

BUSINESS REGULATIONS
AND LICENSES

Chapter 6

**BUSINESS REGULATIONS
AND LICENSES**

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**ARTICLE I
BUSINESS LICENSES**

Sec. 6-1. Definitions.

As used in Chapter 6, unless clearly indicated otherwise, the following terms mean:

“Business”, the buying, selling, transfer, trading, or exchange of any item, real, personal or intangible, or of moneys, whether from stock, consignment or to be ordered; or the rendering, or agreement to render, of any service for anything of value.

“Business Location”, any location or building where business is transacted, or where services are rendered or labor performed, within the City of Potosi, Missouri.

“Coin Operated Amusements or Amusement Devices”, any entertainment or amusement device, including juke boxes, shuffle board machines, photograph booths, music devices, pin ball machines, shuffle alleys, video games or other entertainment devices, which to operate require payment by depositing a coin or bill of United States currency, or a token or token card or debit device for which payment is given.

“Dance Hall”, any place of amusement in which there is dancing and an admission charge, cover charge, set-up charge, or any other charge or fee for entry.

“Family members”, when referring to a “Small Shop” or “Home Business” means: a husband and wife, and their children living in the same dwelling.

“He” or “His”, means any person of either gender, or any entity defined as a “person”.

“Home Business”, a business that would qualify as a “Small Shop” if it were located in a “Business Location”, but is legally operated out of the owner’s residence or part of his dwelling.

“Home and Direct Sales”, is the sale of any items or service from a “Home Business” or from a “Small Shop” or from a “Sales Party”.

“Licensed Business Premises”, the location where a business or occupation is licensed to be transacted.

“Occupation”, a trade, profession, calling, or job or employment whereby a person conducts business or earns money, except those exempted from occupational tax by the provisions of Section 71.620 RSMo.

“Person”, any corporation, association, partnership or individual human being or group thereof.

“Sale Party”, is the sale of any product, or the collection of orders to be made from a catalog, where the sales or orders are made by more than one person, and where some or all of the products may be demonstrated in a person’s dwelling.

“Shop or Shops”, a business located in a small building or a room in a larger building, typically employing fewer than five employees, including any owner, with an annual gross sales of goods or services of less than \$150,000.00

“Small Shop”, a business operated by no more than two family members with no employees, on a part time basis in a single room of less than 500 square feet, or out of a family dwelling. (Ord. 564; Ord. 876, §1)

Sec. 6-2. Business or occupational license required.

(a) No person shall engage in any occupation, listed in Section 6-3 below, within the City of Potosi, Missouri, unless such person has previously paid to the City Collector the appropriate license tax and fees and holds a currently valid license for the occupation or business in which he desires to engage, unless entitled to exemption under this Article or by state law. The fact that any person or organization engaging in such occupations or businesses may not reside or have their principal place of business within the city limits of Potosi, Missouri, shall not exempt or excuse them from the duty of compliance with this Chapter.

(b) All business and occupational licenses, except those listed below in “special licenses” for periods less than one year or those listed that are not annually renewable, shall be for a one year period, beginning on July 1 of a year and expiring on June 30th of the following year. The tax for business and occupational licenses is a flat tax and is not pro-ratable or refundable.

(c) No person who is employed by a business with a valid business license for the occupation engaged in by the business for the current year, except for an Adult Entertainment Business, shall be required to have an occupational license for that occupation, when engaged in that occupation solely at that licensed business premises. Any person possessing a valid business license for a business or occupation does not need an occupational license to practice the same business at that business location, except for those required for an Adult Entertainment Business. (Ord. 901, §1)

(d) Licenses issued must be displayed in the license holder’s place of business, or upon request for occupational licenses without a licensed business location. No license provided for herein shall be transferable nor shall a person operate under a license issued for another location, or under a license issued to another person, unless an employee of a licensed business at a licensed business location. Businesses operating out of multiple locations shall obtain a license for each location.

(e) Failure to make application for a City Business License by June thirtieth of the calendar year may result in the City’s refusal to issue a license to the licensee or applicant for such calendar year. All applications for new or renewed business or occupational licenses shall be on the form required by the City and shall be accompanied by the appropriate tax to the City Clerk. Applications to renew business or occupational licenses received after July thirty-first (31) shall be subject to a late penalty of fifteen dollars (\$15.00) per month, beginning on August first of each year, in addition to possible prosecution for a misdemeanor in City Court. New applications for business and occupational licenses shall be subject to a late penalty of fifteen dollars (\$15.00) for each thirty day period without a license since the start of business, in addition to possible prosecution for a misdemeanor in City Court.

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(f) Business and occupational license taxes are based upon the type of business conducted at the licensed business location, or the site where the occupation is practiced. Businesses or persons with an occupational license which conduct business within several different categories of license at a single location, shall pay the tax only on the business or occupation with the highest license tax; except those businesses and occupations listed under “special business and occupational licenses” shall be taxed in addition to any other business or occupational license.

(g) The City Clerk shall not issue a business license for a premises or location where the applicable zoning of the premises or location does not permit the type of business in that location.

(h) Business licenses are to be issued to businesses at a business location. Occupational licenses are to be issued to persons who participate in an occupation requiring a license, that do not have a building or permanent business location within the City.

(i) Businesses and occupations to be licensed shall be divided into three classes of licenses and a fourth, separate class of “special business and occupational license”, as set out in Section 6-3.

(j) Any false statement or declaration made on a license application may result in the City’s refusal to issue such permit to the requesting person for a period of time not to exceed three years, or the revocation of said permit, if previously issued. (Ord. 564; Ord. 876, §1; Ord. 901, §1)

Sec. 6-3. Classification of businesses and occupations into classes of license, taxes set for certain businesses and occupations.

All businesses and occupations practiced within the City limits of Potosi, Missouri, subject to licensing, are divided into three regular classes and one class of “special business and occupational license” as listed below:

(a) Class One licenses are taxed annually, as provided by Section 6-2, in the sum of twenty-five dollars (\$25.00) and include the following businesses and occupations:

- Adult Entertainment Business Manager, Entertainer and Employee
- Agents and Agencies
- Antique Dealers
- Antique Shops
- Artist and Artist Galleries and Studios
- Auctioneers and Auction Houses
- Barbers and Barber Shops
- Beauticians and Beauty Parlors or Salons
- Billiard Halls or Pool Halls
- Buyers and Brokers of Furs, Roots, Nuts, Herbs (not retail)
- Carpet and Rug Cleaners
- Fabric Shops
- Gift Shops
- Hand Bill Poster
- Ice Cream and Soft Drink Stands
- Photographers and Photography Shops and Studios
- Shoe Stores
- Upholsterers and Upholstery Shops
- Variety Shops

(Ord. 901, §2)

(Revised 12/05)

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(b) Class Two licenses are taxed annually as provided by Section 6-2, in the sum of thirty five dollars (\$35.00) and include the following businesses and occupations:

Automobile Dealerships – Used
Automobile Repair Shops
Bakeries, Bakers and Confectioners
Bookkeeping and Accounting Offices
Bowling Alleys
Carpenters
Caterers and Catering Businesses
Construction, Electrical, Paving, and Plumbing Contractors and Businesses
Electricians
Express Companies
Florists and Florist Shops
Furniture Stores (new and used)
Glass Shops
Insurance Agents and Agencies and Brokers and Brokerages
Laundries, Laundromats, and Dry Cleaners
Mobile Home Parks
Motels and Hotels
Newspapers
Pavers
Plumbers
Public and Private Halls
Real Estate Agents and Agencies
Restaurants
Service and Gasoline Stations
Taverns and Bars
Theaters
Title Abstractors and Abstract Companies

(c) Class Three licenses are taxed annually as provided by Section 6-2, in the sum listed and include the following businesses and occupations:

