

## **CHAPTER 8: BUSINESS**

Article

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## ARTICLE 8-1: GENERAL BUSINESS AND LICENSING PROVISIONS

### Section

- 8-1-1 Definitions
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- 8-1-3 Other regulatory provisions
- 8-1-4 Criminal penalties

games of skill, fortunetelling, games of chance, wheels of fortune or any other amusement device presented or offered upon the streets or vacant property within the city, other than circuses, animal shows or side shows with circuses.

### ' 8-1-1 DEFINITIONS.

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

**ADVERTISEMENT.** The attempt by publication, dissemination, solicitation, signage or circulation to induce directly or indirectly any person to enter into any transaction with persons conducting business activities within or outside the city.

**APPROPRIATE LICENSE.** A privilege license that has been issued pursuant to the provisions of Apache Junction Tax Code, Chapter 8A, Article III, Licensing and Recordkeeping; or a business or operating license that has been issued pursuant to the provisions of this chapter.

**A.R.S.** Arizona Revised Statutes.

**BUSINESS ACTIVITY.** To practice, transact or carry on any trade, business, game or amusement, calling, profession or occupation, or the renting, leasing or licensing for use of real property with the object of gain, benefit or advantage.

**BUSINESS LICENSE.** A license issued to a person conducting non-taxable business activity within the city.

**CARNIVAL COMPANY.** A collection of shows, exhibitions, feats of strength, merchandise booths,

**CASUAL ACTIVITY or (SALE).** A transaction of an isolated nature made by a person who neither represents himself or herself to be nor is engaged in a business activity. **CASUAL ACTIVITY** never includes the sale, rental, leasing or licensing for use of real property; nor does it include the sale of merchandise purchased or manufactured for the purpose of resale.

**CITY.** The City of Apache Junction.

**CLERK.** The City Clerk or designee.

**DEPARTMENT OF PUBLIC SAFETY.** The department within the city responsible for the protection of life and property and for the enforcement of the laws of the State of Arizona and the City of Apache Junction.

**LICENSE.** A business or operating license.

**MASSAGE ESTABLISHMENT.** Any place of business or establishment conducting business activity wherein any massage therapy techniques are administered, practiced or used.

**MASSAGE THERAPIST.** An individual who is either licensed or specifically exempted under A.R.S. Title 32, Chapter 42.

**MERCHANDISE.** Any new or used object, wares, goods, commodities, personalty and intangibles, real estate, amusements, food concessions or services.

**NON-TAXABLE BUSINESS ACTIVITY.** A person conducting business activity within the city, the income of which is not taxable in whole or in part pursuant to any section in Apache Junction Tax Code, Chapter 8A, Article IV or which meets the provisions of Apache Junction Tax Code, Chapter 8A, Regulation 8A-460.4.

**OPERATING ACTIVITY.** All activities conducted by a person who is deemed not to be in business.

**OPERATING LICENSE.** A license issued to a person conducting operating activities within the city.

**PEDDLER.** Any person operating as a solicitor, peddler, hawker, salesperson, vendor of goods, wares, merchandise, newspapers, magazines or services, and who goes from door to door, or to only one door in the city; or who offers such items for sale along a parade route on real property other than their own.

**PERSON.** An individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, limited liability company, the federal government, this state, any political subdivision or agency of this state, or such person=s legal representative. **PERSONS** affiliated through common ownership, or where one person owns another person, are considered separate **PERSONS** for licensing purposes.

**PERSON DEEMED NOT TO BE IN BUSINESS.** A person who is either:

- (1) A federally exempt organization which has received a determination of exemption under 26 U.S.C. ' 501(c);
- (2) The federal government, the State of Arizona, any other state or any political subdivision, department or agency;
- (3) A public educational entity operated pursuant to any provision of A.R.S. Title 15; or
- (4) Any person who engages or attempts to engage in a casual activity at a swap meet.

**PREMISES.** Any building, structure, lot or other area at which business activity is conducted. When the premise involves a building or structure, that premises shall include all outside areas including the parking lot.

**PRIVILEGE LICENSE.** A license issued pursuant to the provisions of Apache Junction Tax Code, Chapter 8A, Article III, Licensing and Recordkeeping to a person conducting taxable business activity within the city.

**SALE.** A transaction of any type where the title or ownership of tangible personal property or real property exchanges hands for a consideration of any type; or where the promise or completion of a service is exchanged for a consideration of any type.

**STREET BALLYHOO.** Any person advertising by means of any vehicle containing amplifiers, phonographs, loudspeakers, music rolls, microphones, broadcasting, radio, public address system or music of any description, operating upon the public streets or public grounds of the city.

**TAXABLE BUSINESS ACTIVITY.** A person engaged in business within the city, the income of which in whole or in part is taxable pursuant to any section in Apache Junction Tax Code, Chapter 8A, Article IV.

**TEMPORARY LOCATION.** Operating the same kind of business, for which a business license has been issued, at such location for no more than 7 consecutive days, except that food and beverage concession trailer vendors shall be limited to no more than 5 consecutive days at each temporary location.

**VALID.** Any license subject to the provisions of this chapter that has not expired, or has not been suspended, cancelled or revoked.

**VENDOR.** Any person soliciting or making a sale, or causing any advertisement for a product or service.

**ZONING ADMINISTRATOR.** The city official who initially determines zoning and land development

compliance, as appointed by the development services director.

(Am. Ord. 1296, passed 5-1-2007)

**' 8-1-2 CITY CLERK; DUTIES.**

(A) It shall be the duty and responsibility of the City Clerk to administer the provisions of this chapter and pursuant to this duty shall issue, renew, deny, suspend, cancel or revoke privilege, business and operating licenses.

(B) It shall be the duty of the City Clerk to file complaints with the City Attorney against all persons violating any of the provisions of this chapter.

