

CHAPTER 8 BUSINESSES

ARTICLE 1. MERCHANTS

Sec. 8-1. Bootblack License.

No person shall engage in the business of boot or shoe black in any of the streets, alleys, or public places in the town without first having obtained a license to do so from the Chief of Police. The license shall be issued without fee and at the discretion of the Chief, and shall be revocable at his pleasure. All applications for such license, if by a minor, shall be made in his behalf by his parent, or guardian.

ARTICLE 2. JUNK DEALERS

Sec. 8-2. Definitions.

a) As used in this Article:

(1) Fence means and includes any place for the purchase, reception or keeping of stolen goods.

(2) Junk means and includes among other things, old rope, iron, chain, brass, copper, tin, lead, such paper, bags, woolens, clips, bagging, rubber, glass, and empty bottles of different sizes, and all other things composed of or consisting of any combination of materials or articles in this Section mentioned.

(3) Junk Dealer means and includes every person who shall buy, sell, barter or exchange, or who shall collect, receive, store or hold in possession for sale, barter or exchange, any of the articles or things in or by this Section denominated or classified as junk, whether at wholesale or retail.

(4) Junk Store means and includes any store, shop, warehouse or building where junk is bought, sold, bartered or exchanged, or where junk is collected, received, stored or held in possession for resale, barter or exchange, either at wholesale or retail.

(5) Junk Wagon means and includes every wagon, automobile, car or other vehicle used by a junk dealer in the collection, disposition or transportation of junk from one place to another.

(6) Junk Yard means and includes any yard, place or enclosure other than a junk store, as herein defined, where junk is bought, sold, bartered or exchanged, either at retail or wholesale, or where junk is collected, received, stored or held for resale, barter or exchange, either at wholesale or retail.

(7) Junk Dealer means and includes every person who shall buy, sell, barter, or exchange, or who shall collect, receive, barter or hold in possession for sale, barter or exchange any of the articles or things in or by this Section denominated or classified as junk, where the amounts of weights thereof in separate transactions shall

Sec. 8-3. License Required.

CHAPTER 8. Businesses

Sec. 8-6. Revocation or Denial of License; Conducting a "Fence".

consist of small quantities, and one who purchases from junk peddlers.

Sec. 8-3. License Required.

(a) No person shall operate or maintain a junk business or junk yard without first having obtained a license therefore from the Department of Inspections and Permits.

(b) A separate license shall be required for each separate junk store or junk yard located on separate premises. When a junk store and a junk yard are located upon the same contiguous or adjoining premises, such business shall be considered as one business and only one license shall be required.

Sec. 8-4. License Application; Fee.

(a) An application for a license under this Article shall be filed with the Department of Inspections and Permits and shall contain such information as the Chief of Police may require.

(b) The annual fee for a license issued under this Article shall be as set by the Council in the Schedule of Fees. (See Fee Schedule)

Sec. 8-5. Operating as Pawnbroker; Prohibited; Inspections.

(a) No junk dealer shall receive any article or thing by way of pledge or pawn, nor shall such dealer loan or advance any sum of money on the security of any article or thing.

(b) No junk dealer, during the period in which he possesses a valid junk dealer's license or junk yard license, shall receive or hold any license to carry on the business of pawnbroker.

(c) The places of business and all junk of every junk dealer licensed under this Article shall at all reasonable times, be subject to inspection by the Chief of Police and the Department of Inspections and Permits.

Sec. 8-6. Revocation or Denial of License; Conducting a "Fence".

(a) The license of any person who shall have been licensed as a junk dealer, and who shall have been convicted of keeping, maintaining or conducting a "fence", shall, upon such conviction, be revoked by the Director of Inspections and Permits as provided in this Code. No person, who shall have been convicted of keeping, maintaining, or conducting a "fence" shall be granted a license as a junk dealer during the period of one (1) year after such conviction.

(b) No corporation which shall have been convicted of keeping, maintaining or conducting a "fence" shall be granted a license as a junk dealer during the period of one (1) year after such conviction.

(c) No corporation, any one of whose officers, stockholders or employees has been convicted of keeping, maintaining or conducting a "fence", shall be granted a license as a junk dealer during the period of one (1) year after such conviction, unless such corporation shall produce satisfactory evidence to the Director of Inspections and Permits that such officer, stockholder or employee has disposed of this entire interest in such corporation and has completely severed his connection with such application.

(d) Every person applying for a license as a junk dealer shall state in his

Sec. 8-7. Purchases from Minors.

CHAPTER 8. Businesses

Sec. 8-10. Maintenance and Operation.

application that he has not kept, maintained or conducted a "fence" and that he has not been convicted of keeping, maintaining or conducting a "fence" within one (1) year prior to the date of such application.

(e) Every corporation making an application for a license as a junk dealer, shall state in its written application that it has not, nor have any of its officers, stockholders or employees, kept, maintained or conducted a "fence" during the period of one (1) year prior to the date of such application.

Sec. 8-7. Purchases from Minors.

No junk dealer shall purchase any article whatsoever from any minor under the age of sixteen (16) years without the written consent of his parents or guardian.

Sec. 8-8. Hours of Operation.

No junk dealer shall receive in the conduct of his or its business, any goods, article or thing whatsoever from any person at any time on Sunday, or on any other day of the week, between the hours of 7:00 p.m. and 7:00 a.m.

Sec. 8-9. Articles not to be Immediately Sold.

No junk dealer shall expose for sale, nor sell or dispose of any goods, article, junk or thing whatsoever within two (2) days of the time of collecting, receiving, or purchasing the same, or until the same shall have been in the premises wherein the same are offered, exposed or sold, for at least two (2) days.

Sec. 8-10. Maintenance and Operation.

(a) The premises shall at all times be maintained so as not to constitute a nuisance or menace to the health of the community or of residents nearby, or a place of the breeding of rodent and vermin.

(b) No garbage or other organic waste and no paper, rubbish, rags or other flammable articles or materials shall be stored in such premises.

(c) Whenever any motor vehicle shall be received in such premises as junk, all gasoline and oil shall be drained into containers and removed therefrom, and none shall be permitted to remain upon the premises.

(d) The manner of storage, arrangement of junk and the drainage facilities of the premises shall be such as to prevent the accumulation of stagnant water upon the premises, and to facilitate access for fire-fighting purposes.

(e) All outdoor storage facilities shall be enclosed in a substantial, solid, nontransparent fence, not less than eight (8) feet or more than ten (10) feet high. Such

Sec. 8-11. Definition.

CHAPTER 8. Businesses

Sec. 8-13. Conditions of Sale.

enclosure shall at all times be painted and kept in good order.

(f) No materials or wastes shall be deposited or kept on any premises in such form or manner that they may be transferred off such premises by natural causes or forces.

(g) No material or merchandise of any sort shall be stored in front of the enclosure provided for in Subsection (3) hereof.