Automobile Dealers (new)	\$50.00
Banks	\$75.00
Building Material and Lumber	\$75.00
Cable Television Companies	\$75.00
Dance Halls	\$50.00
Department Stores	\$75.00
Electrical Appliance Stores	\$50.00
Electrical Power Companies	\$75.00
Feed Stores	\$75.00
Funeral Parlors, Directors and Morticians	\$75.00
Gas Companies	\$75.00
Hardware Stores	\$50.00
Jewelers	\$50.00
Liquor Stores	\$50.00
Mail Order and Catalog Stores	\$50.00
Manufactured and Mobile Home Sales	\$50.00

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Manufacturing	\$75.00
Pharmacies and drug stores	\$50.00
Savings and Loan Associations	\$75.00
Tire Dealers	\$50.00

(d) Small shop and Home Business licenses are taxed annually as provided by Section 6-2, in the sum of ten dollars (\$10.00), provided that they meet the definitions of Small Shop or Home Business and include the following businesses and occupations:

Home or Direct Sales of cosmetics, décor items, kitchenware, and other such products, sold from “sale parties” or from the owners home from stock or catalog.
Home or Direct Sales of services relating to Internet research, sales or purchasing.
Any business covered by a Class One License that also meets the definitions for a Small Shop or Home Business.

(e) Special Business and Occupational licenses and special Work Permits are taxed in the sums listed and are for the duration listed and include the following businesses and occupations:

Adult Entertainment Businesses	\$500.00 Annually.
Adult Businesses (Other)	\$500.00 Annually.
Circuses and traveling shows	\$25.00 per day.
Hawkers	\$25.00 per day or \$75.00 Annually.
Parades and Exhibitions	\$5.00 per day.
Operators of Coin operated Amusements	\$5.00 per machine or device upon installation, Annually thereafter \$25.00 per day or \$75.00 Annually.
Peddlers	\$25.00 per day or \$75.00 Annually.
Private Security Agent	\$50.00 Annually.
Taxicabs	\$50.00 each for the first two Taxicabs, \$10.00 for third and each subsequent Taxicabs Annually
Special Work Permits (single job, at a single location within calendar year, out of town contractor)	\$25.00 for job not to exceed 7 days; \$100.00 per job not to exceed 1 month; \$250.00 per job exceeding 1 month.

Any and all other business, trade, and avocation not listed above and not exempted from such tax by the provisions of Section 71.620 RSMo., shall be taxed annually the sum of \$35.00. (Ord. 564; Ord. 836, §1; Ord. 876, §1; Ord. 901, §§2-3; Ord. 967, §1; Ord. 1009)

Sec. 6-4. Regulation of coin operated amusement devices.

Any person who shall permit any coin operated amusement device to be operated upon his premises or upon premises within his control within the city limits of Potosi, Missouri, without first having paid the license tax for the operation of each such machine shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$5.00 and not more than \$25.00 for each upon which such machine may be operated without the said license tax having been previously paid. (Ord. 259, §§1-5; Ord. 271, §§1-3; Ord. 479, §3; Ord. 876, §1)

Sec. 6-5. Violation a misdemeanor.

Any person violating any provision of sections 6-1 to 6-78 shall be guilty of a misdemeanor, punishable upon conviction by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars, or by confinement in jail for not more than ninety days, or by both fine and confinement. Each occurrence or day that a violation exists shall be a separate offense. (Ord. 876, §1)

Sec. 6-6. Gasoline/Diesel fuel pre-payment.

(a) Definition. “Pre-pay” means payment in advance for any quantity of gasoline or diesel fuel sold at any time by cash, credit card, debit card, check, or any other legal means.

(b) Payment in advance required for gasoline and/or diesel fuel sold. Business establishments that sell gasoline and/or diesel fuel shall require pre-payment of sales of fuel prior to activation or authorization of any fuel dispensing unit or fuel pumping device.

(c) Business can opt-in. Licensed business establishments selling fuel wanting to participate in the provisions of this ordinance shall contact the City Clerk requesting same; however, it is strongly recommended all applicable businesses abide by this ordinance due to the aforementioned safety concerns. Contact of businesses opting in to this ordinance will be kept on file at the Potosi City Hall with notification provided to the Potosi Police Department.
(Ord. 1094, §1)

Secs. 6-7 to 6-19. Reserved.

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**ARTICLE II
PUBLIC SOLICITATION**

Sec. 6-20. Permit for solicitation required; application procedure.

Before any person or organization shall solicit, request, or make application for money, gifts, donations, sales, subscriptions, or any other thing of value, from any person, or the general public, from door to door, or upon the streets and sidewalks of the city of Potosi, it is hereby required that said person or organization shall acquire by application to the city clerk of the city of Potosi, Missouri, a permit allowing such solicitation or applications to be made. Said permit shall specify by name the person or persons authorized to make the solicitations, the name, if any, of the sponsoring organization, and the purpose for which the solicitations are to be made. When issued, said permits shall be kept available for inspection by the city police upon request. (Ord. 570, §1.)

Sec. 6-21. Hours of solicitation restricted.

Solicitations, requests or applications for money, gifts, donations, sales, subscriptions, or other things of value when authorized by permits from the city clerk of Potosi, shall be limited to the hours from 8:00 o'clock in the morning until 5:00 o'clock in the evening of the same day. (Ord. 570, §2.)

Sec. 6-22. Police to control solicitations on October 31.

The police department of the city of Potosi is hereby authorized to formulate, publish and enforce reasonable regulations to control solicitations by both children and adults on October 31 of each year, to provide protection for the children upon the sidewalks and streets of Potosi, and while traveling from door to door in the neighborhoods of said city. (Ord. 570, §3.)

Sec. 6-23. Purpose, enforcement and exemptions of solicitation provisions.

The board of aldermen of the city of Potosi does hereby declare the policy and intent of this ordinance to promote the general welfare and safety of the citizens of Potosi by limiting solicitation and the conduct of solicitation and fundraising campaigns to reasonable methods, times, and places.

No application for a permit shall be denied to traditional programs, or recognized organizations and charities. Fundraising permits for each organization shall be limited to one each year. Permits will be denied to individuals, groups or organizations of a local nature, from outside the city of Potosi, with no identifying purpose or relation to the city of Potosi. No solicitation of the driver or occupants of any motor vehicle, moving or parked, upon the streets of the city of Potosi will be permitted at any time.

This ordinance shall be implemented and enforced in a manner not to infringe upon the constitutional rights and privileges of free speech, freedom of press, and religious freedoms.

This ordinance shall not apply to solicitations of a religious nature when made to other individuals of the same religious faith. (Ord. 570, §4.)

Sec. 6-24. Violation; penalty.

Any person who violates the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than five dollars (\$5.00) nor more than five hundred (\$500.00), for each and every day during which said violation may continue. (Ord. 570, §5; Ord. 479, §3.)

Secs. 6-25 to 6-29. Reserved.

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**ARTICLE III
GARAGE AND YARD SALES**

Sec. 6-30. Permit for garage or yard sale required; application procedure.

Before any person shall conduct a garage or yard sale within the corporate limits of the city of Potosi, it is required that the owner of the premises at which the garage or yard sale shall be held acquire by application to the city clerk of the city of Potosi a permit allowing said garage or yard sale. (Ord. 490, §1.)

Sec. 6-31. Permit fee.

There is hereby levied upon each owner of premises at which a garage or yard sale is held a permit fee in the amount of one dollar per day for the duration of the garage sale; provided, however, that any part of a day for purposes of this ordinance shall be construed a complete day subject to the one dollar permit fee herein. (Ord. 490, §2.)

Sec. 6-32. Term of garage or yard sales restricted.