(C) It shall be the duty of the City Clerk to prepare and issue an appropriate license for every person required to pay a license fee, and to state in each license the amount thereof, the period of time covered thereby, the name of the person for whom issued, the specific business activities conducted by the licensee, and the location and place of business where the business activities are carried on.

(D) It shall be the duty of the City Clerk, or deputy, before issuing a license under this chapter to require from every applicant a sworn application, on a form to be furnished by the city.

(E) The City Clerk may appoint license inspectors, and it shall be the duty of such inspector to inspect places of business activity subject to the provisions of this chapter and Apache Junction Tax Code, Chapter 8A, and report all violations to the City Clerk.

(F) No greater or lesser amount of license and/or registration fee shall be charged or received for any license issued hereunder than is provided for in this chapter, and no license shall be issued for any period of time other than as provided in this chapter.

(G) In no case shall any mistake made by the City Clerk in stating, fixing or collecting the amount of any license and/or registration fee prevent,

prejudice or estop the city from collecting the correct amount due as provided by this chapter.

(Am. Ord. 1296, passed 5-1-2007)

**' 8-1-3 OTHER REGULATORY PROVISIONS.**

(A) Where any business activity is subjected to a certificate of health or sanitary examination, before any license is issued, the applicant must produce such certificate or permit from the County Health Department, as provided for in A.R.S. ' 36-136 as amended.

(B) No license may be issued until the zoning administrator has provided preliminary verification that the business is in an approved zone. The Zoning Administrator shall furnish such verification within 5 business days of the request.

(C) In the event the Zoning Administrator subsequently disapproves the formal zoning certificate, the City Clerk shall revoke the person=s appropriate license.

(Am. Ord. 1296, passed 5-1-2007)

**' 8-1-4 CRIMINAL PENALTIES.**

Any person violating any of the provisions of this chapter, shall be deemed guilty of a misdemeanor and, if no other penalty is provided herein, shall upon conviction, be punished pursuant to the provisions of Vol. I, ' 1-1-11.

(Am. Ord. 1296, passed 5-1-2007)



## ARTICLE 8-2: SPECIFIC LICENSING AND REGISTRATION PROVISIONS

### Section

- 8-2-1 License required
- 8-2-2 General rules
- 8-2-3 Peddler registration required
- 8-2-4 Application to City Clerk
- 8-2-5 Licensing; fees
- 8-2-6 Permits; fees
- 8-2-7 Delinquency penalty
- 8-2-8 Unlawful activities
- 8-2-9 Suspension, revocation and cancellation of license
- 8-2-10 Notice of hearing and appeal

#### ' 8-2-1 LICENSE REQUIRED.

(A) The following persons shall obtain a privilege license and pay the appropriate licensing fees pursuant to the provisions of Apache Junction Tax Code, Chapter 8A, Article III, Licensing and Recordkeeping:

(1) Persons conducting any taxable business activity;

(2) Federally exempt organizations who have unrelated business income, as defined in 26 U.S.C. ' 512, from any business activity; and

(3) Municipal government entities who have income from any of the following sources:

(a) Renting, leasing or licensing for use of real property to other than another department or agency of the municipality;

(b) Producing, providing or furnishing electricity, electric lights, current, power, gas or water to consumers or ratepayers; or

(c) Sales of tangible personal property to the public, when similar tangible personal property is available for sale by other persons.

(B) Any person conducting any non-taxable business activity within the city shall obtain a business license pursuant to the provisions in this chapter.

(C) In order to maintain the public=s safety and interests, persons deemed to not be in business shall obtain an operating license pursuant to the provisions of this chapter.

(D) Any person who hires peddlers, either as employees, brokers or agents, to operate within the city shall acquire the appropriate license. Peddlers shall operate under such person=s license; but shall be required to register with the City Clerk pursuant to the provisions of Vol. I, ' 8-2-3. (Am. Ord. 1296, passed 5-1-2007)

#### ' 8-2-2 GENERAL RULES.

(A) Any person having a business or operating license shall have such license converted to a privilege license and shall pay the appropriate license fee if it is found that such person is conducting taxable business activity within the city.

(B) No person may apply for a license for another person, and no licensee may allow another person to use his or her license. All licenses issued hereunder shall be nontransferable and non-assignable.

(C) A person engaged in or conducting 1 or more businesses at 2 or more locations, or under 2 or more business names shall procure a license for each such location or business name. A *LOCATION* is a place of a separate business establishment. This division does not apply to persons solely renting, leasing or licensing for use of real property.

(D) A person engaged in or conducting business at 2 or more locations using the same business name may designate 1 such license required under division (C) above for tax reporting purposes.

(E) A new license is not required when a licensee has an address change; however, such licensee must provide the City Clerk with written certification that the licensee had changed business locations.

(F) A separate license is not required for each type of business activity provided that the each type of business activity is conducted by the same person, using the same business name, and at the same business location. Every person shall have his or her license updated with the City Clerk before engaging in any new business activity.

(G) Should questions arise as to form of business, interpretations of this chapter shall be based upon form indicia contained in the following: Apache Junction Tax Code, Chapter 8A, Arizona Revised Statutes; Internal Revenue Code; and rules and regulations prescribed by the Internal Revenue Service.

(H) All transfers of ownership, including changes in type of business entity, shall be considered to be a new business and, as such, shall be required to obtain an appropriate license and pay the required license fee.

(I) An appropriate license shall be displayed in a conspicuous place at each business or operating location. This division does not apply to persons solely renting, leasing or licensing for use of real property. Licensees conducting business activity at temporary locations shall have available either the license or a copy of the license at the temporary

location. Every person having a license under the provisions of this article shall produce and exhibit the license upon demand by any city police officer or city tax and licensing official.

