554 or has been convicted of or plead guilty or nolo contendere to the prohibitions contained in Section 42-553 or any specified criminal acts;

b. Been found to have operated or been found guilty of operating the sexually oriented business in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, State or local, such determination being based on investigation by the division, department or agency charged with enforcing such rules or laws. In the event of such a statute, code, ordinance or regulation violation and if the violation is of a type that can be corrected, the City Clerk shall notify the licensee of the violation and shall allow the licensee a seven-day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the seven-day period, the City Clerk shall forthwith suspend the license and shall notify the licensee of the suspension;

c. Engaged in a license transfer contrary to Section 42-586. In the event that the City Clerk suspends a license on the ground that a licensee engaged in a license transfer contrary to Section 42-586, the City Clerk shall forthwith notify the licensee of the suspension. The suspension shall remain in effect until the procedure for transfer as set forth in Section 42-586 has been followed;

d. Failed to comply with the continuing duty of the applicant or licensee to supplement an application requesting issuance of a license pursuant to Subsection 42-581(e); or

e. Operated the sexually oriented business when the corporation in whose name the license is held is no longer in good standing according to the secretary of state of the State under which the corporation is incorporated.

(2) An employee of the licensee has been convicted of or plead guilty or nolo contendere to:

a. Any specified criminal acts; or

b. The prohibitions contained in Subsection 42-553(d).

(b) In the event the City Clerk determines a license should be suspended, after having received information demonstrating or evidencing violation of this section, the City Clerk shall make written findings of fact stating the reasons for the suspension and will notify the licensee within five days of such decision. All license suspensions under this section shall be for a period of 30 days. The 30 days shall commence 11 calendar days from the date the City Clerk notifies the licensee of the grounds for suspension. In the event that the violation of the statute, law, ordinance or regulation in question has not been corrected within the 30-day suspension period, the suspension will continue until the violation has been corrected, as verified by the City Clerk. If the violation has not been corrected within six months, the City Clerk will have the Authority to revoke the license according to the procedures set forth in Section 42-591.

(c) A licensee shall be entitled to a hearing before the City Manager if the City seeks to suspend a license under this section. The licensee shall have ten days to request such hearing after the licensee has received notification of the City Clerk's decision to suspend the license. If the City Clerk receives a request for a hearing by a licensee, the City Manager will schedule such hearing within 14 days of receipt of the request and will so notify the licensee of the date and time of the hearing. The hearing shall follow all the relevant procedures set forth in Subsection 42-591(d).

(Code 1975, § 18-8; Ord. No. 2367, § 1, 1-23-95)

Sec.42-590. Summary suspension.

(a) Where the City Clerk has reasonable grounds to believe and finds that a licensee under this division has been guilty of a willful violation of any applicable law, ordinance, rule or regulation and, as a result, there exists an imminent threat to the public health, safety or welfare which requires emergency action, the City Clerk may temporarily and summarily suspend the license pending a request for proceedings by the licensee.

(b) The temporary suspension of a license without notice pending any prosecution, investigation, or public hearing shall be for a period not to exceed 15 days. The licensee, during this time period, may request a hearing provided for in Subsection 42-591(d). If the licensee does not request a hearing within the 15 days, the license shall remain suspended for an additional 15 days or until the reason for the summary suspension and imminent threat to the public health, safety or welfare has been eliminated. If the reason for the summary suspension has not been corrected within six months, the City Clerk will

have the authority to revoke the license according to the procedures set forth in Section 42-591. (Code 1975, § 18-9; Ord. No. 2367, § 1, 1-23-95)

Sec.42-591. Revocation.

(a) Subject to the appeal provisions provided in this section, the City Clerk shall revoke a license issued under this division upon determining that:

(1) A cause for suspension as set forth in Section 42-589 occurs and the license had previously been suspended within the preceding 12 months;

(2) A license has been suspended under Section 42-589 and the licensee has failed to correct the violation for which the license was suspended within six months;

(3) A licensee, owner, principal owner, or manager gave false or misleading information in the material submitted during the application process;

(4) A licensee, owner, principal owner, manager or an employee has knowingly allowed possession, use or sale of controlled substances, as defined in C.R.S. § 12-22-301 et seq., to occur on the licensed premises of a sexually oriented business;

(5) A licensee, owner, principal owner, manager or an employee has knowingly allowed prostitution to occur on the licensed premises of a sexually oriented business;

(6) A licensee, owner, principal owner, manager or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(7) A licensee, owner, principal owner, or manager has been convicted of a specified criminal act for which the time period set forth in Subsection 42-583(d)(1)i has not elapsed;

