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CHAPTER 6.22 CHARITABLE SOLICITATION

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Article I. Permits and General Provisions

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6.22.010 Definitions.

As used in this Chapter, unless the context otherwise requires, the following words shall have the meaning ascribed to them:

- (A) "Charitable" means and includes the words patriotic, philanthropic, religious, social service, welfare, benevolent, educational, civic or fraternal, either actual or purported.
- (B) "Contributions" means and includes the words alms, food, clothing, money, subscription, property, the loan of money or property, financial assistance or items of personal property.
- (C) "Cost of solicitation" means all costs of whatever nature which are incurred by any person conducting a solicitation, including the wages, fees, commissions and expenses paid to any person in connection with such solicitation. This shall also

include all costs incurred in managing and/or selling contributions obtained by soliciting.

- (D) "Professional promoter" means a person who, for compensation, plans, promotes, conducts, manages or carries on or attempts to plan, promote, conduct, manage or carry on any drive or campaign for the purpose of soliciting contributions for or on behalf of any charitable person or engages in the business of soliciting contributions for charitable purposes. A bona fide officer or regular employee of a charitable person shall not be deemed a professional promoter by reason of his participation in charitable solicitations made by or on behalf of his employer.
- (E) "Solicit" and "solicitations" means the request, either directly or indirectly, for contributions on the plea or representation that such contributions or any proceeds to be derived therefrom will be used for a charitable purpose. Without limiting the generality of the above, said words shall include the following methods of securing contributions on the plea or representation that it will be used for a charitable purpose:
- (1) Any oral or written request;
 - (2) The distribution, circulation, mailing, posting or publishing of any handbills, written advertisement or publication;
 - (3) The making of any announcement through the press, radio, television, or by telephone or telegraph concerning an appeal, assembly, athletic or sporting event, bazaar, benefit, campaign, contest, dance, dinner, entertainment, exhibition, exposition, party, performance, picnic, sale, social gathering, or similar events, which the general public is requested to patronize or to which the general public is requested to contribute;
 - (4) The sale of or the offer or attempt to sell any advertisement, advertising space, book, coupon, magazine, merchandise, subscription, ticket or other thing.

A "solicitation," as defined herein, shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any sale.

(Ord. 3333 § 1, 1988; Ord. 2235 § 3, 1981; prior code § 5-13-1)

6.22.020 Permit required—Exemptions.

It is unlawful for any person to solicit contributions within the City for any charitable purpose or person without a valid unexpired permit issued pursuant to this Code; provided, however, that the following are exempt from the provisions of this section:

- (A) Any solicitation made upon premises owned or occupied by the association upon whose behalf such solicitation is made;
- (B) Any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected, without any deduction whatever, shall be turned over to the named beneficiary;
- (C) Any association soliciting contributions solely from persons who are members thereof at the time of such solicitation;
- (D) Any solicitation in the form of a collection or contribution at a regular assembly or services of a charitable person.

(Ord. 2235 § 3 (part), 1981; prior code § 5-13-2)

6.22.030 Application.

An application for a permit shall be made to the Director upon forms provided by the Department. The application shall contain the following information:

- (A) The name, address or headquarters of the person applying for the permit;
- (B) If the applicant is not an individual, the names and addresses of the applicant's principal officers and managers;
- (C) The purposes for which such solicitation is to be made, the total amount of funds proposed to be raised thereby, and the use or disposition to be made of such funds;
- (D) The names and addresses of the person or persons by whom the receipts or proceeds of such solicitation are to be disbursed;
- (E) The names and addresses of the person or persons who will be in direct charge of conducting the solicitation;
- (F) An outline of the method or methods to be used in conducting the solicitation;
- (G) The time when such solicitations are to be made, giving the dates for the beginning and ending of such solicitation;
- (H) An itemized statement or budget of the estimated cost of solicitation;
- (I) The names and addresses of all professional promoters and professional solicitors who will be connected with the solicitation and the amount of wages, fees, commission, expenses, or emoluments to be paid to each professional promoter, and a copy of the contract, if any, given each professional promoter;
- (J) An itemized financial statement showing all receipts and the disbursements thereof for one year immediately preceding the date of the filing of the application;
- (K) A statement to the effect that, if the permit is granted, it will not be used or represented in any way as an endorsement by the City of the solicitation conducted thereunder.

(Ord. 5998 § 61, 2008; Ord. 3860 § 1, 1995; Ord. 3333 § 2, 1988; Ord. 2235 § 3 (part), 1981; prior code § 5-13-3 (part))

6.22.040 Changes in application.

If, while any application is pending or during the term of any permit granted pursuant thereto, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the Department in writing thereof within twenty-four hours after such change.

(Ord. 5998 § 62, 2008; Ord. 2235 § 3 (part), 1981; prior code § 5-13-3 (part))

6.22.050 Consideration by the Director.

- (A) Upon receipt of a completed application the Director shall issue a temporary solicitations permit pending review of the application. In deciding whether to issue a permanent solicitations permit, the Director shall determine whether or not:
 - (1) Each of the statements made in the application is true;
 - (2) The application is complete; and
 - (3) The applicant has violated any of the grounds provided in Section 6.02.330 et seq.
- (B) At the conclusion of its review with respect to an application, the Director shall make his findings with respect to each of the makers contained in Paragraphs (1) through (3) of

Subsection (A) and shall make his decision either to approve or to reject such application, which decision, if it is for rejection, shall set forth completely and with specificity the reasons therefor and the City shall promptly seek a declaratory judgment to the constitutionality of the Director's decision to deny the permit and restrain the solicitation. Until such judicial decision is rendered, the temporary permit issued when the completed application was first received by the Department pursuant to this Section shall remain in effect. If the decision is for approval of the application, the permit issued shall specify the time period, not to exceed one year for which the permit is valid.