(J) No license issued by the city shall be presumed to apply to any business activity which is a part of interstate commerce; or which such business activity is conducted as an agency or department of the United States government for which the government has failed to make provisions allowing states and municipalities to so license.

(K) The granting of a license is not deemed as evidence or proof that the licensee has complied with the provisions of this chapter, or other provisions of the Apache Junction city code, nor shall it stop the prosecution by the city for any violation of the Apache Junction city code.

(Am. Ord. 1296, passed 5-1-2007)

### **8-2-3 PEDDLER REGISTRATION REQUIRED.**

(A) Notwithstanding the provisions in Vol. I, 8-2-1, any person operating as a peddler shall register with the City Clerk and obtain an identification card showing the registration.

(B) Applicants for registration shall be required to furnish 2 recent satisfactory photographs of the applicant, one to be attached to the applicant's identification card and the other to be retained by the City Clerk's office. In the event the applicant is unable to supply such photographs, photographs will be supplied by the City Clerk's office for a fee of \$3 each. The City Clerk shall require the applicant to file his or her fingerprint identification with the City Clerk's office.

(C) Peddlers applying for registration shall be required to furnish to the City Clerk's office a complete description of the product to be sold in the city, together with information regarding sales methods to be used and references that will enable the City Clerk to determine whether or not the applicant is qualified to receive an identification card as provided herein.



(D) If approved, issuance of an identification card under the provisions of this article shall be completed within 15 days after the applicant has given the required information.

(E) Identification cards under this article shall be issued upon payment of a \$25 registration fee and shall be valid for the duration of the related license, unless the City Clerk discovers any of the following:

(1) He or she has a criminal record;

(2) He or she is associated with a company that has engaged in fraudulent dealings; or

(3) The proposed sales proposition includes some element of trickery, fraud or deceit.

(F) Identification cards shall be assigned the same status and duration as the person=s related license: active, suspended, canceled or revoked.

(G) Identification cards issued under the provisions of this article may be suspended, cancelled or revoked pursuant to the provisions of Vol. I, ' 8-2-8 subject to hearing and appeal pursuant to the provisions of Vol. I, ' 8-2-9.

(H) Peddlers wishing to continue peddling activities within the city shall apply for a new identification card upon expiration of the current identification card.

(Am. Ord. 1296, passed 5-1-2007)

**' 8-2-4 APPLICATION TO CITY CLERK.**

(A) An application for a license and/or identification card under this article shall be made on forms furnished by the city. Every application shall be accompanied by an application fee in the amount provided in Vol. I, ' 8-2-5. In the event a license and/or identification card is not issued, the application fee shall not be refunded but shall be applied to cover the cost of processing the application.

(B) All licenses shall be valid only for 1 year from the date issued unless renewed each year by paying the appropriate fee(s) on or before the last business day of the month prior to the annual anniversary of the original issuance of such license. Payment for renewal must be received within the City Clerk=s office by such date to be deemed filed and paid.

(Am. Ord. 1296, passed 5-1-2007)

**' 8-2-5 LICENSING; FEES.**

(A) The business license fee set out in the following schedule is hereby established for all non-taxable business activities.

(B) Notwithstanding any other required fee, all dealers in alcoholic beverages shall submit a \$50 non-refundable application fee to the city prior to the Council public hearing on the state liquor license application to cover the cost of conducting such public hearing. This fee shall apply to all new, owner-transfer, person-transfer, and location-transfer applications.

(C) A massage therapist operating as an independent contractor within the city and not as an employee of a massage establishment shall obtain shall obtain the appropriate license pursuant to the provisions of this chapter.

(D) In any action brought under or arising out of any of the provisions of this article, the fact that the person (defendant) is engaged in any business activity for which a license is required by this article, or that the party has conducted an advertisement for such activity shall be prima facie evidence of such party=s liability to pay the required fee.

(E) The conviction and punishment of any person for conducting any business activity without a license shall not excuse or exempt such person from the payment of any license fee due or unpaid at the time of such conviction.

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(F) The fee schedule for licenses issued under this chapter shall be as follows:

<i>Type of License</i>	<i>Initial Fee</i>	<i>Renewal Fee</i>
Business license (basic)	\$50	\$50
Duplicate or replacement license	\$25	\$25
Operating license	\$0	\$0

(Am. Ord. 1296, passed 5-1-2007)

**' 8-2-6 PERMITS; FEES.**

(A) Circus and/or carnival businesses must have approval of the Director of Public Safety, and are required to provide certificate of insurance naming as additionally insured the City of Apache Junction officials, employees and citizens. A privilege license is mandatory for such businesses. Applications for such business activities shall be submitted to the City Clerk no later than 6 working days prior to the date the event begins.

(B) Notwithstanding the provisions of division (B) above and other requirements deemed necessary to protect the health, safety and general welfare of

the public, circuses and/or carnival companies operating under the auspices of local non-profit organizations are exempt from the permit fee prescribed herein.

(C) Persons already in possession of an appropriate license, other than those solely licensed as peddlers, who wish to operate at temporary locations as defined by Vol. I, ' 8-1-1 shall pay a \$10 permit fee for each such location. Payment of such fee shall be valid for the term of the license.