The board of aldermen of the city of Potosi does hereby restrict garage or yard sales at any one premises for a term not to exceed two days in any calendar month. Otherwise, the two days may be consecutive or nonconsecutive, and for the purposes of this ordinance, any part of a day shall be construed an entire day. (Ord. 490, §3.)

Sec. 6-33. Issuance of permit by city clerk.

The city clerk, upon receiving application for permit for a garage sale, shall examine the records of the city of Potosi to determine if the premises at which the proposed garage sale is to be held is entitled to receive said permit pursuant to the provisions of this ordinance. If the premises are eligible hereunder the city clerk shall issue forthwith a permit for the garage or yard sale upon the payment of the necessary fee. (Ord. 490, §4.)

Sec. 6-34. Penalties for violations.

Any person who violates the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than five dollars nor more than five hundred dollars, or shall be imprisoned in the city jail for a term not exceeding thirty days, or by both such fine and imprisonment. (Ord. 490, §5.)

Secs. 6-35 to 6-39. Reserved.

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**ARTICLE IV
TAXICABS**

Sec. 6-40. License tax levied.

There is hereby established and levied an annual license tax upon the owners and operators of taxicabs which shall regularly do business in the city of Potosi, an annual license fee as set forth in Section 6-41 of this Ordinance. This ordinance is passed in the exercise of the police power vested in the board of aldermen of the city of Potosi, and for the promotion of the public welfare. (Ord. 347, §1.)

Sec. 6-41. Schedule of license fees.

The fees to be paid as herein set forth shall be as follows:

For the first taxicab licensed the sum of \$50.00;
For the second taxicab licensed the sum of \$50.00;
For the third, and for each additional taxicab licensed,
the sum of \$10.00 per taxicab. (Ord. 347, §2.)

Sec. 6-42. License fee payable annually; applicant to furnish evidence of insurance.

The license fees herein levied shall be payable annually, in advance, on or before the first day of July of each year and shall be delinquent after that time. Any person, firm or corporation making application for a license to operate a taxicab in the city of Potosi shall, at the time of such application, furnish to the board of aldermen satisfactory proof that all vehicles proposed to be so licensed are insured under a policy of liability insurance covering injury to persons or property. Such liability insurance shall at no time be for a less amount than the limits set from time to time by the Safety Responsibility Law of the state of Missouri. It shall be a violation of this ordinance for any owner to operate, or permit to be operated, or for any person to operate, a taxicab, regularly in the city of Potosi without such insurance as is provided for in this section. (Ord. 347, §3.)

Sec. 6-43. Taxicabs not to be operated without license herein provided.

No person, firm or corporation shall operate a taxicab within the city of Potosi, unless such person, firm or corporation shall have previously applied for and been issued a license, or licenses, as herein provided. (Ord. 347, §4.)

Sec. 6-44. City collector to issue license; fee for issuance.

The city collector is hereby directed, upon the approval of the board of aldermen of the application herein required and upon receipt, in advance, of the proper license fee, to issue to each applicant an appropriate license. Each applicant shall pay, in addition to the sum provided for such license, the additional sum of fifty cents (50¢) as compensation to the city collector for the issuance of such license. (Ord. 347, §5.)

Sec. 6-45. Violation, penalties - As amended December 23, 1974.

Any person, firm or corporation who shall operate any vehicle hauling passengers for hire, or any person, firm or corporation which shall own such vehicle and shall permit it to be so operated within the city of Potosi, or any person who shall receive any compensation or gratuity for hauling passengers, without first having obtained a license as herein provided shall be deemed guilty of violation of this Ordinance, and each separate day of each operation shall be considered a separate offense. Any person, firm or corporation violating the terms of this ordinance shall, upon conviction thereof, be fined not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00), or imprisonment in the city jail for a period not to exceed ninety days, or by both such fine and imprisonment. (Ord. 347, §6.)

Secs. 6-46 to 6-50. Reserved.

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**ARTICLE V
REGULATING THE LICENSING OF PRIVATE DETECTIVES,
PRIVATE SECURITY AGENTS AND AGENCIES**

Sec. 6-51. Business license or private security agent's permit required.

It shall be unlawful for any person to do business as or be employed as a private security agent, a private detective, private policemen or private security agency or operate any such business without first having obtained a license to do business under the provisions of this Ordinance, or without having first obtained a private security agent's permit as provided in this Ordinance, for each employee. (Ord. 631, §1)

Sec. 6-52. Definitions.

Applicant - A person who applies for a private security agent's permit.

Identification card - A card which is issued to each private security agent, bearing a picture of, and information about, the person to whom it is issued, which is a permit to be a private detective, private policeman, or private security agent. This shall be considered as the official private security agent permit.

License to do business - A license issued by the City of Potosi under the provisions of the Ordinances of said City.

Private security agent - When duly licensed or permitted by the city council of the City of Potosi, a private security agent, private detective, or private policeman is:

(a) assigned to a specified area for the purpose of insuring the adequate protection of the persons, buildings, homes, and property within the boundaries of his jurisdiction; and/or

(b) an individual whose services consist of constant patrolling for the purpose of watching and guarding a building or group of buildings, together with their contents and personnel; and/or

(c) as having the duty and responsibility to watch and care for property by virtue of his employment contract, actual or implied, to provide such services for such property; and/or

(d) as performing investigations into matters that are civil in nature for a client by virtue of an employment contract, actual or implied. (Ord. 631, §2)

Sec. 6-53. Application - Procedures.

(a) Each applicant must appear in person at the office of the Potosi City Clerk and must fill out an application form in his own handwriting, and must provide all information necessary to prove his qualifications. Each applicant must also provide a letter from his proposed employer which states his intention of hiring the applicant if and when the applicant successfully completes the licensing process.

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(b) There is hereby established an annual license tax. Prior to the issuance of the private security agent permit described herein, each applicant shall pay the sum of \$13.00 as and for said private security agent's license.

(c) Such license shall be payable annually in advance, on the 1st day of January, of each year, beginning January 1, 1991.

(d) In addition to the sum provided for such license, the applicant shall pay to the city clerk the additional sum of \$2.00 as compensation to the clerk for issuing such license.

(e) The city council is hereby granted the authority to waive the \$13.00 permit fee and the \$2.00 collection fee set forth herein, if the city council deems it so advisable.

(f) If a license holder hereunder wishes to transfer his license to a new business entirely, he shall first pay a \$5.00 transfer fee. (Ord. 631, §3)

Sec. 6-54. Qualifications of a private security agent.

No person shall be granted a license to do business or a private security agent permit under the provisions of this Ordinance unless such person is of good moral character, a citizen of the United States, at least twenty-one (21) years of age, and have no felony conviction.

The city council shall be the sole judge of the moral character and shall consider the investigation report and recommendation of the chief of police in making its decision.

Said private security agent shall also comply with any additional qualifications as set forth by the chief of police of said City. Said chief shall specifically hereby be granted the authority to promulgate said additional qualifications. (Ord. 631, §4)

Sec. 6-55. Background investigation of the applicant.

Upon filing an application form with the city clerk of the City of Potosi, said application shall be forwarded to the Potosi Police Chief for the purpose of conducting a police record check of the applicant and for completion of other requirements set forth by the chief of police.

The chief of police shall prepare a report of his findings in the course of the background investigation of the applicant, and make a recommendation as to whether a permit should be granted by the city council. Also, the chief shall do whatever additional testing he deems necessary pursuant to the qualifications set forth by the police department. This report and recommendation shall be forwarded to the city council for their review and consideration.

Upon the receipt by the city clerk of the application and the report for recommendation by the chief of police, the police department shall have authority, provided that such recommendation is favorable, to issue the applicant a temporary permit that shall be valid until the date upon which action has been taken by the city council as provided herein. (Ord. 631, §5)

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Sec. 6-56. Approval of the city council.