(Ord. 5998 § 63, 2008; Ord. 3860 § 2, 1995; Ord. 3388 § 2, 1988; Ord. 3333 § 3, 1988; Ord. 2235 § 3 (part), 1981; prior code § 5-13-4)

6.22.055 Authority to set conditions.

The Director shall have the authority to set conditions on a permit which may include, but are not limited to, requiring the permittee to furnish each principal, agent, employee, promoter and solicitor a copy of a valid charitable solicitation permit stating the name of the organization conducting the solicitation, the type of solicitation, the purpose for which the contribution is to be used and the time when such solicitations are to be made, giving the dates for beginning and ending of such solicitation. A copy of the charitable solicitation permit shall be exhibited to every person solicited.

(Ord. 5998 § 64, 2008; Ord. 3860 § 3, 1995; Ord. 3388 § 3, 1988; Ord. 3333 § 7, 1988)

6.22.065 Permit—Display required.

Each permittee shall conspicuously display a currently valid permit in a prominent place at special events and locations where the solicitation for contributions is being conducted.

(Ord. 3333 § 6, 1988)

6.22.070 Report of receipts and costs.

Each permittee conducting a solicitation shall furnish to the Director within thirty days after the conclusion of the solicitation, a report showing the gross amount raised by the solicitation and showing an itemization of the costs of solicitation, including what was paid to each professional promoter and professional solicitor employed in such solicitation and the disposition of the balance of the contributions collected by the solicitation.

(Ord. 5998 § 65, 2008; Ord. 3333 § 4, 1988; Ord. 2235 § 3 (part), 1981; prior code § 5-13-8)

6.22.080 City access to books and records.

Each applicant and each permittee shall make available its books and records which relate to the financial information required by Section 6.22.030 (J) or the report required by Section 6.22.070 for audit by the Director or his authorized representative for the purpose of checking the accuracy of the financial information supplied.

(Ord. 2235 § 3 (part), 1981; prior code § 5-13-9)

6.22.090 Actions of subordinates.

Each permittee is responsible for and may be subject to disciplinary action for the acts and omissions done by its principals, agents, employees, promoters and solicitors.

(Ord. 2235 § 3 (part), 1981: prior code § 5-13-10)

6.22.100 Solicitation for other purpose.

No person shall solicit for any purpose other than the purpose approved for the permit under which he is acting.

(Ord. 2235 § 3 (part), 1981: prior code § 5-13-11(A))

6.22.110 Representation of City approval.

No person shall represent in connection with such solicitation that the issuance of the permit by the City constitutes an endorsement or approval of the purposes of such solicitation by the City or any officer or employee thereof.

(Ord. 2235 § 3 (part), 1981: prior code § 5-13-11(B))

6.22.120 Spending for undisclosed purpose.

No person shall use or disburse the funds collected under any permit for any purpose other than the purposes set out in the application for such permit.

(Ord. 2235 § 3 (part), 1981: prior code § 5-13-11(C))

6.22.130 False representation of purpose.

No person shall make any fraudulent or misleading representation to anyone being solicited respecting the purpose for which such funds are being solicited.

(Ord. 2235 § 3 (part), 1981: prior code § 5-13-11(D))

6.22.140 Disclosure of percentage actually for charity.

No person shall fail to disclose, upon request, to any person being solicited exactly what percentage of the funds to be given, paid or contributed by the person being solicited will go or be donated to the charitable or welfare purpose described on the permit.

(Ord. 2235 § 3 (part), 1981: prior code § 5-13-11(E))

6.22.150 Telephone solicitation.

Within the first thirty seconds of any solicitation by telephone, the person making the solicitation must identify himself by his full name, his business affiliation (if he is a professional promoter) and the name of the charitable organization on whose behalf the solicitation is being made.

(Ord. 3156 § 2, 1985)

6.22.160 Violations—Notice of revocation hearing.

Whenever the Director upon affidavit of supporting facts finds that a person holding a permit under this Chapter has violated or is violating Section 6.22.065 through Section 6.22.150, inclusive, the City shall notify the permittee by mail or personal service of process of such violation and seek judicial review of the violations. Should the court determine by appropriate legal standard that a violation has or is occurring, the court may issue an order allowing the City to revoke the solicitations permit.

(Ord. 5998 § 66, 2008: Ord. 3860 § 4, 1995: 2235 § 3 (part), 1981: prior code § 5-13-6 (A))

6.22.170 Violations—Hearing—Production of books and records.

At the hearing the permittee, or any other interested person, shall have the right to present evidence pertaining to the charges. Upon request of the Department the permittee shall produce the books and records relating to its solicitations required to be kept by this Chapter if they are pertinent to the matter under investigation.