(h) No person shall burn in any junk yard refuse or junk, including rubber tires, batteries and rubber from wires or any type of junk or old used automobiles which may cause fumes or odors injurious to the health and welfare of adjoining residents.

ARTICLE 3. TAG SALES

Sec. 8-11. Definition.

As used in this Article, Tag Sale shall mean any sale which is held out to be or is commonly known as a garage, porch, room, backyard or tag sale or any other type of general sale conducted from, or on any other premises not located in a zoning district which permits such sales, where goods or articles of any type are held out for sale to the public, but shall not include a situation where specific items are held out for sale and all advertisement of such sale specifically names the items to be sold.

Sec. 8-12. Restriction on Frequency of Sales.

No person shall conduct a tag sale for the sale of personal property items more than two (2) times during any twelve (12) month period on the same premises.

Sec. 8-13. Conditions of Sale.

a) Tag Sales shall be subject to the following conditions:

(1) The sale shall involve only personal property items owned by the person or members of his household conducting the sale;

(2) No sale item shall be located and no sales activities shall be conducted on any public sidewalk, parkway, area, or other public property;

(3) All signs advertising such sale shall be located in the front yard area of the premises, and no such sale signs, handbills or other advertising matter shall be located or posted in or upon any public street, building or public property, except that one sign may be posted at the nearest street intersection. All signs advertising the sale shall be removed within twenty-four (24) hours after expiration of the time limit for such sale;

(4) The sale shall be limited to a consecutive period of not more than three (3) days and shall be conducted only during the hours of 9:00 a.m. and 9:00 p.m.;

(5) The sale shall be conducted in accordance with all other laws of the Town; and

(6) The sale shall be conducted without the use of outdoor loud speakers or any other similar amplification equipment.

b) Any variation of the provisions of Article 4 as it applies to tag sales will be subject to approval by the Police Chief.

ARTICLE 4. SALESMEN.

Sec. 8-14. Definitions.

a) As used in this Article:

(1) Canvasser or Solicitor shall mean any individual whether a resident of the town or not, taking or attempting to take order from anyone on the premises of a house, apartment, trailer or other place of residence for sale of goods, wares, merchandise, including articles of food, or personal property of any nature whatsoever for future delivery, or for services to be performed in the future, whether or not such individual shall carry or expose for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales or not.

(2) Hawker or Peddler shall mean any person, whether principal or agent, who goes from town to town or from place to place in the same town selling or bartering, or carrying for sale or barter or exposing therefore, any goods, wares, merchandise, including articles of food, either on foot or from any animal or vehicle.

(3) Itinerant Vendor shall mean any person, whether a principal or agent, who engages in a temporary or transient business in this state, either in one locality or in traveling from place to place, selling goods, wares, merchandise or conducting any closeout sale and who for the purpose of carrying out such business or sale, hires, leases or occupies any building or structure for the exhibition and sale of such goods, wares and merchandise, temporary or transient business meaning and including any exhibition and sale of goods, ware or merchandise which is carried on in any tent, booth, building or other structure, unless such place is open for business during usual business hours at least nine (9) months in each year.

(4) Salesman shall mean any person who shall sell or expose for sale, or solicit orders for any articles of food or any goods, wares, merchandise, materials or services, or solicit for any contracts within the town to or from anyone on the premises of a house, apartment, trailer or other place of residence, and shall include canvassers, solicitors, hawkers, peddlers and itinerant vendors.

Sec. 8-15. Credentials Required.

No peddler, hawker, solicitor, canvasser, or salesman, except as provided in Section 8-28, shall engage in such business within the Town limits without first obtaining identifying credentials therefore in compliance with this Chapter.

Sec. 8-16. Application for Credentials.

- a) Applicants for credentials under this Article must file with the Chief of Police a sworn application in writing, in duplicate, on a form to be furnished by the Chief of Police, which shall give the following information:
- (1) Name and Description of the applicant.
 - (2) Permanent home address and full local address of the applicant.
 - (3) A detailed description of the nature of the business and the goods to be sold.
 - (4) If employed, the name and address of the employer.
 - (5) The length of time for which the applicant wishes to engage in the business.
 - (6) The place where the property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced.
 - (7) Where such goods or products are located at the time such application is

Sec. 8-17. Application Fee.

CHAPTER 8. Businesses

Sec. 8-19. Issuance of
Credentials.

- filed, and the proposed method of delivery.
- (8) Make, model or registration number of motor vehicle, if any, to be used.
 - (9) Whether, when, where and on what charges he has ever been arrested, together with the disposition of such charges.
 - (10) Whether, when, where, in what court, and by whom, he or any present or former employer, principal or contract associate, has ever been sued in a civil action alleging fraud or misrepresentation in connection with, or as a result of the registrant's activities in soliciting for any contract or in selling, exposing or offering for sale or soliciting orders for any articles of food or any goods, wares, merchandise, materials or services.
 - (11) If a peddler, the exact location the vehicle, carton or box will be located; except no peddler shall locate in a residential zone unless the applicant located; except no peddler shall locate in a residential zone unless the applicant does not intend to remain stationary for the purpose of soliciting business. Effective: 10/19/83

Sec. 8-17. Application Fee.

(a) At the time of filing the original application, a fee shall be charged and collected by the Chief of Police as set by the Council in the Schedule of Fees. At the time of filing a renewal application, a fee shall be charged and collected by the Chief of Police as set by the Council in the Schedule of Fees.

(b) The fee shall be waived for charitable, political, religious and government organizations and their representatives, including public service organizations engaged in soliciting for charitable projects.

Sec. 8-18. Investigation of Applicant.

(a) Upon receipt of the application, the Chief of Police shall cause to be undertaken and completed within a period of two (2) weeks such investigation of the applicant's business and moral character, and of the statements made in the application, as well as, in the case of peddlers as described in Sec. 8-16(11), the proposed location, which for stationary peddlers, shall not be in a residential zone, as he deems necessary for the public good. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse his disapproval on the application and the reasons for the same, and notify the applicant thereof. In the case of a peddler, as described in Sec. 8-16(11), if it is determined that the location will result in a traffic hazard, or in the case of a stationary peddler, is in a residential zone, then as Chief Traffic Officer, the Chief of Police shall endorse his disapproval on the application, specifying the exact nature of the traffic hazard or that it is in a residential zone, and notify the applicant thereof. Effective: 10/19/83

(b) If for any reasons, the Chief of Police should fail to carry out and complete such investigation within a two (2) week period, the applicant may demand and be issued temporary credentials, which credentials may be revoked or made permanent depending on the results of the investigation.

Sec. 8-19. Issuance of Credentials.

(a) If, as a result of such investigation, the character, business responsibility, and in the case of a peddler described in Section 8-16(11), the proposed application of the applicant, are

Sec. 8-20. Credentials Fee.

CHAPTER 8. Businesses

Sec. 8-23. Revocation of Credentials.

found to be satisfactory, the Chief of Police shall endorse his approval on the application and deliver to the applicant credentials which shall show the name and address of the licensee, the kind of goods to be sold thereunder, the manner of sale, the date of issuance, and in the case of a peddler as described in Section 8-16(11), the location, and the length of time the credentials shall be operative.