Upon approval by the city council, an identification card shall be issued to the applicant by the Potosi Police Department and a full set of fingerprints shall be taken of the applicant. These fingerprints shall be kept on file at the Potosi Police Department. (Ord. 631, §6)

Sec. 6-57. Renewals of permits.

A permit is valid for the time during which the license to do business is valid that is issued to the company employing said permit holder.

A permit holder wishing to renew his private security agent permit must report to the office of the Potosi City Clerk in the month before the permit is dated to expire, bringing with him: (a) the permit which is about to expire; (b) a letter from the employer requesting renewal; (c) identification; and (d) any fee that may be required for renewal.

The applicant shall complete another application form, that the city clerk will mark as "renewal" and this shall be forwarded to the chief of police. The chief of police will update the background investigation of the individual and file a report of his findings to the city council with his recommendation as to renewing the permit, or revoking the permit.

A permit holder may work only for the company, agency, or business entity named on the permit.

A permit holder who changes employers must obtain a new permit that reflects the name of the company, agency, or business entity.

To transfer a permit from one employer to another, the permit holder must appear in person at the office of the Potosi City Clerk and: (a) bring a letter from the new employer, addressed to the Potosi City Council, outlining the duties of the new job, and requesting the transfer of the permit; and (b) pay any fee that may be established for processing such transfer.

The request for transfer shall be forwarded to the city council along with an updated background investigation by the chief of police. The chief of police shall make his recommendation to the city council as whether to approve the permit transfer on the basis of his investigation. (Ord. 631, §7)

Sec. 6-58. Revocation of permits.

(a) A private security agent permit may be revoked by order of the city council for failure to obey lawful instructions of a commissioned officer of the Potosi Police Department, sheriff, sheriff's deputy, member of the Missouri State Highway Patrol, or other peace officer, and for acts contrary to good conduct, which shall include but not necessarily limited to:

- (1) conviction of a felony or misdemeanor under law or ordinance;
- (2) consuming intoxicants while on duty, or being intoxicated while on duty;
- (3) illegal use or possession of controlled substances;

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- (4) assumption of any police powers when not on duty;
- (5) impersonating himself as a police officer;
- (6) interference with any police officer, sheriff, sheriff's deputy, member of the Missouri State Highway Patrol, or any other peace officer, in the performance of their duties;
- (7) failure to have in his possession his official identification card issued by the City of Potosi while on duty;
- (8) defacing or altering their official private security agent permit;
- (9) failure to notify the chief of police when and if arrested on any charge;
- (10) serving or acting as a private detective, private policeman, or private security agent for any security agency or other business entity other than the one listed on their official identification card;
- (11) serving or acting as a private detective, private policeman, private security agent for any security agency or other business entity while under suspension or revocation.
- (12) failure to surrender private security agent permit on written demand to do so by the chief of police or Potosi City Council.

(b) Any private security agent license issued pursuant to this Ordinance shall be automatically revoked unless the holder of said license completes within 6 months after the first issuance of said license, a seminar conducted by the police department of the City of Potosi, Missouri. The contents of said seminar shall be determined by the police department, with the advise and counsel of the city attorney. The chief of police and the city attorney, if both so agree, may waive the necessity of attendance at said seminar. (Ord. 631, §8)

Sec. 6-59. Suspension of private security agent permits.

In instances where a private security agent is arrested and charged with a felony, the chief of police or any other officer acting in that capacity, will suspend the private security agent permit of the individual by means of issuing a written order of demand for said permit.

In instances where a private security agent is arrested and charged with a misdemeanor or ordinance violation, the chief of police or any other officer acting in that position may suspend the permit of the individual after conducting an investigation into the incident. If the chief of police feels there is due cause, he will suspend the permit of the individual by means of issuing a written order of demand for said permit.

The chief of police shall forward a written report of the facts of the investigation to the Potosi City Council, including his recommendation of either revoking the permit or reinstating the permit. (Ord. 631, §9)

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Sec. 6-60. Appeal of suspension or revocation of private security agent permit.

Any person aggrieved in denial of a private security agent permit, suspension of the private security agent permit, nonrenewal of the private security agent permit, and/or revocation of the private security agent permit shall have the right to appeal to the city council of the City of Potosi, Missouri. Such appeal shall be taken by filing with the city council within seven (7) calendar days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The city council shall set a time and place for a hearing on such appeal and notice of such hearing shall be made postage prepaid, to the individual at his last known address, at least five (5) calendar days prior to the date set for the hearing. The decision of the city council on such appeal shall be final and conclusive. (Ord. 631, §10)

Sec. 6-61. Uniform, vehicles, etc.

(a) Uniforms, if used, by private security agent shall have to be approved in their style and color by the chief of police prior to being used by the licensee. No police buttons, insignia, decorations which are marked in any way to the Potosi Police Department shall be authorized.

(b) Badge design, style and colors by private security agent shall have to be approved in their style, color and design by the chief of police prior to being used by the licensee.

(c) If vehicles are used by private security agent, any markings will require approval of the chief of police prior to being used by the licensee. (Ord. 631, §11)

Sec. 6-62. Effective date.

The effective date shall be January 1, 1991.

Secs. 6-63 to 6-67. Reserved.

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**ARTICLE VI
SUSPENSION AND REVOCATION
OF LICENSES**

Sec. 6-68. Authority to revoke or suspend license by board of aldermen.

The board of aldermen of the city of Potosi, notwithstanding any other procedures therefore, shall have the authority to revoke or suspend any license issued by the city of Potosi pursuant to Ordinance No. 255 and 432. (Ord. 489, §1)

Sec. 6-69. Suspension or revocation of intoxicating liquor license.

The board of aldermen of the city of Potosi may suspend or revoke any license issued under Ordinance No. 255 for the following grounds:

- (a) Violation of the terms of Ordinance No. 255,
- (b) Violation of the liquor control laws of the state of Missouri,
- (c) Operation of a disorderly house as defined in the liquor control law,
- (d) Violation of any general ordinance of the city of Potosi pertinent to liquor control, public peace, or an offense against the person,
- (e) Conviction of an offense that makes said licensee ineligible to hold license.

It shall not be necessary to show a conviction for subparagraphs (a) through (d) and the facts alleged may be presented directly to said board of aldermen as set out herein. It shall, however, be required that proof of conviction of an offense be shown in order to sustain a revocation under subparagraph (c). (Ord. 489, §2)

Sec. 6-70. Suspension or revocation of business license.

The board of aldermen may suspend or revoke a license issued pursuant to Ordinance No. 432 only for noncompliance with said ordinance. (Ord. 489, §3)

Sec. 6-71. Suspension or revocation procedure; hearing.

Before the board of aldermen of the city of Potosi may revoke any license, the following procedures shall be followed:

(a) **Complaint** - A complaint shall be filed before the board of aldermen upon the knowledge and belief of the city attorney and shall state in clear, concise language the name and address of the licensee, his place of business, a prayer that his license be suspended or revoked, and shall state specifically the grounds therefore.

(b) **Notice** - Upon the filing of the complaint, the board shall set the cause for hearing at a time certain. Written notice of the hearing together with a copy of the complaint shall be served personally upon the licensee at least fourteen days prior to hearing.

(c) **Hearing** - At the date and time set by the board, an evidentiary hearing shall be had before the board of aldermen with the mayor presiding thereat. The city shall be represented by the city attorney, who shall submit evidence in behalf of the people of Potosi. The licensee may be represented by counsel of his choice, if the licensee so chooses, to present evidence in his behalf. Upon hearing the testimony, the mayor shall declare the hearing in adjournment; whereupon, the board of aldermen shall consider the matter, and shall, within ten days after the hearing, file with the city clerk (1) findings of fact; (2) decision of the action taken pursuant to this ordinance.