(Ord. 5998 § 67, 2008: Ord. 3860 § 5, 1995: Ord. 2235 § 3 (part), 1981: prior code § 5-13-6 (B))

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>> **CHAPTER 6.22 - CHARITABLE SOLICITATION** >> Article II. Professional Promoter License >>

Article II. Professional Promoter License

6.22.200 Required.

6.22.210 Application.

6.22.220 Fee.

6.22.230 Funds handling.

6.22.200 Required.

No person shall act as or engage in the business of a professional promoter without first obtaining and thereafter maintaining a valid unexpired license pursuant to this Code.

(Ord. 2235 § 3 (part), 1981: prior code § 5-13-12)

6.22.210 Application.

The application for a professional promoter's license shall be filed according to the provisions of Chapter 6.02 and shall be processed under the provisions of this Chapter; however, the applicant shall additionally set forth the general plan, character and method of conducting various charitable solicitations.

(Ord. 3860 § 6, 1995: Ord. 2235 § 3 (part), 1981: prior code § 5-13-13)

6.22.220 Fee.

Each professional promoter shall pay a semiannual license fee of one hundred dollars.

(Ord. 2235 § 3 (part), 1981: prior code § 5-13-15)

6.22.230 Funds handling.

- (A) No professional promoter shall commingle his personal funds with contributions collected through a charitable solicitation.
- (B) Every professional promoter shall establish a special trustee bank account for each charitable solicitation with which he is connected, into which shall be placed all money coming into his hands in connection with such solicitation.
- (C) Separate books or records shall be kept by a professional promoter for each solicitation, showing the amount of each contribution coming into his hands and the name of the person making such contribution. Such books or records shall also show all disbursements made of the contributions.
- (D) All such books, records and special trustee bank accounts shall be subject to audit by the Director or his representatives.

(Ord. 5998 § 68, 2008; Ord. 2235 § 3 (part), 1981; prior code § 5-13-14)

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>> CHAPTER 6.27 COMMERCIAL DANCE STUDIOS >>

CHAPTER 6.27 COMMERCIAL DANCE STUDIOS

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6.27.060 Exemptions.

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6.27.010 Definitions.

As used in this Chapter, unless the context otherwise indicates, the following terms shall have the meanings that are ascribed to them as follows:

- (A) "Commercial dance instruction" means a program of lessons, procedures, guidance, teaching or training of a person by an owner, employee, agent, principal, representative or independent contractor of a commercial dance studio in which ballroom or other types of dancing is taught, the purpose of the instruction being primarily for self-improvement and such instruction is not performance oriented, and includes instruction and other services whether given to customers individually or in groups.
- (B) "Commercial dance studio" means any physical location or facility, regardless of its size, of an independent or a national or state-wide commercial, for profit, dance organization, business, company or corporation at which or in which commercial dance instruction is offered or conducted.
- (C) "Contract for commercial dance instruction and other services" means an agreement between a customer and a commercial dance studio for commercial dance instruction.
- (D) "Customer" means a person who enters into a contract for commercial dance instruction and other services with a commercial dance studio.
- (E) "Educational dance instruction" means:
 - (1) A program of instruction which meets all of the following criteria:
 - (a) The person who or organization which provides the instruction employs no more than three instructors;
 - (b) A gross amount of not more than one hundred thousand dollars per year is received from contracts or fees for services;
 - (c) The program gives instruction primarily to persons under the age of eighteen;
 - (d) The program gives instruction in ballet, tap or other performance-oriented forms of dance; and
 - (e)

The program is not affiliated with or franchised by any independent or national or statewide commercial, for profit, dance organization, business, company, corporation or studio;

- (2) A program of dance instruction which operates under the auspices of a recognized nonprofit performing dance organization, including without limitation conservatory or academy instruction by ballet companies, modern dance companies, theatrical dance academies or similar organizations; and
 - (3) A program of dance instruction which is operated by any park or recreation agency, community arts nonprofit organization or local arts agency.
- (F) "Instructor" means the owner, principal, occupant or lessee of a commercial dance studio or any of his or her employees, agents, representatives or independent contractors who trains customers in commercial dance instruction.
- (G) "Seller" means the owner, principal, occupant or lessee of a commercial dance studio or any of his or her employees, agents, representatives or independent contractors who solicits commercial dance instruction business on behalf of the commercial dance studio.

(Ord. 3369 §§ 1 (part), 2, 1988)

6.27.020 License requirements.

- (A) It is unlawful for any person to commence, engage in or carry on a business of commercial dance instruction without first obtaining and thereafter maintaining a valid unexpired license pursuant to this Chapter.
- (B) Every commercial dance studio that is in existence and licensed on August 7, 1988, shall have sixty days thereafter in which to comply with the provisions of this Chapter.
- (C) In addition to the information that is required by LVMC Chapter 6.02, an applicant for a commercial dance studio license shall provide the Director with the following information:
 - (1) A completed personal history questionnaire, a personal financial questionnaire, and an applicant's release of information form of all principals of the business;
 - (2) Exact copies of all sales presentations that will be used, including without limitation the initial sales and renewal sales presentations and any financial information that will be requested from the purchaser;
 - (3) An exact copy of the contract for commercial dance instruction and other services that will be used by the commercial dance studio for a course in commercial dance instruction.
- (D) Each commercial dance studio instructor and seller, before commencing his or her employment as such, shall obtain, and shall at all times thereafter, during the course of such employment, maintain a work card that has been issued by Metro in accordance with the procedures and requirements of LVMC Chapter 6.86

(Ord. 5998 § 71, 2008; Ord. 3369 §§ 1 (part), 3, 1988)

6.27.030 Dance instruction contract—Provisions.

- (A) Every contract for commercial dance instruction or other services, or both, shall be in writing and shall be subject to the provisions of this Chapter, and a copy of the written contract shall be given to the customer at the time he or she signs the contract.
- (B) No contract for commercial dance instruction or other services, or both, shall require the payment by a customer of any amount in excess of two thousand five hundred dollars.