(D) Permit fees are in addition to licensing fees detailed in Vol. I, ' 8-2-5 and in Apache Junction Tax Code, Chapter 8A, Article III, Licensing and Recordkeeping. The following permit fees shall be applied:

<i>Type of Permit</i>	<i>Initial Fee</i>	<i>Renewal Fee</i>
Distiller=s permit	\$225.00	\$22.50
Brewer=s permit	\$225.00	\$22.50
Winer=s permit	\$225.00	\$22.50
Hotel-motel permit to sell all spirituous liquors by individual portions and in the original containers	\$450.00	\$45.00
Hotel-motel permit to sell all spirituous liquors	\$450.00	\$45.00
Hotel-motel permit to sell beer and wine by individual portions and in the original containers	\$150.00	\$15.00

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<i>Type of Permit</i>	<i>Initial Fee</i>	<i>Renewal Fee</i>
Hotel-motel permit to see beer by individual portions and in the original containers	\$112.50	\$11.25
On-sale retailer=s permit to sell all spirituous liquors by individual portions and in the original containers	\$300.00	\$30.00
On-sale retailer=s permit to sell beer and wine by individual portions and in the original containers	\$150.00	\$15.00
On-sale retailer=s permit to sell beer by individual portions and in the original containers	\$112.50	\$11.25
Off-sale retailer=s permit to sell all spirituous liquors	\$112.50	\$11.25
Off-sale retailer=s permit to sell beer and wine	\$112.50	\$11.25
Off-sale retailer=s permit to sell beer	\$75.00	\$7.50
Club permit to sell all spirituous liquors	\$75.00	\$7.50
Restaurant permit to sell all spirituous liquors	\$450.00	\$45.00
Fortuneteller, palmist (with approval of the director of public safety)	\$1,200.00	\$1,200.00
Sexually oriented business	\$500.00	\$500.00
Each employee	\$100.00	\$50.00
Circus/carnival (per day)	\$300.00	\$150.00

(Am. Ord. 1296, passed 5-1-2007)

**' 8-2-7 DELINQUENCY PENALTY.**

(A) When any license fee provided for herein shall become due and unpaid, the same shall become delinquent and the City Clerk shall add thereto a penalty of \$25.

(B) No license shall be issued or renewed by the City Clerk until the license or registration fees

that are delinquent and the penalties added thereto have been paid in full.

(Am. Ord. 1296, passed 5-1-2007)

**' 8-2-8 UNLAWFUL ACTIVITIES.**

(A) It shall be unlawful for any person to conduct any business or operating activity within the

city without first having procured the appropriate license from the city.

(B) It shall be unlawful for any person to conduct any business activity using a suspended, cancelled or revoked license.

(C) It shall be unlawful for any person to conduct any business or operating activity within the city without complying with any and all regulations of such activity designated in this chapter.

(D) It shall be unlawful for any person licensed as provided in this chapter to operate under any name or conduct business under any designation not specified on such license.

(Am. Ord. 1296, passed 5-1-2007) Penalty, see Vol. I, ' 1-1-11

#### **' 8-2-9 SUSPENSION, REVOCATION AND CANCELLATION OF LICENSE.**

(A) An appropriate license shall be suspended for any person who fails to renew the license and pay the required renewal fee in a timely manner. The suspension period shall not exceed a 90-day period. If the license is renewed with the appropriate payment of renewal fee and related penalty during the suspension period, the status of the license shall be restored to current.

(B) Licenses issued under the provisions of this chapter shall be cancelled for any of the following reasons:

(1) License renewal has not been completed within 90 days of expiration;

(2) The licensee notifies the City Clerk in writing with appropriate signature that the business has been closed, sold or moved out of the city; or

(3) The licensee, upon adequate identification, verbally notifies the City Clerk that the business has been closed, sold or moved out of the city.

(C) Licenses issued under the provisions of this chapter may be revoked after notice and hearing, for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license;

(2) Any violation of this chapter; or

(3) Conducting a business activity in violation of the Arizona Revised Statutes.

(D) Revoked licenses may be reinstated only after the cause of such revocation has been fully corrected.

(E) A person whose license has been suspended, cancelled or revoked shall be issued a notice to cease business operations within the city.

(Am. Ord. 1296, passed 5-1-2007)

#### **' 8-2-10 NOTICE OF HEARING AND APPEAL.**

(A) To suspend or revoke a license, the City Clerk shall deliver or mail by certified mail to the business address as shown by the license application, a written notice that such license is suspended or revoked. The reason for such suspension or revocation shall be set forth in the notice. The notice shall also contain the licensee=s rights and procedures to appeal such suspension or revocation. A suspended or revoked license shall be surrendered to the City Clerk on demand.

(B) The City Clerk shall grant on demand to any licensee whose license has been revoked or suspended a full hearing on the merits of such suspension or revocation. Appeal of the City Clerk=s action to a hearing officer appointed by the City Manager, pursuant to division (C) below, shall not be had prior to the hearing. Demand for hearing shall be made within 10 working days of receipt of the City Clerk=s notice of suspension or revocation, and failure to demand a hearing within that time will constitute a full waiver. After considering evidence presented at the hearing, the City Clerk shall make

a decision to uphold or repeal the license suspension or revocation; and shall deliver or mail by certified mail to the business address as shown on the license application the results of the decision.

(C) Any person aggrieved by the City Clerk=s decision pursuant to division (B) above shall have the right of appeal to the designated hearing officer. The appeal shall be filed with the City Manager within 14 working days after receipt of the City Clerk=s decision. The appeal shall contain a written statement setting forth fully the grounds for the appeal. The hearing officer shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided for notice of hearing on revocation. The decision and order of the hearing officer shall be final and conclusive, except any person aggrieved may pursue any proper judicial proceedings.

(D) No person may reapply for any license after denial, revocation or non-renewal of such license unless the cause for such denial, revocation or non-renewal has been removed or corrected.

(Am. Ord. 1296, passed 5-1-2007)



## ARTICLE 8-3: PEDDLERS

### Section

- 8-3-1 Unlawful activities
- 8-3-2 Exemptions
- 8-3-3 Other regulatory requirements

#### ' 8-3-1 UNLAWFUL ACTIVITIES.

(A) It is unlawful for any person to erect or maintain any booth, stand or counter; or to keep or maintain any wagon, cart, vehicle, movable booth or stand for the purpose of barter or trade upon any city right-of-way which includes but is not limited to sidewalks, streets and alleys.