(b) Before the credentials are delivered to the applicant, the applicant shall be photographed by the Chief of Police. Such photograph shall be permanently affixed to the credentials.

Sec. 8-20. Credentials Fee.

- a) The fee for issuance of credentials charged by the Chief of Police shall be as set by the Council in the Schedule of Fees.
- b) The fee shall be waived for charitable, political, religious and government organizations and their representatives, including public service organizations engaged in soliciting for charitable projects.

Sec. 8-21. Expiration of Credentials.

- a) Except as provided in Section 8-28, no person whose credentials have expired shall engage in any of the activities names in Section 8-15 until he shall have again registered with the Chief of Police, obtained new credentials and paid the same fee as in the case of original credentials.

Sec. 8-22. Presentation of Credentials.

It shall be the duty of any police officer of the Town to request any person seen engaging in any of the activities prescribed in Section 8-15, and who is not known by such officer to have proper credentials, to produce his credentials. Such officer shall enforce the provisions of this Article against any person found to be violating the same. Peddlers, hawkers, solicitors, canvassers and salesmen shall exhibit their credentials at the request of any citizen.

Sec. 8-23. Revocation of Credentials.

- a) Credentials issued under this Article may be revoked by the Chief of Police after notice and hearing, for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for credentials.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddlers, hawker, solicitor, canvasser or salesman.
 - (3) Any violation of this Article.
 - (4) Conviction of any crime or misdemeanor involving moral turpitude.
- b) Notice of hearing for revocation of credentials shall be given in writing setting forth specifically the grounds of complaint. Such notice shall be mailed by certified mail to the last known address of the holder at least five (5) days prior to the date set for hearing.

Sec. 8-24. Conduct of
Business.

CHAPTER 8. Businesses

Sec. 8-27. Police Records.

Sec. 8-24. Conduct of Business.

- a) Each person to whom credentials have been issued shall, while engaged in the Town in the activities for which he has credentials:
- (1) Conduct himself at all times in a quiet, orderly and lawful manner.
 - (2) Enter within any home only upon being expressly invited to do so by an occupant thereof.
 - (3) Leave any premises immediately upon the request of any occupant of the same.
 - (4) Deliver as agreed or represented, and within a reasonable time, all food, goods, wares, merchandise and materials and perform in like manner all services for which he has been paid in whole or in part, except as provided in Subsection 5.
 - (5) Refund promptly any payment made to him if he shall find that it is not reasonably possible for him to comply with Subsection (a) (4), unless the refund shall be refused by the other party.
 - (6) Give a written and signed receipt for all payments in excess of Two (\$2.00) Dollars received by him, stating the amount of the payment, a description of the food, goods, wares, merchandise, materials and/or services or contracts in connection with which said payment was made, the total of all charges made or to be made in connection with the same and when and in what amounts any additional payments are to be made.
 - (7) Give to the other party a copy, signed by the holder of the credentials, of any order, contract or other document which the party has signed. Compliance with this Subsection shall constitute compliance with Subsection (a) (6) to the extent that the requirements of Subsection (a) (6) are met by the document.
 - (8) Shall solicit, sell, hawk, canvass, or peddle only during the hours of 10:00 A.M. to 9:00 P.M.

Sec. 8-25. Posted Premises.

No peddler, hawker, canvasser, solicitor or salesman shall enter onto any premises or otherwise disturb the inhabitants of such premises if a sign stating "No Peddlers", "No Soliciting" or a similar type of sign is conspicuously placed on the premises.

Sec. 8-26. Peddler Plying Trade.

No person licensed as a peddler who shall utilize a vehicle, carton or box for the display of his product, shall cause such vehicle, carton or box to be located within five hundred (500) feet of any store, shop or mercantile establishment located in the Town, which store, shop or mercantile establishment shall have as part of its stock, goods, wares, merchandise, provisions or articles of food similar in nature to the products sold by said peddler.

Effective: 11/18/81

Sec. 8-27. Police Records.

The Chief of Police shall keep records of all credentials issued under the

provisions of this Article in a book or file kept for that purpose. The records shall contain, as to each holder of credentials, all application forms signed by him with a notation on each as to whether credentials were-issued or refused as a result of its being filed, the date of issuance or refusal, the reason for refusal, or the fee paid as the case may be, a summary of each complaint concerning the activities of the holder, and the date of any revocation of credentials granted pursuant to any application filed by him, together with a statement of the reasons therefore. The Chief of Police shall keep a detailed account of all receipts from applicants and shall turn such fees over to the Town Treasurer monthly.

Sec. 8-28. Exemptions.

a) The provisions of this Article shall not apply to:

(1) Persons selling only to stores, institutions, business, industrial, commercial establishment, and municipal agencies.

(2) Persons canvassing, soliciting or selling exclusively by telephone

(3) Persons delivering food, groceries, fuel oil, milk, newspapers and other goods or supplies which have been ordered or contracted for.

(4) Persons exempted by the Statutes and laws of the state, or persons in possession of valid licenses issued by the state covering the activities which would otherwise be regulated by this Article.

(5) Charitable, political, religious, governmental organizations and their representatives, including public service organizations engaged in soliciting for charitable projects, provided the organization itself makes application through its duly authorized representative for credentials for the organization as a whole.

(6) Persons selling arts and crafts at functions sponsored by a non-profit corporation, provided that the authorized representative of the non-profit corporation provides a list of those selling arts and crafts at the event.

Effective: 3/22/85

(7) Itinerant vendors, hawkers-peddlers, canvassers, solicitors and sales persons conducting business under the direction and control of a managing itinerant vendor licensed by the State under Connecticut General Statutes Section 21-28, as amended from time to time, at a facility used primarily for trade shows, exhibitions or conventions for at least nine months of the year.

Effective: 10-6-95

(8) Hawkers, peddlers and itinerant vendors doing business at functions sponsored wholly or in part by the Town, provided that prior to the function a duly authorized representative of the sponsoring Town department or commission has furnished the Chief of Police with the name and address of all such salesmen to be conducting business at the function, and provided the sponsoring Town department or commission makes the final determination on the location of such hawkers, peddlers, and itinerant vendors at such functions

ARTICLE 5. MASSAGE PARLORS***Sec. 8-29. Definitions.***

a) For the purpose of this Article:

(1) Employee shall mean any and all persons, other than the masseurs or

Sec. 8-30. Exceptions or Exemptions.

CHAPTER 8. Businesses

Sec. 8-33. Permit Application; Contents.

masseuses, who render any service to the permittee and who have no physical contact with customers and clients.

(2) Massage shall mean any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without any such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice.