- (C) No contract for commercial dance instruction or other services shall require the payment therefor or the financing thereof by the customer over a period of time in excess of twenty-five months after the date on which the customer executes the contract, nor shall the term of any such contract be measured by the life of the customer. However, the instruction or other services, or both, to be rendered to the customer under the contract may extend over a period of time not to exceed five years after the date on which the customer executes the contract.
- (D) Each contract for commercial dance instruction or other services, or both, which may be in effect between the same seller and the same customer, the terms of which overlap for any period, shall be considered as one contract for the purposes of this Chapter.
- (E) Each contract for commercial dance studio instruction or other services, or both, shall provide that performance of the agreed-upon instructions will begin within three months after the date on which the customer executes the contract.
- (F) Each contract for commercial dance studio instruction or other services, or both, shall further provide that such contract may be cancelled at any time after the customer has received his or her copy thereof by the customer's depositing with the United States Postal Service, properly addressed to the commercial dance studio at the address that is stated in the contract and with postage prepaid, a notice of such cancellation, and the commercial dance studio shall, within ten days after its receipt of such notice, refund to the customer all of the moneys that have been paid pursuant to the contract less such amount as may have been paid for any dance studio instruction or other services, or both, that the customer received prior to the date of such cancellation. The contract may further provide, however, that, if thirty or more days shall have elapsed between the customer's receipt of his or her copy of the contract and deposit of the notice of cancellation with the United States Postal Service, the commercial dance studio shall be entitled to retain ten percent of the amount that would otherwise be required to be refunded.
- (G) Each contract for commercial dance studio instruction or other services, or both, shall contain a written statement of the hourly rate that will be charged for each type of lesson or service for which the customer has contracted. If the contract includes types of dance studio instruction or services which are sold at different per-hour rates, the contract shall contain separate hourly rates for each different type of lesson or service sold. All services for which the customer has contracted which are not capable of a per-hour charge shall be set forth in writing in specific terms. The statement shall be contained in the contract before the contract is presented to the customer for execution.
- (H) Each commercial dance studio that is subject to this Chapter shall include in each of its contracts for commercial dance instruction or other services, or both, a statement that the dance studio is bonded and that information concerning the bond may be obtained by writing to the Department. If the dance studio has elected to make a cash deposit in lieu of procuring a bond, the contract shall contain a description of the cash deposit.
- (I) No contract for commercial dance studio instruction or other services, or both, shall require or entail the execution of any note or series of notes by the customer which, when they are separately negotiated, will insulate any purchaser or purchasers of such note or notes from any right of action or defense which the customer may have against the commercial dance studio.
- (J) Each contract for commercial dance instruction or other services, or both, shall contain a clause that provides that if, by reason of the customer's disability or death, the customer is unable to receive all of the instruction or other services, or both, for which the customer has contracted, the disabled customer or the estate of the deceased customer, as the case may be, shall be relieved of the obligation of making any payment for the instruction or other

services, or both, other than those that were actually received prior to the onset of disability or the death of the customer. The contract shall further provide that, if the customer has prepaid any sum for the instruction or other services, or both, that portion of such sum as is allocable to the lessons or other services, or both, that the customer shall not receive shall be refunded to the disabled customer or to the deceased customer's personal representative, as the case may be, promptly upon the receipt by the commercial dance studio of written notification of such disability or death.

- (K) Notwithstanding the provisions of any contract to the contrary, whenever the contract price is payable in installments and the customer is relieved from making further payments or is entitled to a refund because of disability or death, or the deceased customer's personal representative, as the case may be, the disabled customer shall be entitled to receive a refund or refund of that portion of the cash price as is allocable to the lessons or other services, or both, that the customer did not actually receive.
- (L) Any contract for commercial dance instruction or other services, or both, which does not comply with the applicable provisions of this Chapter shall be void and unenforceable as contrary to public policy.
- (M) Any contract for commercial dance instruction or other services, or both, that is entered into in reliance upon any willful and false, fraudulent or misleading information, representation, notice or advertisement of the commercial dance studio, shall be void and unenforceable.

(Ord. 3369 §§ 1 (part), 4, 1988)

6.27.040 Dance instruction contract—Assignment.

No assignment of a contract for commercial dance instruction or other services, or both, shall operate to deprive the customer, as against the assignee thereof, of any right of action or defense that arises out of such contract which the customer has against the commercial dance studio regardless of whether or not the assignee acquires the contract in good faith and for value, unless the assignee provides the customer with a written notice of such assignment, setting forth the information that is required in this Section, and has not received from the customer, within thirty days after the deposit of such notice with the United States Postal Service, a written statement that sets forth any facts that may give rise to a right of action or defense by the customer against the commercial dance studio. A notice of assignment shall:

- (1) Be in writing and addressed to the customer at the address shown on the contract;
- (2) Identify the contract, including the name of the commercial dance studio and the customer;
- (3) Provide a description of the instruction or other services, or both;
- (4) State the balance that is due under the contract and the number and amount of the unpaid installments thereof; and
- (5) Inform the customer that, unless the customer shall, within thirty days after the date of the deposit of such notice with the United States Postal Service, notify the assignee with a written statement that sets forth any facts giving rise to a right of action or defense which the customer may have against the commercial dance studio, such right of action or defense shall not be effective against the assignee.