(B) It is unlawful for any appropriately licensed and registered peddler to erect or maintain any booth, stand, counter, wagon, cart or vehicle on any private property without first having provided a letter of permission from the business or property owner, and complied with all other applicable provisions of the city code and other regulations as may be adopted by the city.

(C) It is unlawful for any peddler in the course of his or her business to ring the doorbell or knock at any building whereon a sign bearing the words "no peddlers, solicitors or canvassers" or any similar verbiage is exposed to public view.

(D) It shall be unlawful for any person to operate as a peddler without first having registered with the City Clerk, without having a valid identification card in possession while conducting the business activity, or when failing to exhibit the card upon request by any resident or employee of the city.

(Am. Ord. 1296, passed 5-1-2007) Penalty, see Vol. I,

' 1-1-11

#### ' 8-3-2 EXEMPTIONS.

Newspaper deliverers are exempt from the provisions of this article for the sale of newspaper subscriptions.

(Am. Ord. 1296, passed 5-1-2007)

#### ' 8-3-3 OTHER REGULATORY REQUIREMENTS.

Any peddler conducting business along parade routes or at parades shall provide the city with proof of insurance coverage for any vehicle that is used in conjunction with such peddling activities, and shall provide the city with an acceptable certificate of insurance naming the city, its officers and employees as additional insureds. The coverage shall be a minimum of \$1,000,000 per event per occurrence, \$2,000,000 aggregate.

(Am. Ord. 1296, passed 5-1-2007)





## ARTICLE 8-4: AUCTIONS, PAWNSHOPS AND SECOND HAND DEALERS

### Section

- 8-4-1 Definitions
- 8-4-2 Suspension of license; appeal
- 8-4-3 Reports required

#### ' 8-4-1 DEFINITIONS.

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

**ABANDONED PROPERTY.** Property to which the owner has relinquished all right, title, claim and possession, with intention of not reclaiming it or resuming its ownership, possession or enjoyment.

**AUCTIONEER.** Any person who shall operate an auction house or who, as a principal or agent, shall offer any article for sale by public outcry, and where the items offered at auction are sold immediately to the highest bidder.

**AUCTION HOUSE.** Any establishment in which the business of auctioning articles is carried on for sale by public outcry, and where the items offered for auction are sold immediately to the highest bidder.

**DEALER.** Any person engaged in the business of purchasing or selling secondhand or cast-off material of any kind, such as any vehicle parts or accessories, machinery, iron, copper, brass, lead, zinc, tin, steel, aluminum, metal pipe and other metals, metal alloys, metallic cables, wire, ropes, cordage, bottles, bagging, rags, rubber, paper and other like materials which are purchased from persons other than the original manufacturer or authorized distributor selling same for money, credit or exchange. For the purposes of this article, the terms **SCRAP DEALER** and **JUNK DEALER** shall have the

same meaning as dealer. These provisions shall not apply to any person engaged solely in recycling metal cans, paper, cardboard and glass.

**PAWN TRANSACTION.** Either the act between the pawnbroker and a person pledging tangible personal property or extending credits on the security of pledged goods, or the act of purchasing tangible personal property with an expressed or implied agreement or understanding that it may be redeemed or repurchased by the seller for a fixed or variable price within a fixed or variable period of time.

**PAWNBROKER.** Any person engaged in business activity of pawn brokering, or the business of loaning money for himself or herself or for any other person, receiving as security for the repayment thereof, pawn transactions or pledges of personal property, or the business of purchasing personal property and reselling or agreeing to resell the article to vendors, their personal representatives or their assignees, at prices agreed upon at or before the time of such purchase, whether the business be principal or sole business so carried on, managed or conducted, or merely incidental to, in connection with or a branch or department of some other business or businesses.

**PAWNSHOP.** Any room, store or place in which the business is engaged in, carried on or conducted.

**SECONDHAND DEALER.** Any person engaged in conducting, managing or carrying on the business of buying, selling, trading or exchanging, or otherwise dealing in secondhand goods, wares, merchandise or articles, or old coins and money, jewelry, precious metals, semi-precious stones and similar items, whether the business be the principal or sole business so carried on, managed or conducted or

be merely incidental to, in connection with, or managed, or conducted or be merely incidental to, in connection with, or a branch or a department of some other business. The term *ANTIQUÉ DEALER* shall have the same meaning as "secondhand dealer". The term *SECONDHAND DEALER* shall not be construed to include trade-ins, dealers, or auctioneer in articles of property, the transfer of title to which is required by the laws of the state to be evidenced by written instrument and recorded in the office of the department of the state or county government. (Am. Ord. 1296, passed 5-1-2007)

#### ' 8-4-2 SUSPENSION OF LICENSE; APPEAL.

(A) Notwithstanding any other provisions of this chapter, the license of any auction house, dealer, pawnbroker or secondhand dealer shall be revoked for 1 year upon a showing that the operator or an employee of the establishment has been convicted of violating any of the provisions of A.R.S. Title 44, Chapter 11, Article 3 in the conduct of business of the establishment.

(B) Operators and employees of an auction house, dealer, pawnbroker or secondhand dealer shall be subject to all other license revocation, suspension and appeal procedures as prescribed by A.R.S. Title 44, Chapter 11, Article 3. (Am. Ord. 1296, passed 5-1-2007)

#### ' 8-4-3 REPORTS REQUIRED.

(A) Every person engaged in the business of auction house, dealer, pawnbroker or secondhand dealer shall make out and deliver to the Chief of Police a true, complete and legible report of all goods and articles received on deposit or consignment, in pawn, pledge, trade or exchange or by purchase. The report shall be made upon forms furnished by the city and shall be delivered within 24 hours after the receipt of the property concerned. Each sheet shall contain the following:

(1) A description of the property; including brand name, model and serial number, if any;

(2) The amount loaned or paid for the property, or amount allowed in trade;

(3) The number of the pawn ticket, if any is given;

(4) The date and time when property was received;

(5) The signature of the person from whom the property was received;

(6) The name (printed), address and age of the person. The reporting party shall require each person to show proof of his or her name by exhibiting state or federal identification;

(7) A description of the person, consisting of height, weight, race, date of birth, driver's license number, complexion and hair color; and

(8) The vehicle model and license number used in making delivery.