(3) Massage Establishment shall mean any establishment having a fixed business where any person, firm association or corporation engages in or carried on, or permits to be engaged in or carried on, any of the activities mentioned under "Massage", and shall also include any business advertised or listed under the heading "Massage", and shall also include any massage business operated on a house call or out call basis. Effective 2/1/84

(4) Masseur and Masseuse shall mean any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

(5) Recognized School shall mean any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a resident course of study of not less than seventy (70) hours to be given in not more than three (3) calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.

Sec. 8-30. Exceptions or Exemptions.

This Article shall not apply to (a) schools, hospitals, nursing homes, sanitariums, or (b) persons holding an unrevoked certificate or license to practice the healing arts under the laws of the State of Connecticut, including a licensed massage therapist pursuant to Chapter 384a of the Connecticut General Statutes, or to persons working under the direction of any such licensed or certified person, or in any such establishment of such licensed or certified person.

Effective 12/18/96

Sec. 8-31. Promulgation of Rules and Regulations.

The Chief of Police or his designate, or the Director of Public Health may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this Article.

Sec. 8-32. Permit Required.

No person shall engage in, conduct, or carry on or permit to be engaged in, conducted, or carried on, in or upon any premises in the Town, the operation of a massage establishment without first having obtained a permit from the Chief of Police or his designate, after approval by the Director of Health.

Sec. 8-33. Permit Application; Contents.

(a) The application for a permit to operate a massage establishment shall set forth the exact nature of the massage to be administered, proposed place of business

Sec. 8-34. Filing of Application; Fee.

CHAPTER 8. Businesses

Sec. 8-36. Issuance of Business Permit; Requirements.

and facilities therein, and the name and address of each applicant.

(b) In addition to the foregoing, any applicant for a permit shall furnish the following information:

- (1) Written proof that the applicant is at least eighteen (18) years of age.
- (2) Two portrait photographs of at least two (2) inches by two (2) inches and fingerprints.
- (3) Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of the application.
- (4) Message or similar business license history of the applicant, whether such person has previously operated in this or another municipality or state under license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.
- (5) Any criminal convictions, except minor traffic violations, within the last ten (10) years.

Sec. 8-34. Filing of Application; Fee.

(a) Each applicant for a permit to maintain, operate or conduct a massage establishment shall file an application with the Chief of Police or his designate and pay a permit fee as set by the Council in the Schedule of Fees.

(b) In the event that the massage establishment permit is disapproved, one half (1/2) of the permit fee shall be retained by the Town for expenses incurred in the investigation of the application.

(c) The permit shall be renewed annually upon payment of a fee as set by the Council in the Schedule of Fees.

Sec. 8-35. Notice of Hearing

When the application is filed for a massage establishment permit, the Chief of Police shall fix the time and place for a hearing where the applicant may present evidence upon the question of his application. Not less than ten (10) days before the date of such hearing, the Chief of Police shall cause to be posted a notice of such hearing in a conspicuous place on the property in which or on which the proposed massage establishment is to be operated. The applicant shall maintain the notices posted for the required number of days.

Sec. 8-36. Issuance of Business Permit; Requirements.

- (a) The Chief of Police or his designate may issue a permit within thirty (30) days following a hearing if all requirements for a massage establishment described in this Article are met and may issue a permit to all persons who apply to perform massage services unless he finds:
1. The operation as proposed by the applicant, if permitted, would not have complied with all the applicable laws, including, but not limited to, the building, health, Town planning, housing, zoning and fire codes of the Town
 2. That the applicant and any other person who will be directly engaged in the management and operation of a massage establishment has been convicted of:

Sec. 8-37. Revocation or
Suspension of Permit.

CHAPTER 8. Businesses

Sec. 8-40. Masseur Permit
Application; Contents;
Certificate of Health.

- a. A felony;
 - b. An offense involving sexual misconduct with minors; or
 - c. Obscenity, keeping or residing **in** a house of ill fame solicitation of a lewd or unlawful act, prostitution or pandering.
- (b) Each such establishment shall conform to all rules and regulations contained herein and the State Sanitary Code as well as to such terms and conditions as the State Commissioner of Public Health and/or the local Director of Health, finds necessary and proper.
- (c) The issuance of a massage establishment permit shall be conditioned upon the right of the Chief of Police and the Director of Health to inspect the premises during business hours.

Sec. 8-37. Revocation or Suspension of Permit.

- (a) Any permit issued for a massage establishment may be revoked or suspended by the Chief of Police or his designate, after a hearing:
 - i. If it is found that the provisions of this Article are violated;
 - ii. Where the permittee or any employee of the permittee, including a masseur or masseuse, has been convicted of any offense found in Section 8-42, and the permittee has actual or constructive knowledge of the violation or conviction; or
 - iii. Where the permittee or licensee refuses to permit any duly authorized police officer or health inspector of the town to inspect the premises or the operation therein.
- (b) The Chief of Police or his designate, before revoking or suspending any permit, shall give the permittee at least ten (10) days written notice of the charges against him and the opportunity for a hearing, at which time the permittee may present evidence bearing upon the questions. In such cases, the charges shall be specific and in writing.

Sec. 8-38. Transfer of Permit.

No permit shall be transferable except with the written consent of the Chief of Police or his designate and the approval of the Department of Public Health, provided, that upon the death or incapacity of the permittee, the massage establishment may continue in business for a reasonable period of time to allow for an orderly transfer of permit.

Sec. 8-39. Masseur or Masseuse Permit Required.

No person, including an applicant for a massage establishment permit, shall engage in the practice of massage without first having obtained a masseur or masseuse permit from the Chief of Police or his designate upon a form provided by the Chief of Police. The applicant shall pay a filing fee, which shall not be refundable, as set by the Council in the Schedule of Fees.

Sec. 8-40. Masseur Permit Application; Contents; Certificate of Health.

- a) The application for a masseur or masseuse permit shall contain the

Sec. 8-41. Applicability to Masseurs Without Educational Requirements.

CHAPTER 8. Businesses

Sec. 8-43. Revocation of Masseur Permit.

following:

- (1) Name and resident's address.
 - (2) Social Security Number.
 - (3) Applicant's weight, height, color of hair and eyes, and fingerprints.
 - (4) Written evidence that the applicant is at least eighteen (18) years of age.
 - (5) Business, occupation, or employment of the applicant for three (3) years immediately preceding date of application.
 - (6) Whether such person has ever been convicted of any crime within the last ten (10) years except minor traffic violations. If any person mentioned in this Subsection has been so convicted, statement must be made giving the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction.
 - (7) Name and address of the recognized school attended, the date attended, and a copy of the diploma or certificate of graduation awarded the applicant, showing the applicant has successfully completed not less than seventy (70) hours of instruction.
- b) Any masseur or masseuse so employed is required to present a certificate from a physician licensed to practice in the State of Connecticut stating that the applicant has been examined and found to be free of any contagious or communicable disease and showing that the examination was conducted within thirty (30) days prior to the submission of the application.

Sec. 8-41. Applicability to Masseurs Without Educational Requirements.