(Ord. 3369 §§ 1 (part), 5, 1988)

6.27.050 Bond required—Provisions.

- (A)

The applicant for a commercial dance studio license shall, before any license therefor may be issued, file, and, after the issuance thereof, shall maintain, with the Director a surety bond, which must be executed by a surety company that is authorized to do business in this State, in the penal sum of twenty-five thousand dollars, for the initial year of operation, and, thereafter, in the penal sum of twenty-five thousand dollars or an amount that is equal to twenty-five percent of the commercial dance studio's gross sales that are made by or in connection with its operation within the corporate boundaries of the City during its preceding year of operation, whichever amount is less. Such bond must first be approved as to form by the City Attorney and shall be conditioned upon:

- (1) The prompt payment by the licensee of the license fee that is imposed by this Chapter;
 - (2) The indemnification by the licensee of the City and all of the customers of the licensee against any loss that the City or any such customers may sustain by reason of any violation by the licensee of any of the provisions of this Chapter or by reason of any fraud or dishonesty on the part of the licensee; and
 - (3) The prompt refund by the licensee of any amount that is requested pursuant to any of the provisions of this Chapter or any of the provisions of a contract for commercial dance instruction or other services, or both, including without limitation any refund that is requested as a result of the failure on the part of the licensee to provide the commercial dance instruction or other services, or both, in accordance with the terms of any such contract.
- (B) The licensee annually shall file with the Director a declaration under penalty of perjury, signed by the licensee or a duly authorized officer or representative of the licensee, that states the studio's gross sales that are made by or in connection with its dance studio operations within the corporate boundaries of the City during its preceding year of operation. The information that is contained in the declaration shall not be subject to public inspection or disclosure.
- (C) In the event of any recovery under the bond, the licensee shall immediately restore the penal sum thereof to the amount that was originally required for the year of the licensee's operation in which such recovery was effected or shall file with the Director a substitute bond in the form and penal sum that was required for such year.

(Ord. 3369 §§ 1 (part), 6, 1988)

6.27.060 Exemptions.

This Chapter does not apply to any dance studio that offers exclusively educational dance instruction or to any commercial dance studio which does business on a cash basis only and requires or receives less than two hundred fifty dollars in advance payments from or on behalf of each customer for commercial dance instruction or other services, or both, which are to be rendered by the studio in the future, and such advance payments are not required or received by the studio from each customer more frequently than once every thirty days.

(Ord. 3369 §§ 1 (part), 7, 1988)

6.27.070 License fee required.

Each commercial dance studio shall pay a license fee that is based upon its gross sales that are made by or in connection with its operations within the corporate boundaries of the City for each six-month period of operation as determined by LVMC 6.02.180 to 6.02.200, inclusive, and 6.04.005.

(Ord. 3369 §§ 1 (part), 8, 1988)

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>> **CHAPTER 6.34 DISTRESS MERCHANDISE SALES** >>

CHAPTER 6.34 DISTRESS MERCHANDISE SALES

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6.34.090 Permit—Limitations.

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6.34.010 Definition.

Unless the context otherwise requires, "Distress merchandise sales" means any offer to sell or any sale of merchandise of any kind on the implied or direct representation that such sale is in anticipation of the termination of a business at its present location or the forced moving of location of business or that the sale is being held under distress circumstances.

(Ord. 3019 § 2 (part), 1982; prior code § 5-14-1)

6.34.020 Exemptions.

The provisions of this Chapter do not apply to the following sales:

- (A) Sales made pursuant to an order or process of a court of competent jurisdiction;
- (B) Sales made for a public body in accordance with its powers and duties;
- (C) Auction sales conducted by a duly licensed auctioneer.

(Ord. 3019 § 2 (part), 1982; prior code § 5-14-3)

6.34.030 Permit—Required.

It is unlawful for any person to advertise or conduct a distress merchandise sale without a valid unexpired permit issued pursuant to this Chapter.

(Ord. 3019 § 2 (part), 1982; prior code § 5-14-2)

6.34.040 Application—Contents.

An application for a permit may only be made by a person who holds a valid business license for the type of goods to be sold. The application shall be made on forms suitable to the Director and filed with the Department not less than fifteen days prior to the proposed sale. The application shall set forth the following information:

- (A) The name and address of the owner of the goods, wares or merchandise to be the object of the sale and if the sale is to be conducted by a person not the owner of the goods, then the name of the person conducting such sale;
- (B) A full and complete statement of the facts regarding the distress merchandise sale, including the reason why such sale is being conducted and the proposed dates of the sale;
- (C) The means to be employed in advertising such sale, together with the content of any proposed advertisement;
- (D) An inventory of the goods, wares, and merchandise to be offered for sale shall be attached to and become a part of the required application;
- (E) The place where such stock was purchased or acquired and the terms and conditions of such acquisition, and in the case of stock placed upon the premises within ninety days prior to such sale, the time of acquisition of such stock.