(B) No article shall be sold or exchanged by any auction house, dealer, pawnbroker or secondhand dealer until it shall have been in the custody thereof for 10 calendar days after making out and delivering to the Chief of Police the report required under division (A) above. Provided that in the case of an article consigned to an auction house, such article shall not be sold or exchanged until after it shall have been in the custody thereof for 3 days after delivering to the Chief of Police the report required under division (A) above. This division shall not apply to redemption of pawned or pledged articles.

(C) Every person engaged in the business of dealer or secondhand dealer shall record the description of every article sold for an amount of \$25 or more. He or she shall also record the name and address of the purchaser of such articles. This record shall be held by the dealer or secondhand dealer for at least 30 days after the sale.

(D) Upon notification by representatives of the Police Department that goods and articles received on deposit or consignment, in pawn, pledge, trade, exchange or purchase, are the fruits of a crime, no

auction house, dealer, pawnbroker or secondhand dealer shall dispose of the property. Interest upon the goods and articles pawned or pledged shall cease to accrue on the date of the notification.

(E) Every person engaged in the business of auctioneer, dealer, pawnbroker or secondhand dealer shall prominently display a copy of these provisions in a conspicuous place on the premises of the business.

(F) Every person engaged in the business of auctioneer, dealer, pawnbroker or secondhand dealer, who, in the conduct of his or her business, comes into possession of abandoned property, shall turn over the property to the Police Department for which a receipt shall be issued. If ownership of the property is not established within 90 days after delivery to the Police Department, the property shall be returned to the person from whom the Police Department obtained possession. This division shall not apply to unredeemed pawned or pledged articles.

(G) The business premises of any auction house, dealer, pawnbroker or secondhand dealer, along with their transaction records and stock of goods and articles, shall be open at reasonable hours to reasonable inspection by representatives of the police department or the City Clerk=s office.

(H) No person engaged in the business of auctioneer, dealer, pawnbroker or secondhand dealer shall knowingly permit a person whose license is under suspension to be employed in any capacity of such establishment.

(Am. Ord. 1296, passed 5-1-2007)



**ARTICLE 8-5: MASSAGE ESTABLISHMENTS**

Section

- 8-5-1 Definitions
- 8-5-2 Application
- 8-5-3 Requirements for establishments
- 8-5-4 Permitted locations
- 8-5-5 Unlawful activities; inspection of premises; hours of service
- 8-5-6 Change of location or employment
- 8-5-7 Suspension and revocation of license

- (1) The full legal name and current residence address of each principal;
- (2) Any other names by which each principal has been known;
- (3) Written proof that the each principal is over the age of 18 years;
- (4) Each principal=s height, weight and hair and eye color;
- (5) One portrait photograph of the principal, at least 2 inches by 2 inches in size, taken within the previous 6 months;

**‘ 8-5-1 DEFINITIONS.**

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

**MASSAGE THERAPY.** Any activity as defined in A.R.S. ‘ 32-4201.5 and any amendments thereto that is undertaken to increase wellness, relaxation, stress reduction, pain relief and postural improvement, or to provide general or specific therapeutic benefit.

**PRINCIPAL.** Any decision maker in the management or operation of a massage establishment. (Am. Ord. 1296, passed 5-1-2007)

**‘ 8-5-2 APPLICATION.**

(A) Any person desiring to obtain a business license to operate a massage establishment shall make application for same to the City Clerk.

(B) In addition to the information contained on the standard license application form furnished by the city, each principal in a business applying to operate a massage establishment shall submit the following additional information:

- (6) The business license history of each principal, whether that license was issued by this city, another city or any state; and whether the license was ever revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such suspension or revocation;
- (7) All felony convictions of each principal and the grounds of the conviction; and
- (8) A copy of the principal=s license issued pursuant to A.R.S. Title 32, Chapter 42. (Am. Ord. 1296, passed 5-1-2007)

**‘ 8-5-3 REQUIREMENTS FOR ESTABLISHMENTS.**

No massage business license for a massage establishment shall be issued or renewed unless inspection by the Building Safety Division of Development Services Department indicates the site of

the proposed establishment complies with each and all of the following minimum requirements:

(A) Minimum lighting shall be provided in accordance with the Uniform Building Code or equivalent is the current code that the Building Official relies on, and, in addition, at least 1 artificial light of not less than 60 watts shall be provided in each room or enclosure where services are performed on patrons and shall be in use whenever those services are being performed;

(B) Minimum ventilation shall be provided in accordance with the Uniform Building Code or other current code which the Building Official relies on;

(C) Adequate equipment shall be provided for disinfecting and sterilizing instruments used in administering or practicing any massage therapy techniques;

(D) Hot and cold running water shall be provided at all times;

(E) Closed cabinets shall be provided and used for storage of clean linens;

(F) Adequate bathing, dressing and toilet facilities shall be provided for patrons. A minimum of 1 dressing area, 1 toilet and 1 wash basin shall be provided for each massage establishment; provided, however, that if male and female patrons are to be served simultaneously at the establishment, a separate massage room and separate dressing areas shall be provided for male and female patrons;

(G) All walls, ceiling, floors, pools, showers, bathtubs, steam rooms and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms and cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use;