(d) **Process** - The board may require persons to come before it to give their testimony, and at the request of the licensee, shall require such witnesses as he desires to come before the board of aldermen to present testimony.

(e) **Motion for rehearing** - The licensee may file a written motion for rehearing with the city clerk within eight days after the original hearing. If the board finds that there is reason to rehear the cause, it shall stay its decision and set another hearing and shall give notice in writing thereof to the licensee and the city attorney.

(f) **State statutes** - In all matters of procedure not herein specifically set out, the provisions of Chapter 536 RSMo shall be applicable. (Ord. 489, §4)

Sec. 6-72. Findings; term of suspension.

After hearing, the board of aldermen may, according to procedures set out in Section 6-54, suspend the license of any licensee for any period of time, or may suspend said license indefinitely with leave granted to licensee to apply for reinstatement, or revoke said license; or, if the hearing is within sixty days of the renewal date of said license, may order that the city clerk not renew the license or may declare the complaint insufficient and therefore dismissed. A copy of the findings of fact and decision shall be transmitted to the licensee by regular United States mail. (Ord. 489, §5)

Sec. 6-73. Appeals.

Proceedings hereunder are deemed by the board of aldermen a contested case within the meaning of Chapter 536. Any decision rendered by the board, or any denial of a motion for rehearing, shall be a final order and any person aggrieved thereby may appeal pursuant to 536.100 RSMo to the circuit court of Washington County, Missouri. (Ord. 489, §6)

Sec. 6-74. Licenses not to be issued to persons with outstanding City taxes or utility bills.

Upon receipt of any application or request for the granting or renewal of any city business license or other license or permit to be issued under Chapter 6 of the Ordinances of the City of Potosi, Missouri, the City Clerk, or a designated member of his or her staff shall certify that the applicant has no outstanding city taxes or utility bills before issuing the license or permit. If it is found that an applicant has outstanding taxes or utility bills, no license or permit may be issued until such time as the arrearage has been paid in addition to the fee required by ordinance. (Ord. 826, §1)

(Revised 12/05)

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**ARTICLE VII
ADULT BUSINESSES AND
ADULT ENTERTAINMENT BUSINESS**

Sec. 6-75. Definitions

For the purposes of this Article of Chapter 6 dealing with “adult businesses” and “adult entertainment businesses”, and unless the context plainly requires otherwise, the following definitions are adopted:

(A) “Adult Business” means any business enterprise:

(1) that has as a regular and substantial business purpose the sale, display or rental of goods that are designed for use in connection with “specified sexual activities,” or that emphasize matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, or

(2) that has one of the following as a regular and substantial business purposes:

(a) the providing of entertainment where the emphasis is on performances, live or otherwise, that depict, portray, exhibit or display “specified anatomical areas” or “specified sexual activities,” or

(b) the providing of services that provide “specified sexual activities” or “specified anatomical areas” ancillary to other pursuits, or allow participation in “specified sexual activities” ancillary to other pursuits.

(3) The definition of “adult business” also includes, but is not limited to, any and all of the following, as defined herein:

(a) Businesses that offer the following described goods for sale or rent:

(1) “Adult retail establishments” means an establishment which as a regular and substantial business purpose, offers for sale or rent, any one or more of the following: instruments, devices, gifts or more of the following instruments, devices, gifts or paraphernalia which are designed for use in connection with “specified sexual activities” or clothing that graphically depicts “specified anatomical areas” or any of the materials sold or rented in an adult bookstore as defined herein.

(2) “Adult bookstore” means an establishment which as a regular and substantial business purpose, offers for sale or rent, books, magazines, periodicals or other printed matter, photographs, slides, films or videotapes, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

(3) “Adult news rack” means any coin or card operated device that offers for sale by dispensing printed material, which is distinguished or characterized by its emphasis on matter depicting, describing or relating to “specified sexual activities”, or “specified anatomical areas.”

(4) “Adult newsstand” means a freestanding structure, vehicle or booth which as a regular and substantial business purpose, offers for sale, books, magazines, periodicals or other printed matter, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

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(b) Businesses that provide the following entertainment:

(1) “Adult entertainment business” means any enterprise to which the public, patrons or members are invited or admitted, and where providing “adult entertainment” as defined herein, is a regular and substantial portion of its business.

(2) “Adult motion picture theater” means an establishment containing a room with seats facing a screen or projection areas, where a regular and substantial portion of its business is the exhibition to customers of films, videotapes, or motion pictures which are intended to provide sexual stimulation or sexual gratification to the customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

(3) “Adult theater” means an establishment located in an enclosed building where a regular and substantial portion of its business is providing the live performance of activities relating to “specified sexual activities” or exhibition of “specified anatomical areas” or live performers, for observation by customers and patrons.

(4) “Adult entertainment cabaret” means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female impersonators, go-go dancers, or live performances, or material which is primarily characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

(5) “Adult entertainment studio” (includes the terms rap studio, exotic dance studio, sensitivity studio or encounter studio) means an establishment whose premises is physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to “specified sexual activities” or the exhibition of “specified anatomical areas.”

(6) “Adult encounter parlor” means an establishment where a regular and substantial portion of its business is the provision of premises where customers congregate, associate, or consort with employees and/or performers or private contractors who display “specified anatomical areas” in the presence of such customers, with the intent of providing sexual gratification or stimulation to such customers.

(7) “Body Painting Studio” means an establishment where a regular and substantial portion of its business is the maintaining, operating, or offering for compensation the applying of paint or other substance to or on the human body by any means of application, technique or process when the subject’s body is displaying for the customers view “specified anatomical areas.”

(c) Business that provide the following described services:

(1) “Bath House” means an enterprise where a regular and substantial portion of its business is offering baths with other persons present who are nude or displaying “specified anatomical areas.”

(2) “Adult Motel” means an enterprise where a regular and substantial portion of its business is offering public accommodations for consideration for the purpose of viewing closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” and rents room accommodations for less than six hours at a time.

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(B) “Adult entertainment” means any live exhibition, performance, display or dance of any type, including but not limited to, talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of the human genitals, pubic region, vulva, pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola or nipple or the human male genitals in a discernibly erect state, even if completely and opaquely covered.

(C) “Adult entertainment business” means any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides adult entertainment to a member of the public, a patron or a member.

(D) “Contagious and communicable diseases” means those diseases which are set out in the Code of State Regulations established by the State of Missouri.

(E) “Employee” means any and all persons, including managers, entertainers and independent contractors, who work in, or at, or render any services directly related to, the operation of an adult entertainment business.

(F) “Entertainer” means any person who provides adult entertainment within an adult entertainment premises as defined in this section, whether or not a fee is charged or accepted for entertainment.

(G) “Manager” means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult entertainment premises.

(H) “Operator” means any person operating, conducting or maintaining an adult entertainment business.

(I) “Person” means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

(J) “Public place” means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

(K) “Premises” means any place of business of an adult business which shall include the entire lot and building occupied by the adult business and any other property owned, leased or controlled by the adult business including any parking areas adjacent to the business which are regularly utilized by employees, entertainers, servers, managers or customers, members or patrons of such business.

(L) “Server” means any person who serves food or drink at an adult entertainment business.

(M) “Specified anatomical areas” means:

(1) uncovered or exposed human genitals; or pubic region or pubic hair; or buttock; or female breast or any portion of the breast below a point immediately above the top of the areola encircling the nipple; or any combination of the foregoing; or

(2) human male genitals in a discernibly erect state, even if completely and opaquely covered.