(8) On two or more occasions within a 12-month period, a person committed an act or action which occurred in or on the premises, which act or actions constituted a specified criminal act for which a conviction has been obtained or a plea of guilty or nolo contendere had been entered and the person was an employee of the sexually oriented business at the time the act was committed. The fact that a conviction is being appealed shall have no effect on the revocation of the license;

(9) A licensee, owner, principal owner, manager or an employee is delinquent in payment to the City or State for any taxes, fees or other financial obligations;

(10) A licensee, owner, principal owner, manager or an employee has knowingly allowed any specified sexual activity to occur in or on the sexually oriented business premises;

(11) A licensee, owner, principal owner, manager, or an employee has knowingly allowed any activity, conduct, or sale of material that has been found by a court of law to be obscene under Section 38-269; or

(12) The licensee, owner, principal owner, manager or an employee has operated more than one sexually oriented business within the same building structure, or portion thereof.

(b) In the event the City Clerk determines that a license should be revoked, after having received information demonstrating or evidencing a violation of this section, the City Clerk shall make written findings of fact stating the reasons for the revocation and will so notify the licensee within five days of such decision. A licensee shall be entitled to a hearing before the City Manager if the City seeks to revoke a license under this section. A request for such hearing must be received by the City Clerk within ten days of such request for a hearing. If the City Clerk receives no request for a hearing within ten days of notification, the decision to revoke a license will be final. If the City Clerk receives a request for a hearing by a licensee, the City Manager will schedule such hearing within 14 days of receipt of the request and will so notify the licensee of the date and time of the hearing. The hearing shall follow all the relevant procedures set forth in Subsection (d) of this section.

(c) When the City Clerk has determined that a license should be revoked, the revocation shall continue for a period of two years. A licensee, owner or principal owner of a sexually oriented business who has had a license revoked shall be ineligible to apply for a license for two years from the date the revocation became effective.

(d) A licensee shall be entitled to a hearing before the City Manager if the City Clerk seeks to deny, suspend, or revoke a license issued pursuant to this division for reasons stated in this division, pursuant to the following procedure:

(1) The City Manager shall hear statements and consider all evidence, including the City Clerk's findings, from the Police Department or other enforcement officers, the licensee, the owner, or principal owner, or other affected department or that any other witness shall offer which is relevant to the violation of any statute, law, ordinance, or regulation alleged to have occurred. The hearing shall be an informal quasi-judicial hearing with the rules of evidence used as a guide for the presentation of evidence. All testimony by witnesses must be sworn testimony; the City Manager shall swear in all witnesses. The City Manager shall make findings of fact and issue an order from the Statements, evidence and arguments offered. The burden of proof is on the City to show that a violation of any statute, law, ordinance or regulation occurred or that actions constituting grounds for denial, suspension or revocation occurred by a preponderance of the evidence. If the City Manager determines that such a violation occurred or that any grounds exist for denial, suspension or revocation, the City Manager shall issue an order either reaffirming the City Clerk's findings or an order denying, suspending or revoking the license. The order shall be prepared within 30 calendar days after the hearing is concluded. A copy of the order shall be mailed, postage prepaid, or served on the licensee or owner at the address shown on the license.

(2) The order of the City Manager made pursuant to Subsection (d)(1) of this section shall be a final decision and may be appealed to the district court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of a licensee, owner or principal owner to timely appeal the order constitutes a waiver by the licensee, owner or principal owner of any right that may otherwise be available to contest the denial, suspension or revocation of the license.

(3) The City Manager shall have the power to administer oaths, issue subpoenas, and when necessary, grant continuances. Subpoenas may be issued to require the presence of persons and/or the production of papers, books, records or other documents necessary for a fair determination of any issue presented at the hearing. A subpoena shall be served in the same manner as a subpoena issued by the district court of the State. Upon failure of any witness to comply with such subpoena, the City Attorney shall:

a. Petition any judge of the Municipal Court, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the court, after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court; or

b. Petition district court in and for the County, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the court, after hearing evidence in support of or contrary to the petition, enter its order as in other civil actions, compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of the court.

(e) In any such proceedings the City Attorney may act on behalf of the City during the hearing. The licensee, owner or principal owner may be represented by counsel.

(f) All hearings held before the City Manager regarding suspension or revocation of a license issued under this division shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the City Clerk and shall pay all costs of preparing such record.

(g) In the event of a denial, suspension or revocation of a license, or a cessation of business for any reason, no portion of the license fee shall be refunded.

(h) When the City Manager affirms a decision by the City Clerk to deny, suspend or revoke, pursuant to the applicable subsections of this section, the denial, suspension or revocation shall be for the same time period and upon the same conditions as specified by that subsection.