(H) Clean and sanitary towels shall be provided for each patron. The headrest of each table shall be

provided with a clean and sanitary towel, paper towel or sheet for each patron;

(I) A minimum of 1 separate wash basin shall be provided in each massage establishment, which basin shall provide soap or detergent and hot and cold running water at all times, and shall be located within or as close as practical to the area devoted to the performing of massage services. In addition, there shall be provided at each wash basin sanitary towels placed in permanently installed dispensers; and

(J) A massage establishment shall at all times comply with all applicable city ordinances, county, state and federal regulations.  
(Am. Ord. 1296, passed 5-1-2007)

#### **' 8-5-4 PERMITTED LOCATIONS.**

(A) A properly licensed massage therapist or health care professional shall only be permitted to provide massage therapy at the following business locations:

(1) Full service beauty salon, spa, health club, fitness center or massage establishment;

(2) Medical establishment of a health care professional; and

(3) In the home or business location of a client by any massage therapist having an appropriate license.

(B) A massage establishment shall not be permitted in any residential area.  
(Am. Ord. 1296, passed 5-1-2007)

#### **' 8-5-5 UNLAWFUL ACTIVITIES; INSPECTION OF PREMISES; HOURS OF SERVICE.**

(A) It shall be unlawful:

(1) For any person to conduct or operate a massage establishment on the same premises whereon is also conducted the business of a cocktail lounge,

photography studio, motel studio, art studio, telephone answering service, motion picture theater or bookstore; and

(2) For any person to practice or administer any massage or touching techniques, whether for a fee or gratuity:

(a) In a manner or under circumstances intended to arouse, appeal to or gratify sexual desires;

(b) To any other person whose genital organs are not covered by opaque material;

(c) While dressed in such a way as the genital organs, buttocks or female breast or breasts are not covered by opaque material; or

(d) In any way touch the genital organs of the individual receiving treatment.

(B) For any massage establishment to hire as an employee or independent contractor to conduct massage therapy without a valid massage therapist license issued pursuant to A.R.S. Title 32, Chapter 42. (Am. Ord. 1296, passed 5-1-2007) Penalty, see Vol. I, ' 1-1-11

**' 8-5-6 CHANGE OF LOCATION OR EMPLOYMENT.**

(A) A change in location of a massage establishment may be approved by the City Clerk provided that all ordinances and regulations of the city are complied with. The City Clerk shall order inspections of the proposed premises by the Building Safety Division as required by Vol. I, ' ' 8-5-4 and 8-5-5.

(B) Notification shall be made to the City Clerk by a massage establishment whenever a massage therapist begins or leaves the employ of the establishment. (Am. Ord. 1296, passed 5-1-2007)

**' 8-5-7 SUSPENSION AND REVOCATION OF LICENSE.**

In addition to the provisions contained in Vol. I, ' 8-2-9(C), the license of a massage establishment may be revoked or denied renewal upon any of the following grounds:

(A) That any principal or employee of the business has been convicted in a court of competent jurisdiction within the last 10 years of a felony or of any offense involving prostitution, sexual behavior, indecent exposure or pornography;

(B) That the licensee is has been convicted of untrue, fraudulent, misleading or deceptive advertising within the last 10 years;

(C) That the licensee has been found liable of willful negligence in the business of massage therapy or operating a massage establishment within the past 10 years; or

(D) That the licensee is engaged in the business of massage therapy under a false or assumed name, or is impersonating another establishment of a like or different name.

(E) Any aggrieved person may appeal the decision of the Police Chief or the Clerk pursuant to the appeal procedures set forth in Vol. I, ' 8-2-10. (Am. Ord. 1296, passed 5-1-2007)





**ARTICLE 8-6: SWAP MEET OPERATIONS**

Section

- 8-6-1 Definitions
- 8-6-2 License required
- 8-6-3 Unlawful practices of swap meet proprietor
- 8-6-4 Unlawful practices of swap meet vendors
- 8-6-5 Regulations

**VENDOR REGISTRATION LOG.** A well-bound volume kept by the proprietor to identify vendors.  
(Am. Ord. 1296, passed 5-1-2007)

**' 8-6-1 DEFINITIONS.**

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

**SWAP MEET.** A place of commercial activity, popularly known as a swap meet, flea market or park-and-swap, open to the general public for the purchase of merchandise on the premises, which place is available to the general public who wish to sell or barter merchandise on the premises, whether such sellers or vendors are in the business of vending or are making casual sales or some combination thereof and which place is normally composed of stalls, stands or spaces allotted to vendors at least 1 of whom does not occupy the same allotted space or spaces on an uninterrupted continuous daily basis.

**SWAP MEET PROPRIETOR.** Any person who rents, sells, donates or otherwise makes available to swap meet vendors any space within premises owned or controlled by the proprietor for the purpose of a swap meet sale.

**SWAP MEET VENDOR.** Any person located upon the premises of a swap meet for the purpose of conducting business activity at a swap meet.

**' 8-6-2 LICENSE REQUIRED.**

(A) Swap meet proprietor is a person deemed to be engaged in a taxable business activity. Thus, that person is required to obtain a privilege license with the city.