N. “Specified sexual activities” means sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person’s clothed or unclothed genitals, pubic area, buttocks, or the breast of a female, or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

O. “Substantial business purpose” means:

(1) thirty-three percent (33%) or more of the gross floor space, is devoted to that purpose; or

(2) thirty-three percent (33%) or more of the retail floor space is devoted to that purpose; or

(3) thirty-three percent (33%) or more of the gross sales of the business are derived from that purpose.

(Ord. 900, §1)

Sec. 6-76. License required for adult businesses and adult entertainment businesses.

(A) It shall be unlawful for any person to operate, manage or maintain an adult business or adult entertainment business in the City unless the owner, operator or lessee thereof has obtained an adult entertainment business license from the City, or to operate such business after such license has been revoked or suspended by the City.

(B) It is unlawful for any entertainer, employee or manager to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult entertainment business.

(C) It shall be prima facia evidence that any adult entertainment business that fails to have posted, in the manner required by this section, an adult entertainment business license, has not obtained such a license. In addition, it shall be prima facia evidence that any entertainer, employee or manager who performs any service or entertainment in an adult entertainment business in which an adult entertainment license is not posted, in the manner required by this section, had knowledge that such business was not licensed.

(D) Any business enterprise that sells or rents goods that are designed for use in connection with “specified sexual activities”, or that emphasize matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” and that excluded minors by virtue of age from all or any part of the business premises shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate city officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether such business enterprise is an “Adult Business” as defined in this Article. This entry and inspection shall take place during hours when such adult business is open to the public, unless otherwise requested by the adult business, and shall not unreasonably interfere with the conduct of such business.

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Sec. 6-77. License required for managers, servers and entertainers.

It is unlawful for any person to work as an entertainer, server or manager or as an independent contractor at an adult entertainment business without first obtaining a license to do so from the City, or to work as an entertainer, server or manager or independent contractor at an adult entertainment business after such person's license to do so has been revoked or suspended. (Ord. 900, §1)

Sec. 6-78. License, classification and fees.

(A) The license year for all fees required under this Article shall be from each July 1 through the immediately following June 30. The application for a license shall be accompanied by payment in full of the fee stated in this section by certified or cashier's check or money order, and no application shall be considered complete until such fee is paid.

(B) All licenses shall be issued for a specific location and shall be non-refundable and nontransferable.

(C) The classification of licenses and fees for each shall be as follows:

- (1) Adult entertainment business license fee is \$500 per year;
- (2) Adult entertainment manager's license fee is \$50.00 per year;
- (3) Adult entertainer's license fee is \$25.00 per year;
- (4) Adult entertainment server's license fee is \$20.00 per year;
- (5) Any other person working at or providing services at an Adult entertainment business shall have an Adult entertainment worker's license with a fee of \$20.00 per year;
- (6) Non-entertainment adult business license fee \$300.00 per year.
- (7) Any other person working at or providing services at an Adult business shall have an Adult business worker's license with a fee of \$20.00 per year. (Ord. 900, §1)

Sec. 6-79. License limited to one identifiable type of adult use.

All adult business licenses shall be issued for only one adult business use per premises which shall be listed on the application. More than one adult business use shall not be allowed on a premises. Any change in the type of adult use shall invalidate the adult business license. (Ord. 900)

Sec. 6-80. License application.

(A) Adult Business License.

All persons desiring to secure a license to operate an adult entertainment business under the provisions of this Article shall make a notarized application with the City Clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the adult entertainment business. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information.

(1) The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant.

(2) The name of the adult business, a description of the adult entertainment to be performed on the licensed premises, if any, and a description of the type of adult business to be conducted, and the name of the owner of the premises where the adult business will be located.

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(3) The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership, and if the applicant is a corporation, the same information for all corporate officers and directors and stockholders who own more than 10% or greater interest in the corporation.

(4) The residence addresses of the applicant, or of all partners, or of all corporate officers and directors for the five years immediately prior to the date of application.

(5) A description of the adult business history of the applicant, or of the partnership and all partners, or of the corporation and all corporate officers and directors.

(6) A statement from the applicant, or from all partners, or from all such corporate officers and directors, whether any such person or entity, in previously operating in this or another city, county or state, has had a business license of any type revoked or suspended, and if so, the reason therefore, and the activity or occupation subjected to such action, suspension or revocation.

(7) A statement of the business, occupation or employment of the applicant, or of all partners, or of all corporate officers and directors for the three years immediately preceding the date of the application.

(8) A statement from the applicant, or from each partner, or from each corporate officer and director, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:

(a) a felony criminal act within five years immediately preceding the application; or

(b) a misdemeanor criminal act within two years immediately preceding the application, where such misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substances Act or other statutes of the State of Missouri or ordinances of the City. The statement shall also indicate that the applicant, each partner of each corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

(c) any offense committed at any time which requires registration as a sexual offender, or sexual predator under the laws of the state of Missouri, or of any other state.

(9) On applications requesting a license to operate a bath house or body painting studio, the applicant shall provide for each person working on the premises a health certificate from a duly licensed Missouri physician stating that within ninety days prior thereto, the applicant and all other persons working on the premises have been examined and found free of any contagious or communicable disease as defined herein

(10) A full set of fingerprints and a photograph, to be taken by the police department, of the applicant, or of all partners if the applicant is a partnership, or of all corporate officers and directors if the applicant is a corporation.

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(11) If the applicant is a corporation, a current certificate of registration issued by the Missouri Secretary of State.

(12) A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Article regulating adult entertainment businesses. Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed.

(13) A statement that all zoning requirements for the site chosen has been checked and the adult business is permitted at the chosen location. Copies of any Conditional Use Permits must be attached to the application, and a Certificate from the Chief of Police that the location is not within 1,000 feet of any school, church, licensed day care, any property zoned residential, or any property owned or leased by the State of Missouri, County of Washington, or City of Potosi, except roadway and utility easements and rights of way.

(B) Manager, Server or Entertainers license.

All persons desiring to secure a license under the provisions of this Article to be an adult entertainment manager, server or entertainer shall make a notarized application to the City Clerk. All applications shall be submitted in the name of the person proposing to be an adult entertainment manager, server or entertainer. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:

(1) The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining or at the business.

(2) The name and address of each adult entertainment business where the applicant intends to work as a manager, server or entertainer, and an "intent to hire" statement from an adult entertainment business that is licensed, or that has applied for a license, under the provisions of this Article, indicating the adult business intends to hire the applicant to manage, serve or entertain on the premises. Failure to provide an "intent to hire" statement shall not invalidate the application.

(3) A statement from the applicant, that the applicant has not been convicted of, released from confinement for conviction of, on probation for, pleaded guilty or nolo contendere or diverted from prosecution on:

(a) a felony criminal act within five years immediately preceding the application; or

(b) a misdemeanor criminal act within two years immediately preceding the application, where such misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substances Act or other statutes or ordinances. The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

(c) any offense committed at any time which requires registration as a sexual offender, or sexual predator under the laws of the State of Missouri, or of any other state.

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(4) A full set of fingerprints and a photograph, to be taken by the police department, of the applicant.

(5) The applicant shall present documentation to the City Clerk that the applicant has attained the age of 18 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:

(a) A valid motor vehicle operator's license issued by any state, bearing this applicant's photograph and date of birth;

(b) A state-issued identification card bearing the applicant's photograph and date of birth;

(c) An official and valid passport issued by the United States of America;

(d) An immigration card issued by the United States of America;

(e) Any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk; or

(f) Any other form of identification deemed reliable by the City Clerk.

Failure to provide the information required by this subsection shall constitute an incomplete application and shall not be processed.

(C) Facilities Necessary.

No adult business license to conduct a bath house or body painting studio shall be issued unless an inspection by the Department of Public Safety and Building Examiner reveals that the premises the applicant intends to conduct business from complies with each of the following minimum requirements:

(1) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.