(Ord. 3019 § 2 (part), 1982: prior code § 5-14-4)

6.34.050 Application—Action by Director.

Upon receipt of the application for a permit and the required fees, the Director shall approve, deny or take such other action with respect to such application as he considers appropriate. The Director may deny, revoke or suspend a permit for good cause, which includes but is not limited to:

- (A) The application is incomplete or contains false, misleading or fraudulent statements with respect to any information required;
- (B) The proposed distress merchandise sale would interfere with the health, safety or general welfare of the public or constitute a breach of peace;
- (C) The proposed distress merchandise sale or the permittee fails to satisfy any qualification or requirement imposed by this Code, or other local, State or Federal law or regulation pertaining to such activities;
- (D) The applicant fails to comply with any conditions of his license or permit;
- (E) The inventory contains goods, wares or merchandise held by the applicant on consignment;
- (F) The applicant is or has been in violation of this Chapter or has had a permit issued to him pursuant to this Chapter revoked within a five year period immediately preceding the date of the present application for permit;
- (G) The inventory contains goods, wares or merchandise which were purchased by the applicant or added to his stock in contemplation of such sale, and for the purpose of selling the same at such sale.

For the purpose of this subparagraph, any unusual addition to the stock of such goods, wares or merchandise made within sixty days prior to the filing of such application shall be prima facie evidence that such addition was made in contemplation of such sale and for the purpose of selling the same at such sale;

- (H) Any representation made in said application is not true or any advertisement proposed to be used in connection with said sale is misleading.

(Ord. 3019 § 2 (part), 1982: prior code § 5-14-5)

6.34.060 Permit—Contents.

The permit shall specify the location at which the distress merchandise sale is to be conducted and the period of time, specifying the dates thereof, for which the permit is granted. It is unlawful for any permittee to conduct such sale at any place or at any time other than that specified in such permit.

(Ord. 3019 § 2 (part), 1982: prior code § 5-14-6)

6.34.070 Permit—Effective for thirty days—Extension.

The permit for a distress merchandise sale shall be issued for a period not to exceed thirty days. However, the Director for good cause may extend said permit for an additional period not to exceed thirty days, providing the permittee has submitted with an application for renewal a revised inventory showing the items listed on the original inventory remaining unsold.

(Ord. 3019 § 2 (part), 1982: prior code § 5-14-7)

6.34.080 Permittee subject to restrictions.

The permittee, in conducting a distress merchandise sale, shall:

- (A) Sell or offer for sale as distressed merchandise only those goods, wares and merchandise described in the inventory submitted with his application for a permit;
- (B) Prominently display the permit at the authorized place of sale;
- (C) Keep suitable records during and at the location of the sale, in which shall be made daily entries showing each item sold that day and the price paid by the purchaser. Said records shall be open for inspection by the Director or his designated representative;
- (D) Segregate any other goods apart from the goods listed in the filed inventory as being objects of the distress sale and shall make such distinction clear to the public by placing tags on all inventoried goods in and about the place of sale apprising the public of the status of all such goods;
- (E) Conduct the licensed sale in strict conformity with any advertising or holding out incident thereto and refrain from employing any untrue, deceptive or misleading advertising;
- (F) Include in all advertising the number of the distress merchandise sale permit, the beginning date of sale, and the ending date of said sale.

(Ord. 3019 § 2 (part), 1982: prior code § 5-14-8)

6.34.090 Permit—Limitations.

Where the applicant operates more than one place of business the permit issued shall apply only to the one store or branch specified in the application and no other store or branch shall advertise or represent that it is cooperating with it, or in any way participating in the permitted sale, nor shall the store or branch conducting the sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the permitted sale.

(Ord. 3019 § 2 (part), 1982: prior code § 5-14-9)

6.34.100 Permit—Fee.

The licensee must pay in advance a permit fee of one hundred fifty dollars before the permit authorized by this Chapter is issued.

(Ord. 3019 § 2 (part), 1982; prior code § 5-14-11)

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>> CHAPTER 6.39 FOOD CATERERS >>

CHAPTER 6.39 FOOD CATERERS

6.39.010 Food caterer defined.

6.39.020 License—Required.

6.39.030 Food caterer permit.

6.39.040 Food caterer permit—Application.

6.39.050 Food caterer permit—Issuance.

6.39.060 Fee.

6.39.010 Food caterer defined.

As used in this Chapter, unless the context otherwise requires, "food caterer" means a business that completely or partially prepares food at a fixed business location for delivery by vehicle to a location off the business premises for serving and consumption purposes.

(Ord. 4052 § 2, 1997)

6.39.020 License—Required.

Except as otherwise provided in this Chapter, no person shall engage in the business of a food caterer without first obtaining and thereafter maintaining a valid unexpired license pursuant to this Code.

(Ord. 4052 § 3, 1997)

6.39.030 Food caterer permit.

Any person licensed by the City of North Las Vegas, City of Henderson or the County to provide food catering services from a fixed business location within that jurisdiction is not required to have a valid unexpired license to provide food catering services in the City; provided, however, that such person first has applied for, and has been issued, a food caterer permit to provide food catering services at an event in accordance with the provisions of Section 6.39.040 of this Chapter.