(a) Applicants for a masseur or masseuse permit may substitute one year's continuous experience as a masseur or masseuse in lieu of a requirement of a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method and work of massage is taught. Such masseur or masseuse must obtain an affidavit attesting to such experience from the owner of the establishment where the continuous year of experience occurred. If, after diligent effort, the masseur or masseuse is unable to obtain an affidavit from the owner, such masseur or masseuse may submit an affidavit from a person who has first hand knowledge of his or her continuous year of experience.

(b) Qualified instructors in the art of massage shall not be required to obtain a masseur or masseuse permit unless such instructor engages in the practice of massage.

Sec. 8-42. Issuance of Masseur Permit.

- a. The Chief of Police or his designate may issue a masseur or masseuse permit within twenty-one (21) days following application, unless he find that the applicant for the masseur or masseuse permit has been convicted of:
- (1) A felony;
 - (2) An offense involving sexual misconduct with minors; or
 - (3) Obscenity, keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution or pandering.

Sec. 8-43. Revocation of
Masseur Permit.

CHAPTER 8. Businesses

Sec. 8-45. Operating
Requirements.

Sec. 8-43. Revocation of Masseur Permit.

(a) A masseur or masseuse permit issued by the Chief of Police or his designate shall be revoked or suspended after a hearing before the Chief of Police where it appears that the masseur or masseuse has been convicted of any offense enumerated in Section 8-42.

(b) The Chief of Police or his designate, before revoking or suspending any masseur or masseuse permit, shall give the masseur or masseuse at least ten (10) days written notice of the examination into his conviction record and the opportunity for a hearing before the Chief of Police, at which hearing, the Chief of Police or his designate shall determine the relevant facts regarding the occurrences of the conviction.

Sec. 8-44. Requirements of Facilities.

- (a) No permit to conduct the massage establishment shall be issued unless an inspection by the Director of Public Health or his authorized representative reveals that the establishment complies with each of the following minimum requirements:
 - (1) Construction of rooms used for toilets, tubs, steam baths, and showers shall be waterproofed with approved waterproof materials.
 - (2) Toilet facilities shall be provided in convenient locations. When five (5) or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per section shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.
 - (3) Lavatories or wash basins provided with both hot and cold running water should be installed in either the toilet room or vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.
- (b) The Director of Public Health shall certify that the proposed massage establishment complies with all the requirements of this Section and shall give or send such certification to the Chief of Police or his designate.

Sec. 8-45. Operating Requirements.

- (a) Every portion of the massage establishment, including appliances, apparatus and personnel shall be kept clean and operated in a sanitary condition.
- (b) All employees shall be clean and wear clean outer garments whose use is restricted to the massage establishment. Provisions for a separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.
- (c) All employees, masseurs and masseuses must be modestly attired. Diaphanous, flimsy, transparent, form-fitting or tight clothing is prohibited. Clothing must cover the employees', masseurs' or masseuses' chest at all times.
- (d) Private parts of patrons must be covered by towels, cloth or undergarments when in the presence of any employee, masseur or masseuse. Any contact with a patron's genital area is strictly prohibited.

Sec. 8-46. Register of Patrons.

CHAPTER 8. Businesses

Sec. 8-47. Inspections.

- (e) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in an approved sanitary manner.
- (f) Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each day business is in operation. Bathtubs shall be thoroughly cleansed after each use.
- (g) Advertising. No massage establishment granted a permit under the provisions of this Article shall place, publish, or distribute, or cause to be placed, published or distributed, any advertising material that depicts any portion of the human body that would reasonably suggest to prospective patrons that any services are available other than those services as described in Section 8-29, or that employees, masseurs, or masseuses, are dressed in any manner other than described in Subsection (c) hereof, nor shall any massage establishment indicate in the text of such advertising that any services are available other than those services described in Section 8-29.
- (h) Health services defined as a "massage" must be carried on in one
- (i) cubicle, room, booth or area within the massage establishment. No service massage may be carried on in any cubicle, room, booth or area except where such cubicle, room, booth or area has doors or walls so that all activity within a
- (j) cubicle, room, booth or area is visible from outside the same. No massage service or practice shall be carried on within any cubicle, room, booth, or any area within a massage establishment which is fitted with a door capable of being locked.
- (k) A massage establishment shall not carry on, or engage in or conduct business on Sunday and on any other day, shall not carry on, engage in or conduct business before 8:00 A.M. or after 11:00 P.M.
- (l) No alcoholic beverage or other intoxicants shall be displayed, served, ingested or sold on the premises of the massage establishment.
- (m) A full schedule of service rates shall be posted in a prominent place within the massage establishment in such a manner as to come to the attention of all patrons. No charges other than the specified rates for specified services are to be allowed without the patron being notified of the full cost prior to the rendering of any service.

Sec. 8-46. Register of Patrons.

(a) Every person who engages in or conducts a massage establishment shall keep a daily register, approved as to form by the Chief of Police or his designate, of all patrons with names, addresses and hours of arrival and, if applicable, the rooms or cubicles assigned. The daily register shall at all times during business hours be subject to inspection by Health Department officials and by the Police Department and shall be kept on file for one year.

(b) No person shall give, sign or use any false name or address in the daily register required to be kept by the massage establishment.

Sec. 8-47. Inspections.

The Police Department and the Department of Public Health shall at least twice a year, make an inspection of each massage establishment in the Town for the purposes of determining that the

Sec. 8-48. Penalties.

CHAPTER 8. BusinessesSec. 8-49. Opposite Sex
Massage Prohibited Outcall
Message.

provisions of this Article are complied with. Such inspections shall be made at a reasonable time and in a reasonable manner. No permittee shall fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

Sec. 8-48. Penalties.

Every person, except persons who are specifically exempt by this Article, whether acting as individuals, owner, employee of the owner, operator or employee of operator, or acting as a participant or worker in any way, who gives massages or conducts a massage establishment without first obtaining a permit and paying a license fee to the Town or who violates any of the provisions of this Article, shall be guilty of a misdemeanor. Upon conviction, such person shall be punished by a fine not to exceed One Hundred (\$100.00) Dollars, or by imprisonment for a period not to exceed thirty (30) days, or by both such fine and imprisonment.

Sec. 8-49. Opposite Sex Massage Prohibited Outcall Message.

- (a) No person holding a permit under this Article shall treat a person of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten (10). The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police. The requirements of this Subsection shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium.
- (b) No permittee shall administer massage on an outcall basis. Such person shall administer massage solely within an establishment licensed to carry on such business under this Article. Any violation of these provisions shall be deemed grounds for revocation of the permit granted hereunder. The restriction on outcall message shall not apply to a permittee who performs outcall massage as defined herein upon a customer or client who, because of reasons of physical defects or incapacities or due to illness is physically unable to travel to the massage establishment. If any outcall message is performed under this exception, a record of the date and hour of each treatment, and the name and address of the customer or client, and the name of the employee administering such treatment and the type of treatment administered, as well as the nature of the physical defect, incapacity or illness of said client or customer shall be kept by the licensee or person or employee designated by the licensee. Such records shall be open to inspection by officials charged with the enforcement of public health laws. The information furnished or secured as a result of any such inspection shall be confidential. Any unauthorized disclosure or use of such information by an employee or the business or the Town shall be unlawful.
- (c) No person owning, operating or managing a massage parlor shall knowingly cause, allow or permit in or about such massage parlor, any agent, employee, or any other person under his control or supervision to perform such acts prohibited in Subsections (a) and/or (b) of this Section.