(B) Swap meet vendors shall obtain the appropriate license with the city before engaging in business or operating activities at a swap meet.  
(Am. Ord. 1296, passed 5-1-2007)

**' 8-6-3 UNLAWFUL PRACTICES OF SWAP MEET PROPRIETOR.**

In addition to the provisions in Vol. 1, ' 8-2-8, it is unlawful for a swap meet proprietor to fail to comply with the following requirements:

(A) To permit any person to engage in the sale of merchandise upon parking or other areas owned or controlled by the swap meet proprietor whenever such areas or sites are not specified on the proprietor=s license;

(B) To fail to control the entrance to and exit of all swap meet vendors and merchandise from the premises by the physical presence and personal supervision on the premises of the swap meet proprietor or his designated agents during the hours of operation of the swap meet;

(C) To fail to keep an accurate vendor registration log for a period of 4 years;

(D) To fail to make available the vendor registration log for inspection by the City Clerk or the department of public safety; and

(E) To fail to inquire of any vendor entering the premises of the swap meet proprietor for the purpose of doing business, the status of the vendor=s compliance with current city licensing regulations. (Am. Ord. 1296, passed 5-1-2007)

(B) The swap meet proprietor shall make no distinction between swap meet vendors conducting business activities and those conducting casual sales. All vendors at a swap meet shall be considered to be conducting business or operating activities. (Am. Ord. 1296, passed 5-1-2007)

#### **' 8-6-4 UNLAWFUL PRACTICES OF SWAP MEET VENDORS.**

In addition to the provisions in Vol. I, ' 8-2-8, it is unlawful for a swap meet vendor to fail to comply with the following requirements:

(A) To fail to post, at the swap meet vendor's assigned location, in a conspicuous place so as to be clearly seen by the public, the appropriate license that has been issued by the city; and

(B) To engage in sales at locations other than the vendor=s sales location assigned that day by the proprietor. (Am. Ord. 1296, passed 5-1-2007)

#### **' 8-6-5 REGULATIONS.**

(A) For the purpose of this article, the vendor registration log shall contain for each swap meet vendor a separate and distinct daily entry of the name, address, vehicle license numbers; tax, business or operating license number, drivers license number and other descriptive information in a form approved by the City of Apache Junction, of any swap meet vendor entering the premises of the swap meet proprietor for the purpose of a swap meet.

## ARTICLE 8-7: YARD SALES

### Section

8-7-1 Definition

8-7-2 Regulations

8-7-3 Conditions under which business license is required

' 8-7-2(B) shall be considered to be operating a business and shall be required to obtain an appropriate license.

(B) Any yard sale licensed as a business under the provisions of this article shall be wholly conducted within a screened or fenced area constructed of opaque materials. All such screened or fenced areas shall be constructed in accordance with applicable city zoning regulations.

(Am. Ord. 1296, passed 5-1-2007)

### ' 8-7-1 DEFINITION.

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

**YARD SALE.** The retail sale of merchandise by the resident of a specific residential address, and which complies with the definition of "casual activity" as defined in Vol. I, ' 8-1-1.

(Am. Ord. 1296, passed 5-1-2007)

### ' 8-7-2 REGULATIONS.

(A) Yard sales shall only be conducted by the owner or resident of the specific residential address.

(B) Yard sales shall be limited to no more than 4 times per calendar year per address at a maximum of 4 days each time.

(C) At no time shall any yard sale be permitted to operate if, in the judgment of the Public Safety Director, a traffic or parking hazard has been created.

(Am. Ord. 1296, passed 5-1-2007)

### ' 8-7-3 CONDITIONS UNDER WHICH BUSINESS LICENSE IS REQUIRED.

(A) Any individual operating a yard sale in excess of the number of times permitted under Vol. I,



**ARTICLE 8-8: LICENSING REQUIREMENTS FOR SPECIAL  
COMMUNITY AND PRIVATE EVENTS**

Section

- 8-8-1 Definitions
- 8-8-2 Special event sponsor requirements
- 8-8-3 Special event vendor requirements
- 8-8-4 Community event sponsor requirements
- 8-8-5 Community event vendor requirements
- 8-8-6 Private event sponsor requirements
- 8-8-7 Private event vendor requirements

Arizona Revised Statutes; Internal Revenue Code Rules and Regulations prescribed by the Internal Revenue Service.

**PRIVATE EVENT.** An event not exceeding 4 consecutive days in any calendar year which is conducted and sponsored by for-profit organizations, agencies or businesses. Those events may include non-profit organizations as cosponsors and/or participants. Non-profit organizations shall not lend their name or non-profit status to any entity or organization, for-profit or otherwise, in order to meet the requirements of a **PRIVATE EVENT**.

**' 8-8-1 DEFINITIONS.**

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

**COMMUNITY EVENT.** An event not exceeding 4 consecutive days in any calendar year which is conducted, organized and sponsored solely by non-profit organizations and is open to all participants on an equal basis. The **COMMUNITY EVENT** shall have the purpose of promoting or benefitting the city and its residents and/or the sponsoring non-profit organizations. The **COMMUNITY EVENT** does not preclude having for-profit financial sponsors who receive name or title recognition. Non-profit organizations shall not lend their name or non-profit status to any entity or organization, for-profit or otherwise, in order to meet the requirements of a **COMMUNITY EVENT**.

**NON-PROFIT ORGANIZATION.** Any religious, social, fraternal or civic organization which has been designated as a 501C organization by the Internal Revenue Service and which has a valid operating license as provided for in Vol. I, ' 8-2-1(C). Should questions as to form of business arise, interpretations of this section shall be based upon form indicia contained in the following:

**SPECIAL EVENT.** An event not exceeding 4 consecutive days in any calendar year which is conducted, organized and sponsored solely by non-profit organizations, has been approved as such by the Council during the annual budget process and which is open to all participants on an equal basis. The **SPECIAL EVENT** shall have the purpose of promoting or benefitting the city and its residents and/or the sponsoring non-profit organizations. The **SPECIAL EVENT** does not preclude having for-profit financial sponsors who receive name or title recognition. Non-profit organizations shall not lend their name or non-profit status to any entity or organization, for-profit or otherwise, in order to meet the requirements of a special event.  
(Am. Ord. 1296, passed 5-1-2007)

**' 8-8-2 SPECIAL EVENT SPONSOR REQUIREMENTS.**

(A) The sponsor of any special event which includes vendors shall pay a fee of \$50 per day. This fee shall be paid no later than 10 working days in