(Ord. 4052 § 4, 1997)

6.39.040 Food caterer permit—Application.

Applicants for a permit to provide food catering services shall comply with the following provisions:

- (A) The application shall be made to the Department on forms provided by it, not less than three days prior to the proposed event unless otherwise authorized by the Director of the Department or his or her designee upon the applicant showing the impracticability of his or her compliance with the advance filing requirement.
- (B) The application shall set forth the following information:

- (1) Name and address of the applicant;
 - (2) Date, hour, address and description of the event;
 - (3) Approximate number of persons to be in attendance; and
 - (4) The name of the sponsor of the event.
- (C) Each event requires a separate permit.
- (D) A nonrefundable fee of ten dollars for each permit requested must be paid when the application is filed.

(Ord. 4052 § 5, 1997)

6.39.050 Food caterer permit—Issuance.

The Director of the Department may issue a permit to provide food catering services to an applicant if the Director finds there is compliance with the following provisions:

- (A) The food catering services will be provided in accordance with the requirements of the Health District.
- (B) The permit shall state the date, hours, and location of the food catering services permitted. Any food catering services at times or places beyond that stated in the permit shall be grounds for disciplinary action.
- (C) The food catering services will be performed consistent with this Chapter and in such a manner as to pose no threats to the general health, safety, welfare or morals of the inhabitants of the City.
- (D) The food catering permit application requirements of Section 6.39.040 of this Chapter have been met.

(Ord. 5998 § 86, 2008; Ord. 5386 § 6, 2001; Ord. 4052 § 6, 1997)

6.39.060 Fee.

Each person required to be licensed by this Chapter shall pay in advance a semiannual license fee based on gross sales as specified in LVMC 6.04.005.

(Ord. 4052 § 7, 1997)

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>> CHAPTER 6.72 RETAIL DEMONSTRATION MERCHANDISE SALES STORES >>

CHAPTER 6.72 RETAIL DEMONSTRATION MERCHANDISE SALES STORES

- 6.72.010 Definitions.
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- 6.72.030 License—Required.
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- 6.72.170 Posting name of licensee.
- 6.72.180 Refunds—Right of purchaser.
- 6.72.190 Refunds—Sign in store.

6.72.010 Definitions.

Whenever used in this Chapter, the following words shall have the meaning described in this Section, unless the context clearly indicates a different meaning:

- (A) "Demonstrator" means any individual who presents, demonstrates, sells, offers or agrees to sell, or sets the price for any goods, wares, or merchandise that is demonstrated, offered or sold to any person while attending or patronizing a retail merchandise demonstration sales store.
- (B) "Jewelry" means any goods, wares, or merchandise customarily kept in retail jewelry stores for sale, including but not limited to, precious and semi-precious stones and imitations thereof, whether sold or offered for sale with or without settings, watches, rings, bracelets, necklaces or articles made in whole or in part of gold, silver, platinum or other precious or semi-precious metals whether solid, plated or overlaid.
- (D) "Retail demonstration merchandise sales store" means a person in the business of selling goods, wares or merchandise by utilizing a demonstrator who presents and demonstrates such goods, wares or merchandise to an assembled group of three or more persons, sets the price of the article to be sold, and then agrees to sell the article to persons willing to pay the set price, and/or a person who advertises or holds himself out as a demonstration place or showroom for the sale of goods, wares or merchandise.

(Ord. 2148 § 2 (part), 1981; prior code § 5-36-1)

6.72.020 Regulation—Compliance with Code.

The City Council finds that, unless regulated strictly, the business of retail demonstration merchandise sales stores can be deceptive, fraudulent or misleading to many members of the public patronizing such business and that such businesses must therefor comply with Chapter 6.06.

(Ord. 5998 § 122, 2008; Ord. 2286 § 2, 1982; prior code § 5-36-2)

6.72.030 License—Required.

No person shall engage in the business or act as a demonstrator for a retail demonstration merchandise sales store without first obtaining and thereafter maintaining a valid unexpired license therefor as provided in this Code.

(Ord. 2286 § 3, 1982; prior code § 5-36-3)

6.72.050 Bond.

No license to conduct a business as a retail demonstration merchandise sales store shall be granted unless and until the applicant has filed with the Department a surety bond in the sum of twenty-five thousand dollars and with surety acceptable to and approved by the City Attorney. Such bond shall be conditioned that said licensee shall faithfully observe and comply with the provisions of this Chapter at all times during the continuance of such license, and conditioned further to indemnify, keep, save and hold harmless the City, or any other person, against all liabilities, judgments, costs, damages and expenses which the City, or any other person, may incur as a consequence of the issuance of said license, or by reason of any act or failure to act by said licensee, or by the failure or neglect of such licensee to observe and comply with this Code and with any State or Federal law.

(Ord. 5998 § 123, 2008; Ord. 2148 § 2 (part), 1981; prior code § 5-36-6)

6.72.070 Demonstrator license.

The semiannual license fee for each demonstrator shall be one hundred fifty dollars. This license fee is not pro-ratable and the license is nontransferable. The demonstrator's license must be in the possession of the licensee at any time the licensee is acting as a demonstrator.

(Ord. 2148 § 2 (part), 1981; prior code § 5-36-4)

6.72.080 Store license fee.

The semiannual license fee for any person engaged in the business of operating a retail demonstration merchandise sales store is five hundred dollars or five percent of gross sales, whichever is greater, to be collected in accordance with the provisions of Section 6.02.180 et seq. The City Council declares that the cost of regulation of this kind of business is greater than normal because continuous inspections are required, thereby requiring the employment of additional inspectors by the Department.