Sections 8-50 through 8-59, DAY CARE NURSERIES, were repealed on 05/24/91.

Section 8-60. Purpose and Intent.

CHAPTER 8. Businesses

Section 8-60. Purpose and Intent.

ARTICLE 7. SEXUALLY ORIENTED BUSINESSES

Section 8-60. Purpose and Intent.

- (a) It is the purpose of sections 8-60 through 8-79, inclusive, to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the Town of East Hartford, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the town. The provisions of sections 8-60 through 8-79, inclusive, have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of sections 8-60 through 8-79, inclusive, to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of sections 8-60 through 8-79, inclusive, to condone or legitimize the distribution of obscene material.
- (b) Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Town Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z. J. Gifts D-4, LLC*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); and *Charette v. Town of Oyster Bay*, 2 Fed.Appx. 112 (2d Cir. 2001); *Beal v. Stern*, 184 F.3d 117 (2d Cir. 1999); *Buzzetti v. City of New York*, 140 F.3d 134 (2d Cir. 1998); *Marty's Adult World v. Town of Enfield*, 20 F.3d 512 (2d Cir. 1994); *Hickerson v. City of New York*, 146 F.3d 99 (2d Cir. 1998); *Casanova Entertainment Group, Inc. v. City of New Rochelle*, 165 Fed.Appx. 72 (2d Cir. 2006); *United States v. Kinzler*, 55 F.3d 70 (2d Cir. 1995); *Gold Diggers, LLC v. Town of Berlin*, 469 F.Supp. 2d 43 (D. Conn. 2007); *Centerfolds, Inc. v. Town of Berlin*, 352 F.Supp. 2d 183 (D. Conn. 2004); *Derusso v. City of Albany*, 205 F.Supp. 2d 16 (N.D.N.Y. 2002); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Andy's Rest. & Lounge, Inc. v. City of Gary*, 466 F.3d 550 (7th Cir. 2006); *Heideman v. South Salt Lake City*, 165 Fed.Appx. 627 (10th Cir. 2006); *H&A Land Corp. V. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *DLS, Inc. v. City of Chattanooga*, 107 F. 3d 403 (6th Cir. 1997); *Colacurcio v. City of Kent*, 163 F.3d 545 (9th Cir. 1998); *Déjà vu of Nashville, v. Metro. Gov't of Nashville & Davidson County*, 466 F.3d 391 (6th Cir. 2006); *Dr. John's, Inc. v. City of Roy*, 465 F.3d 1150 (2006); *ASF, Inc. v. City of Seattle*, 408 F.2d 1102 (2005); *Sensations, Inc. et al. v. City of Grand Rapids, et al.*, United States Court of Appeals, (6th Cir. 5/20/08) and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas – 1986; Indianapolis, Indiana – 1984; Houston, Texas – 1983; McCleary Report – 2004; Littleton, Colorado – 2004; Oklahoma City, Oklahoma – 1986; Dallas, Texas – 1997, 2004; New York Times Square – 1994; Garden Grove, California – 1991; Phoenix, Arizona – 1979, 1995-1998; Los Angeles, California – 1977; Whittier, California – 1978; Amarillo, Texas – 1977; “Do Off-site Adult Businesses Have Secondary Effects?”, McCleary, Weinstein, 11/14/07; “Rural Hotspots – The Case of Adult Businesses”, McCleary, 2008; “NLC Summaries of ‘SOB Land Use’ Studies. Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually

Oriented Businesses”, National Law Center, 1996; “How to Regulate Adult Entertainment by Zoning”, Laurien, Delaware County Regional Planning Commission; “Adult Entertainment, Staff Report”, St. Paul, MN 1983, 1988; “Report to: The American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses”, Hecht, 1996 and the Report of the Attorney General’s Working Group On The Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Town Council finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, lewdness, public indecency, unsanitary conditions, potential spread of disease, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, blight, litter, and sexual assault and exploitation; and
- (2) Each of the foregoing negative secondary effects constitutes a harm which the Town has a substantial government interest in preventing or abating. This substantial government interest in preventing secondary effects, which is the town’s rationale for the provisions of sections 8-60 through 8-79, inclusive, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the Town’s interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate the in the Town. The Town finds that the cases and documentation relied on in the provisions of sections 8-60 through 8-79, inclusive, are reasonably believed to be relevant to said secondary effects.

Section 8-61. Definitions.

As used in section 8-61 through section 8-79, inclusive:

- (1) “applicant” means a person signing an application for a license to be issued pursuant to section 8-65;
- (2) “employee” means any person who performs any service on the licensed premises on a full time, part time or contractual basis, whether or not such person is denominated an employee, independent contractor or agent. Employee does not include a person exclusively on the licensed premises for regular maintenance of the licensed premises or for the delivery of goods to the licensed premises;
- (3) “licensed premises” means the entire building or structure used for a sexually oriented business and the area adjacent to such building or structure, including areas designated for the parking of motor vehicles by patrons of a sexually oriented business and other areas under the ownership, control or supervision of the licensee;
- (3) “licensee” means any person granted a license pursuant to section 8-65;
- (4) “live sexually oriented entertainment” means any on-site, live performance by a person which contains or is characterized by the person’s exposure of sexual anatomical areas or the performance of sexual activity;