(2) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(3) Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

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The Department of Public Safety and Building Inspector or a representative, shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the City Clerk. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate City official may recommend the issuance of a license contingent upon the compliance with any requirements in this section.

(D) Application Processing.

Upon receipt of a complete application for an adult business license, adult entertainment license or an adult entertainment manager, server, worker or entertainer license, the City Clerk shall immediately transmit one copy of the application to the Police Department for investigation of the application. In addition, the City Clerk shall transmit a copy of the application to the City Planning and Zoning Board, the Board of Adjustment, and the Building Inspector. It shall be the duty of the Police Chief or a designee to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The Police Chief shall report the results of the investigation to the City Clerk not later than ten working days from the date the application is received by the City Clerk. It shall be the duty of the Planning and Zoning Board and the Building Inspector, to determine whether the structure where the adult business or entertainment business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City. The Chairman of Planning and Zoning and the Building Inspector, shall report the results of the investigation to the City Clerk not later than ten working days from the date the application is received by the City Clerk.

Upon receipt of the reports from the Police Chief and Chairman of Planning and Zoning and the Building Inspector, the City Clerk shall either issue or deny the license, provided the license application for an adult business, manager, server or entertainer license shall be approved or disapproved within 45 days from the date of a completed application with the City Clerk. (Ord. 900)

Sec. 6-81. Examination of application, issuance of license, disapproval.

(A) If the application for an adult business license, or adult entertainment business license or an adult entertainment business manager, server, worker or entertainer license is in proper form and accompanied by the appropriate license fee, and the appropriate documentation, the City Clerk shall examine the application, and after such examination, the City Clerk shall, if the applicant is qualified, approve a license as provided for by law, provided a license shall not be approved to any person ineligible under Section 6-3.

(B) The records of the City Clerk shall show the action taken on the application, and if the license is granted, the City Clerk shall direct the issuance of the proper license. The license shall state that it is not transferable to other persons and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed or where the licensee is working.

(C) If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law. (Ord. 900, §1)

Sec. 6-82. License – ineligibility and disqualification.

No person is eligible nor shall a license be issued to:

(A) An adult business applicant if one or more of the following conditions exist:

(1) The applicant's premises is located within 1,000 feet of any school, church, public park, licensed child care center or licensed child care home or any property owned or leased by either the State of Missouri, the County of Washington, or the City of Potosi, except street and utility easements and rights of way. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of such school, church, public park, public property, licensed day care center or licensed child care home;

(2) The applicant's premises is located within 1,000 feet of any other adult business for which there is a license issued. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of such other adult entertainment business;

(3) The applicant's premises is located within one thousand feet (1000') of any residence zoned R-1 or R-2 property. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's business to the nearest point on the property line of the residence zoned R-1 or R-property;

(4) In the case of an application for an adult business license for a business use defined and described as adult entertainment business, adult motion picture theater, adult entertainment cabaret, adult entertainment studio, adult encounter parlor, body painting studio, bathhouse or adult motel, the applicant's premises is located within one thousand feet (1000') of any residentially zoned property. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's business to the nearest point on the property line of the residentially zoned property;

(5) The applicant failed to supply all of the information requested on the application;

(6) The applicant gave materially false, fraudulent or untruthful information on the application;

(7) The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, provided, that upon a showing that the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the City Clerk;

(8) The applicant has been convicted, released from incarceration for conviction, placed on probation, entered a plea of guilty or nolo contendere, or diverted on any of the crimes set forth in Section 6-80 of this Article during the time period set forth in said section;

(9) The applicant has had an adult entertainment license revoked or suspended in this or any other city during the past five years;

(10) If the applicant is applying for a license to operate a bath house or body painting studio and has not produced a health certificate as required herein for all persons working on the premises.

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(B) An applicant for an adult entertainment manager, server, worker or entertainer if one or more of the following conditions exist:

(1) The employer for whom the applicant intends to work does not have or is ineligible to receive an adult entertainment business license for any of the reasons stated in subsection (A) above;

(2) The applicant has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in Section (8), during the time period set forth in said section;

(3) The applicant failed to provide all of the information required on the application;

(4) The applicant gave materially false, fraudulent or untruthful information on application;

(5) The applicant has had an adult entertainment manager, server or entertainer license revoked or suspended in this or any other city during the past five years. (Ord. 900, §1)

Sec. 6-83. Standards of conduct.

The following standards of conduct shall be adhered to by all adult entertainment business licensees, their employees and all adult entertainment business managers, servers and entertainers and patrons, of adult entertainment businesses, while on or about the premises of the business:

(A) Identification Cards. All or any manager, server or entertainer issued a license by the City under the provisions of this Article shall, at all times when working in an establishment subject to the provisions of this Article, have in their possession a valid identification card issued by the City, bearing the permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration.

(B) Age restriction. Only persons 18 years of age or older shall be permitted on the premises of any adult entertainment business.

(C) Exterior Observation and Display. No adult business will be conducted in any manner that permits the observation or display of performers, servers, or entertainers engaged in an erotic depiction or dance or any material or persons, caricatures, animals, or any portion thereof depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined herein, or any books, cards, magazines, periodicals or other printed matter, photographs, slides, films, motion pictures, or videotapes which are distinguished or characterized by their emphasis on matter, depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any exterior source including, but not limited to, by display, decoration, sign, show window or other opening.

(D) Nudity Prohibited. No manager, employee, server, entertainer or patron in an adult business, other than a licensed bath house, shall appear nude, unclothed, in less than opaque attire or in any fashion that exposes to view any "specified anatomical areas".

(E) Certain Acts Prohibited.

(1) No manager, employee, server or entertainer shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities as defined herein, or participate in any act of prostitution.

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(2) No manager, employee, server, entertainer or patron of an adult entertainment business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly simulate touching, fondling or caressing any specified anatomical area of such employee, server, entertainer or patron, whether such specified anatomical areas are clothes, unclothed, covered or exposed.

(3) No manager, employee, server or entertainer of an adult entertainment business shall be visible from the exterior of the adult entertainment business while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.

(4) No adult entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this Article and no adult entertainer shall receive any payment or gratuity from any customer for any entertainment except as follows:

(a) While such entertainer is on the stage or platform, a customer or patron may place such payment or gratuity into a box affixed to the stage, or

(b) While such entertainer is not on the stage or platform and is clothed so as to not expose to view any specified anatomical area, a customer or patron may either place such payment or gratuity into the entertainer's hand, or into a box or tray marked "gratuities".

(5) No owner, operator, manager or other person in charge of the premises of an adult entertainment premises shall:

(a) knowingly permit alcoholic liquor or cereal malt or wine beverages to be brought upon, sold, delivered or consumed on the premises;

(b) knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;

(c) knowingly allow or permit any person under the age of 18 years of age to be in or upon the premises;

(d) knowingly allow or permit any act of prostitution or patronizing prostitution on the premises;
or

(e) knowingly allow or permit a violation of this Article or any other city ordinance provision or state law.

(F) Signs Required.

All adult entertainment business shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, on which uppercase letters shall be at least two inches high, and lowercase letters at least one inch high, which shall read as follows:

**THIS ADULT ENTERTAINMENT BUSINESS IS REGULATED
AND LICENSED BY THE CITY OF POTOSI
ENTERTAINERS ARE:**

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- Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer or to permit any employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of said entertainer.
- Not permitted to be nude, unclothed, or in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and or genitals, unless upon a stage at least two feet above the customer floor and a sufficient distance from the customers to prevent the customers from touching the entertainers.
- Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:
 - While such entertainer is on the stage, by placing such payment or gratuity into a box affixed to the stage, or
 - While such entertainer is not on the stage, by either placing such payment or gratuity into the entertainer's hand, or in a box or tray clearly marked "gratuities".