(Ord. 5998 § 124, 2008; Ord. 2148 § 2 (part), 1981; prior code § 5-36-5)

6.72.090 Location restrictions—Special use permit.

- (A) The retail demonstration merchandise sales store license shall specify the location where such sales are to be conducted and the period of time, specifying the dates thereof, for which

the license is effective. It shall be unlawful for any licensee to conduct a retail demonstration merchandise sale at any place or at any time other than that specified on his license.

- (B) Licenses shall be issued only in connection with a special use permit and only in zones where businesses of this type are permitted. No license shall be issued for a business location in the district bounded by the Union Pacific Railroad tracks on the west, Bonanza Road on the north, Eighth Street on the east and Bridget Avenue on the south.

(Ord. 2148 § 2 (part), 1981: prior code § 5-36-7)

6.72.110 Ledger requirements.

- (A) Every retail demonstration merchandise sales store licensee shall keep accurate ledgers in which shall be delineated an inventory, in a clear, legible manner, or:
- (1) All goods received at such store;
 - (2) Date of receipt;
 - (3) The cost price to the licensee of all goods, including goods purchased by said licensee on consignment for purposes of sale together with the name and address of the vendor;
 - (4) The names and addresses of the purchasers at the demonstration of sale;
 - (5) The date sold and the price paid by the purchaser together with detailed description of each article so sold.
- (B) The records shall be open to inspection during normal business hours by the Director of the Department or the Director's duly authorized enforcement officers.

(Ord. 5998 § 125, 2008: Ord. 2148 § 2 (part), 1981: prior code § 5-36-9)

6.72.120 False offers to purchase.

It shall be unlawful for any demonstrator to accept other than bona fide purchase offers during the time the demonstration sale is being conducted.

(Ord. 2148 § 2 (part), 1981: prior code § 5-36-10)

6.72.130 False representation.

It shall be unlawful for any demonstrator in describing the merchandise that he is offering to any prospective purchaser at a price fixed by the demonstrator to directly or indirectly, either by verbal or written statement or advertisement, make any false representation as to the exact and correct material quality, condition, and value as well as the ownership and/or manufacturer of the merchandise.

(Ord. 2148 § 2 (part), 1981: prior code § 5-36-11)

6.72.140 Substitution of articles.

It shall be unlawful for any person to substitute another article for the article being demonstrated and all articles of merchandise that are being sold must, at all times, be kept within sight of the purchaser until delivered to his possession.

(Ord. 2148 § 2 (part), 1981: prior code § 5-36-12)

6.72.150 Jewelry tag—Required—Content.

Each article of jewelry offered for sale by a retail demonstration merchandise sales store shall have attached securely thereto a tag or label upon which shall be plainly written or printed in English a true and correct statement of the kind and quality of the metal or other substance of which the article is made and the weight, karat, and percentage of purity thereof.

- (A) If the article is plated or overlaid, then the tag or label shall contain a true statement of the kind of metal or material under the plating.
- (B) If the article is in whole or part a precious, semiprecious, synthetic, or imitation stone, the statement shall contain the name, weight, quality and color of such stone, and synthetics and imitations shall be described as such.
- (C) If the article is a watch, the statement shall also contain the true name of the manufacturer thereof, the country of manufacture, and the number of jewels. If a watch consists of old works in a new case, or if any article of jewelry consists of any old or secondhand parts, this fact shall be set forth in the statement.
- (D) The tag or label shall remain securely attached to every article sold without any erasure, defacement or obliteration until after the article has been delivered and received by the customer.

(Ord. 2148 § 2 (part), 1981: prior code § 5-36-13)

6.72.160 Jewelry tag—Reading before sale.

Before offering to sell any article of jewelry, the demonstrator shall read, in such a manner as to be readily heard and understood at any place in the room where the demonstration sale is being conducted, the description of the article as it appears on the label or tag attached thereto.

(Ord. 2148 § 2 (part), 1981: prior code § 5-36-14)

6.72.170 Posting name of licensee.

Every licensee, whether a demonstrator or a licensee of a retail demonstration merchandise sales store, must have his name prominently displayed on or in the place of business in print of at least four inches in height so that the name can be easily read by the customers.

(Ord. 2148 § 2 (part), 1981: prior code § 5-36-15)

6.72.180 Refunds—Right of purchaser.

It shall be unlawful for any licensee of a retail demonstration merchandise sales store to refuse to refund or return the money, check or other evidence of indebtedness within twenty-four hours after demand therefor to the person who has purchased an article of merchandise from said licensee when demand has been made for the return of the money, check or other evidence of indebtedness within seventy-two hours after the purchase, provided that the purchaser returns the article or merchandise to the place of purchase in the same condition as it was in when purchased.

(Ord. 2148 § 2 (part), 1981: prior code § 5-36-16)

6.72.190 Refunds—Sign in store.

The licensee in a retail demonstration merchandise sales store shall display, at all times, a sign on the licensed premises of at least eighteen inches by eighteen inches with printing approximately one inch in height by one inch in width for each letter stating: "CASH REFUNDS

WITHIN 24 HOURS IN FULL AMOUNT OF PURCHASE IF DEMAND MADE WITHIN 72 HOURS OF PURCHASE."

(Ord. 2148 § 2 (part), 1981; prior code § 5-36-17)