- (5) "live semi-nude entertainment" means any on-site, live performance by a person which contains the person's exposure of a semi-nude body;
- (6) "manager" means a person with authority to formulate policy for a sexually oriented business, to supervise employees of such business, or with overall responsibility of the operation of such business, including the on-site manager and all officers, directors, members or partners of the applicant;
- (7) "massage parlor" means any establishment having a fixed business where any person engages in or carries on, or permits to be engaged in or carried on, any method of vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electric apparatus or appliance with or without any supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or other similar preparations commonly used in this practice, whether or not such business is operated on a house call or out call basis, and any establishment advertised or listed under the heading of "massage" or "massage parlor". Massage parlor shall not include an establishment where the practice of massage is: (A) in any state-licensed hospital, nursing home, clinic, medical office or rehabilitation facility; (B) by a state-licensed physician, surgeon, chiropractor, osteopath, physical therapist or massage therapist or by a registered nurse, licensed practical nurse or technician working under the supervision of such health care provider who shall be present on the licensed premises during the time the service is rendered; (C) by trainers for any amateur or professional athlete or athletic team or school athletic program; or (4) by any state-licensed barber or beautician with regard to the massaging of the neck, face, scalp and hair for cosmetic or beautifying purposes;
- (8) "massage parlor" means any establishment having a fixed business where any person engages in or carries on, or permits to be engaged in or carried on, any method of vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electric apparatus or appliance with or without any supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments or other similar preparations commonly used in this practice, whether or not such business is operated on a house call or out call basis, and any establishment advertised or listed under the heading of "massage," "massage parlor," spa, or similar wording . Massage parlor shall not include an establishment where the practice of massage is: (A) in any state-licensed hospital, nursing home, clinic, medical office or rehabilitation facility; (B) by a state-licensed physician, surgeon, chiropractor, osteopath, physical therapist or by a registered nurse or licensed practical nurse.; (C) by trainers for any amateur or professional athlete or athletic team or school athletic program; (D) by any state-licensed barber or beautician with regard to the massaging of the neck, face, scalp and hair for cosmetic or beautifying purposes; or (E) by a massage therapist: (i) who has been licensed by the State of Connecticut Department of Public Health to practice Massage Therapy under the provisions of Section 20-206a et.seq. of the Connecticut General Statutes as amended, and has completed all testing and educational requirements thereunder; (ii) who holds the masseur permit required pursuant to section 8-73; and (ii) and who works at an establishment that complies in all respects with the provisions of sections 8-72 (1)-(11), 8-78 and 8-79.

Effective 11-05-15
- (9) "media" includes any books, magazines, videos, films, DVD's, photographs, reproductions, software, hardware or web-based content or any other technological display;

CHAPTER 8. Businesses

Sec. 8-62. Penalties for
Violation of Article.

Sec. 8-62. Penalties for
Violation of Article.

- (10) "semi-nude" means generally exposing the entire body except for completely and opaquely covered human genitals, pubic regions, buttocks, anus, and the entire areola of the female breasts;
- (11) "sexual activity" means (A) the showing or depiction of human genitals in a state of sexual stimulation or arousal; (B) acts of human masturbation, sexual intercourse, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus or sodomy; (C) the fondling or erotic touching of human genitals, pubic region, buttock or female breasts; (D) lap dancing; or (E) excretory functions as part of or in connection with any such activities;
- (12) "sexual anatomical areas" means less than completely and opaquely covered human genitals, pubic region, buttocks, anus and the areola of the female breasts and human male genitals in a discernibly turgid state, even if completely and opaquely covered;
- (13) "sexually oriented business" means any enterprise where a substantial or significant amount of the business or activity is associated with the performance, depiction, display or exhibition of a semi nude body, sexual activity or sexual anatomical areas and shall include sexually oriented retail stores or theaters and sexually oriented cabarets, massage parlors or live semi-nude entertainment;
- (14) "sexually oriented cabarets" means any nightclub, bar, restaurant or similar enterprise, whether or not alcoholic beverages are served, in which there is live sexually oriented entertainment or live semi-nude entertainment;
- (15) "sexually oriented entertainer" means any person who performs live sexually oriented entertainment or live semi-nude entertainment for compensation at any sexually oriented cabaret;
- (16) "sexually oriented retail store or theater" means any enterprise which has a substantial or significant amount of its inventory or floor space for, or of its income from, (A) media or novelty items, gag gifts, toys and paraphernalia that depict sexual activity, semi-nude bodies, or sexual anatomical areas or (B) novelty items, gag gifts, toys and paraphernalia that are designed or marketed for stimulating human genital organs, sexual arousal or sadomasochistic use except for medical films or publications or art or photograph publications that devote at least twenty-five percent of the lineage of each issue to articles and advertisements dealing with subjects of art or photography; and
- (17) "significant interest" means any share or equity interest in a partnership, limited liability company, corporation, or other commercial entity, equal to ten percent or greater of the equity or voting control of such entity.

Sec. 8-62. Penalties for Violation of Article.

(a) In addition to any fines or penalties for violation of the provisions of section 8-61 through section 8-79, inclusive, the town may apply to the superior court for injunctive and equitable relief

Sec. 8-63. License Required.

CHAPTER 8. Businesses

Sec. 8-64. Application.

including reasonable attorney's fees and costs expended by the town in enforcing the provisions of these sections.

(b) The provisions of section 8-61 through section 8-79, inclusive, shall not preclude any additional enforcement action taken by any appropriate town, state or federal official conducted pursuant to any applicable ordinance, regulation or law of the town or state or the United States of America.

(c) All remedies and penalties for violation of the provisions of section 8-61 through section 8-79, inclusive shall be cumulative.

Sec. 8-63. License Required.

(a) On and after the effective date of this ordinance, no person shall engage in, conduct or carry on or permit to be engaged in, conducted or carried on, in or upon any premises in the town, the operation of a sexually oriented business without a license pursuant to section 8-65, provided any such business operating on the effective date of this act may continue to operate without such license until January 1, 2009. A license may be issued for only one sexually oriented business at each fixed location. Any person who operates more than one sexually oriented business must have a license for each such business.

(b) No person shall operate, or knowingly perform any service directly related to the operation of, any unlicensed sexually oriented business.

(c) No license issued pursuant to section 8-65 shall be sold, assigned or transferred in any way, including, but not limited to: (1) the sale, lease or sublease of the sexually oriented business; (2) the transfer of shares, securities or interests that constitute a significant interest in such business, whether by sale, exchange or similar means; or (3) the establishment of a trust, gift or other similar legal device that transfers ownership or control of such business.

Sec. 8-64. Application.

(a) Any person may submit an application on a form prepared by the town for a license to operate a sexually oriented business to the Director of Inspections and Permits, or designate, together with an application fee as set forth in the Fee Schedule prior to the commencement of the operation of such business. The Director of Inspections and Permits, or designate, shall date stamp the application.

(b) The application shall be signed and filed by the owner of such proposed sexually oriented business and shall also be signed by the owner of the building and property on which such business will be located. In instances where an applicant is a partnership, limited liability company or corporation, the application shall be signed and filed by each individual who holds a significant interest in the applicant. The application shall be sworn to be true and correct by all persons signing the application a violation of which shall constitute perjury or false statement.

(c) In addition to any other information requested by the Director of Inspections and Permits, or

CHAPTER 8. Businesses

Sec. 8-64. Application.