(Code 1975, § 18-10; Ord. No. 2367, § 1, 1-23-95)

Secs. 42-592--42-600. Reserved.

Sec. 18-308. Sexually oriented businesses.

Sexually oriented business uses are subject to the following:

- (1) Definition. A facility that can be characterized as an adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, adult novelty business, adult theater, sexual encounter establishment, escort agency or nude model studio according to the definitions for such establishments listed in Article VIII of Chapter 42.
- (2) Districts permitted. By SUP in the Community Retail and Industrial Districts.
- (3) Required off-street parking. One space for each 50 gross square feet of building area.
- (4) Required off-street loading.

TABLE INSET:

Square Feet of Floor Area in Structure	Total Loading Spaces Required
0--10,000	None
10,001--50,000	1
Each additional 100,000 or fraction thereof	1 additional

- (5) Additional provisions.
 - a. A sexually oriented business shall comply with all the regulations and requirements of this chapter.
 - b. The location of a sexually oriented business shall not be within 750 feet of:
 - 1. Any religious institution;
 - 2. Any school;
 - 3. The boundary of any property which is residentially zoned and has a density of three or more dwelling units per acre;
 - 4. A public park or public building; or
 - 5. Another sexually oriented business.
 - c. The measurement of distance for the purposes of this section shall be conducted in the following manner:
 - 1. The distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business; and
 - 2. The distance between any sexually oriented business and any religious institution, school, public park, public building or residentially zoned property with a density of three or more dwelling units per acre shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where the sexually oriented business is conducted, to the nearest property line of the premises of a religious institution, school, or the nearest boundary of an affected public park or residential use.
 - d. A sexually oriented business cannot be operated in the same building, structure or portions of another sexually oriented business.
 - e. This use shall meet the regulatory provisions of Article VIII of Chapter 42.
 - f. The following minimum standards shall apply to the exterior of all sexually oriented businesses:
 - 1. There must be adequate fencing to provide security for the building, and to prevent pedestrians from viewing the interior.
 - 2. Off-street parking for a use other than single-family or two-family uses that offers service after dark shall be lighted beginning one-half hour after sunset and continuing throughout the hours of use. If only a portion of the parking area is offered for use after dark, only that part shall be lighted. The lighting of the off-street parking area shall meet the following minimum requirements:
 - i. The intensity of the light on the parking surface shall be: (i) an average of at least one foot-candle, initial measurement; (ii) a minimum at any point of at least four-tenths foot-candle, initial

measurement. Requirements for maintenance of parking lot lighting shall include replacement of bulbs and light fixtures, regular cleaning, and replacement of light poles as needed.

ii. The light sources shall be indirect, diffused, or shielded type fixtures, installed to reduce glare and the consequent interference with boundary streets and adjacent property.

iii. Fixtures shall be attached to buildings or mounted on poles in such a manner and at such a height that light is not directed at a residential use.

iv. Maximum height of lights shall not exceed 35 feet.

3. Any signs or advertisements placed around the building must be in compliance with the obscenity laws of this State and the City and shall not visually depict or describe any "specified sexual activities" or "specified anatomical areas," as defined in Article VIII of Chapter 42.

g. The provisions of this chapter concerning the zoning of nude model studios do not apply to:

1. A college, junior college, or university supported entirely or partly by taxation;

2. 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 university supported entirely or partly by taxation; or

3. A business located in a structure 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 where, in order to participate in a class a student must enroll at least three days in advance of the class; and where no more than one nude model is on the premises at any one time.

(6) Amortization provisions.

a. Any sexually oriented business lawfully operating on the effective date of this section and which does not come into compliance with the licensing provisions of Article VIII of Chapter 42 or this chapter within the timeframes established in Subsection 42-581(c) shall be deemed a nonconforming use; provided, however, that such sexually oriented businesses shall be exempt from the locational restrictions of this chapter or Article VIII of Chapter 42 and from the requirements for obtaining an SUP as set forth in Subsection (b) of this section. A nonconforming use will be permitted to continue for only a period of six months. The exemptions provided for in this subsection shall not apply if there is a change of ownership after the effective date of this subsection.

b. If two or more sexually oriented businesses are within 750 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at the particular location is the conforming use and the later established business is nonconforming, in which case Subsection (6)a of this section shall apply.

c. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of a sexually oriented business permit and/or license, of a religious institution, school, public park, public building or residentially zoned property with a density of three dwelling units per acre within 750 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and/or license and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

(Code 1975, § 58-2.209(b)(32); Ord. No. 2183, § 1, 8-10-92; Ord. No. 2223, § 1(D), (E), 12-28-92; Ord. No. 2279, §§ 44-46, 8-9-93; Ord. No. 2367, § 5, 1-23-95)