CUSTOMERS ARE:

- Not permitted to be upon the stage at any time.
- Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server or entertainer or engage in solicitation for prostitution.

(G) Lighting Required.

The interior premises of all adult businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one foot-candle as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises. The exterior premises of all adult business shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination equivalent to not less than one foot-candle in all parking areas and on the general grounds of the premises as measured at the ground level and there shall be illumination to the equivalent of not less than five foot candles as measured at the ground level at each entrance and doorway area, and such illumination must be maintained at all times that any customer or patron is present on the premises.

(H) Closed Booths or Room Prohibited.

The premises of all adult entertainment businesses shall be physically arranged in such manner that the entire interior portions of any booths, cubicles, rooms or stalls is visible from a common area of the premises. The use of video cameras to meet this requirements is not allowed. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever. The manager shall be required to position himself/herself so as to be able to view the entire interior portion of the premises while on duty.

Only one person shall be allowed in any booth, cubicle or stall at a time. Such booths, cubicles or stalls shall be constructed out of metal or such other material that is incapable of perforation by any customer, employee, entertainer, server or manager on the premises. Other than the entryways there shall be no openings, holes, access doors or any other manner of accessibility between any booth, cubicle, room or stall and any other booth, cubicle room or stall.

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(I) Ventilation and Sanitation Requirements.

The premises of all adult entertainment businesses shall be kept in a sanitary condition. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.

(J) Hours of Operation.

No adult businesses or adult entertainment businesses may be open or in use between the hours of 1:30 a.m. and 10:00 a.m. on any day other than a Sunday when the business may not be open between the hours of 1:30 a.m. and 12:00 noon.

(K) Records to be kept and reports.

Owners and operators of licensed adult entertainment businesses shall maintain business records that include the names and address and ages of all persons employed as entertainers or servers or contracted to perform similar duties for a period of two (2) years. Said list or lists shall be made available to the City of Potosi Police Department upon request at any time. No later than March 1 of each year, a licensed adult entertainment business establishment licensee shall file a verified report with the City Clerk showing the licensee's gross receipts and the amounts paid to each of the entertainers and servers, identifying each by name, license number, and amount paid to each, for the preceding calendar year.

(L) No alcohol or drugs possessed, consumed or sold on premises.

No "adult business" or "adult entertainment business", nor any person with an ownership interest in such business, nor any manager or employee of such businesses shall be permitted to sell or serve any type of alcoholic beverage, as defined in Chapter 3 of the Code of Ordinances of the City of Potosi, either by the drink, or as a package sale, or permit any manager, employee, or patron to possess or consume any type of alcoholic beverage upon any part of the property of the "adult business" or "adult entertainment business", nor be eligible for any license to sell any type of alcoholic beverage in the City of Potosi. No "adult business" or "adult entertainment business", nor any person with an ownership interest in such business, nor any manager or employee of such business, shall permit any manager, employee, or patron to possess or consume any type of controlled substance, as defined in Chapter 195 of the Revised Statutes of Missouri, upon any part of the property of the "adult business" or "adult entertainment business".

(M) Duty to report to police.

Every manager and employee shall have the duty to report to the Police any possession or consumption of any alcoholic beverage or controlled substance observed on the premises of the "adult business" or "adult entertainment business". (Ord. 900, §1)

Sec. 6-84. License – posting or display.

(A) Every person, corporation, partnership or association licensed under this Article as an adult entertainment business shall post such license in a conspicuous place and manner on the adult entertainment facility premises.

(B) Every person holding an adult entertainment server, manager or entertainer license shall post his or her license in his or her work area on the adult entertainment facility premises so it shall be readily available for inspection by City authorities responsible for enforcement of this Article. (Ord. 900, §1)

(Revised 12/05)

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Sec. 6-85. Manager on premises.

(A) A manager shall be on duty at any adult entertainment business at all times the premises is open for business. The name of the manager on duty shall be prominently posted during business hours.

(B) It shall be the responsibility of the manager to verify that any person who provides adult entertainment or works as a server within the premises possesses a current and valid adult entertainer's license or an adult entertainment servers license and that such licenses are prominently posted.

(C) It shall be the responsibility of the manager to insure persons under the age of eighteen (18) do not enter upon the premises. (Ord. 900, §1)

Sec. 6-86. Inspector and inspections.

All adult businesses shall permit representatives of the Police Department or any other City official acting in their official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulation sand laws. (Ord. 900, §1)

Sec. 6-87. Suspension, revocation, or non-renewal – license.

Whenever the Department of Public Safety, the City Clerk, the Mayor or any member of the Board of Aldermen has information that:

(A) The owner or operator of an adult business or a holder of an adult entertainment manager, server or entertainer license has violated, or knowingly allowed or permitted the violation of, any of the provisions of this Article; or

(B) There have been recurrent violations of provisions of this Article that have occurred under such circumstances that the owner or operator of an adult entertainment business knew or should have known that such violations were committed; or

(C) The adult business license or the manager, server or entertainer license was obtained through false statements in the application for such license, or renewal thereof; or

(D) The adult business licensee or the manager, server or entertainer licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or

(E) The owner or operator, or any partner, or any corporate officer or director holding an adult entertainment business license has become disqualified from having a license by a conviction as provided in Section 6-80; or

(F) The holder of a manager, server or entertainer license has become disqualified from having a license by a conviction as provided in Section 6-80(9);

Then Board of Aldermen shall conduct a hearing to determine whether the license should be suspended or revoked.

Based on the evidence produced at the hearing, the panel may take any of the following actions:

(1) Suspend the license for up to ninety days.

(2) Revoke the license for the remainder of the license year.

(3) Place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of the Article occur and after a hearing the violation is determined to have actually occurred, the license will be revoked for the remainder of the license year. (Ord. 900, §1)

Sec. 6-88 Renewal.

(A) A license may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses shall expire on June 30 of each calendar year, and renewal applications for such licenses shall be submitted between June 1 and June 20.

(B) Upon timely application and review as provided for a new license, a license issued under the provisions of this Article shall be renewed by issuance of a new license in the manner provided in this Article.

(C) If the application for renewal of a license is not made during the time provided in subsection (A) of this section, the expiration of such license shall not be affected, and a new application shall be required. (Ord. 900, §1)

Sec. 6-89. Judicial review – stay of enforcement of orders.

Following the entry of an order by the Board of Aldermen, suspending or revoking a license issued pursuant to this Article, or by the City Clerk disapproving the renewal application for a license, such licensee or applicant may seek judicial review in a manner provided by law. The Board of Aldermen may stay enforcement of such order for a period of time not to exceed 30 days pending the filing and/or final disposition of proceedings for judicial review. (Ord. 900, §1)

Sec. 6-90. Penalty.

It shall be unlawful for any person to violate any of the provisions of this Article. Upon conviction thereof, such person shall be punished by a fine not exceeding \$500.00, nor less than \$100.00, or be punished by incarceration for a period not to exceed ninety (90) days, or by both such fine and incarceration. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this Article shall constitute a separate and distinct offense. (Ord. 900, §1)

Sec. 6-91. Regulations.

The City Clerk shall have the power to promulgate regulations, as may be necessary and feasible for the carrying out of the duties of his/her office and which are not inconsistent with the provisions of this Article. (Ord. 900, §1)

Sec. 6-92. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Article or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining

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portions of this Article or any part thereof. The Council hereby declares that it would have passed this Article and each section, subsection, subdivision, paragraph, sentence, clause or phrase in this Article or any part thereof irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional. (Ord. 900, §1)

Secs. 6-93 to 6-97. Reserved.

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