Sec. 8-64. Application.

designate, the applicant for a license shall furnish the following information:

(1) Name, business address and primary residence address of each person with a significant interest in the sexually oriented business, including any partnership, corporation, limited liability company, corporation or other legal entity. Where an interest in a partnership, limited liability company or corporation is owned by an entity rather than an individual, the application shall include the name of that entity and all individuals with a significant interest in that entity must be disclosed, regardless of how many levels of ownership, or how many levels of parent, subsidiary or affiliate relationships;

(2) The location of the sexually oriented business to be operated under such license, including the street address, legal description of the property, and telephone number, if any;

(3) The current name, and any other name previously used by such person, and address of all employees and managers of the sexually oriented business at the time of application;

(4) Written proof that all individuals listed in subdivision (1) and subdivision (3) of subsection (c) of this section are at least eighteen years of age and are either citizens of the United States or have a legal right to work at such sexually oriented business;

(5) A recent photograph of each individual signing the application;

(6) The driver's license number, if such person holds a driver's license, social security number, if any, and birth date of each individual signing the application;

(7) If the person with a significant interest is:

(A) A partnership, the application shall be accompanied by the partnership agreement, if any;

(B) A limited partnership, the application shall specify the name of the partnership, the date and state of the filing of its certificate of limited partnership, and the name and address of its statutory agent for service of process, and shall be accompanied by a copy of the partnership agreement, if any, and by evidence that such partnership is in good standing under the laws of the state;

(C) A limited liability company, the application shall specify the name of the company, the date and state of the filing of its articles of organization, and the name and address of its statutory agent for service of process, and shall be accompanied by a copy of the operating agreement, if any, and by evidence that such company is in good standing under the laws of the state;

(D) A corporation, the application shall specify the name of the corporation, the date and state of incorporation, and the name and address of its statutory agent for service of process, and shall be accompanied by a copy of its bylaws, if any, and by evidence that such corporation is in good standing under the laws of the state;

(E) Operating under a fictitious name, the application shall be accompanied by a copy of the applicant's recorded trade name certificate;

(8) The name and location of any sexually oriented business previously owned or operated

Sec. 8-65. Licensing
Procedure.

CHAPTER 8. Businesses

Sec. 8-65. Licensing
Procedure.

by each applicant, or currently owned or operated by each applicant, in this or another municipality or state; whether the applicant has had a license for such business suspended or revoked; the dates of and reasons for such suspension or revocation; and the business entity or trade name under which the applicant operated such business that was subject to the suspension or revocation. Such business shall include any business of which the applicant was a partner, member, officer, director or shareholder;

(9) Any criminal convictions of each applicant, employee or manager of the sexually oriented business, of any crime constituting murder, felonious assault, robbery, bribery, extortion, criminal usury, arson, burglary, tax evasion, tax fraud, felonious acts of larceny, forgery, fraud in the offering, alteration of motor vehicle identification numbers, violation of any provision of Chapter 420b of the Connecticut General Statutes, dependency producing drugs, illegal sale or provision of alcohol to minors, moral turpitude, prostitution, obscenity or other sex-related crimes in any jurisdiction within ten years of the date of the filing of the application. Sex-related crimes include any action which constitutes a violation of sections 53a-194, 53a-196, 53a-196a, 53a-196b; 53a-196c, 53a-196d, 53a-82, 53a-83, 53a-83a; 53a-86, 53a-87, 53a-88, 53a-89, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b and 53a-73a of the Connecticut General Statutes, or violations of other laws of other States, the essential elements of which are substantially the same as these crimes;

(10) The exact nature of the activities to be conducted at the sexually oriented business;

(11) A sketch or diagram showing the configuration of the licensed premises drawn to a six inch accuracy scale and with marked dimensions of the interior of the premises, including a statement of total floor space occupied by the business. Such sketch or diagram shall include, without limitation, all doors, windows, bars, stages, manager's stations, restrooms, dressing rooms, booths, cubicles, rooms, studios, compartments, stalls, overhead lighting fixtures and any areas where patrons are not permitted; and

(12) A statement that each applicant is familiar with the provisions of this article, is in compliance with them, and consents to the authority of the Town in licensing and regulating the proposed sexually oriented business.

(d) If a license to operate a sexually oriented business is granted, the applicant shall provide the Director of Inspections and Permits, or designate, any material change in information contained in the application, including but not limited to changes in significant interests, within thirty days of such change.

Sec. 8-65. Licensing Procedure.

(a) Upon receipt of an application pursuant to section 8-64:

(1) the Director of Inspections and Permits, or designate, shall determine compliance of the proposed licensed premises with all applicable building codes and laws;

(2) the Chief of Police shall determine the criminal history of each applicant;

(3) the Fire Marshal shall determine compliance of the proposed licensed premises with all applicable fire codes and laws;

Sec. 8-65. Licensing
Procedure.

CHAPTER 8. Businesses

Sec. 8-65. Licensing
Procedure.

(4) the Director of Health and Social Services shall determine compliance of the proposed licensed premises with all applicable public health codes and laws; and

(5) the Zoning Enforcement Officer shall determine compliance of the proposed licensed premises with all applicable zoning regulations and laws and also compliance with all distance requirements set forth in section 8-69.

(b) Within thirty days of the date the application was filed, all determinations performed pursuant to subsection (a) of this section shall be completed. Each town official shall indicate a recommendation for approval or disapproval of the application, state the reasons for any disapproval, date it, sign it, and return such determination to the Director of Inspections and Permits, or designate. A town official shall disapprove an application if such official finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, article, regulation or other law under such official's enforcement authority.

(c) Within forty-five days of the date the application was filed, the Director of Inspections and Permits, or designate, shall render a decision approving or denying such application and shall file such decision with the town clerk and mail such decision to the applicant by certified mail, return receipt requested. If the Director of Inspections and Permits, or designate, denies the application, the Director shall state in writing the reasons for such denial. All copies of the determinations pursuant to subsection (b) of this section shall be attached to the decision.

(d) The Director of Inspections and Permits, or designate, shall issue to the applicant a license to operate a sexually oriented business if all requirements for a sexually oriented business described in section 8-61 through section 8-79, inclusive are met, unless the Director finds that:

(1) the applicant or any individuals disclosed under subdivision (1) or subdivision (3) of subsection (c) of section 8-64 are under eighteen years of age, except if such business will serve alcoholic beverages, then no applicant or individual shall be under twenty-one years of age;

(2) the applicant or any other person disclosed under subdivision (1) or subdivision (3) of subsection (c) of section 8-64 has been convicted in this state of any of the crimes specified in subdivision (9) of subsection (c) of section 8-64, or convicted in another state of crimes the essential elements of which are substantially the same as the crimes specified in subdivision (9) of subsection (c) of section 8-64, regardless of the pendency of any appeal, within ten years of the date the application was filed;

(3) within five years of the date the application was filed, an applicant or any other person disclosed under subdivision (1) or subdivision (3) of subsection (c) of section 8-64 has been denied a license by the town to operate a sexually oriented business, except for technical reasons including but not limited to denial pursuant to subsection (e) of this section, has had a license revoked by the town, or has failed to correct any material violation of section 8-61 through section 8-79, inclusive, for more than thirty days, after which the manager has received written notice;

(4) within three years of the date the application was filed, an applicant or any other person disclosed under subdivision (1) or subdivision (3) of subsection (c) of section 8-64 has had a license to operate a sexually oriented business denied or revoked by another municipality or state except for technical reasons;

Sec. 8-65. Licensing
Procedure.

CHAPTER 8. Businesses

Sec. 8-65. Licensing
Procedure.

- (5) an applicant or any other person disclosed under subdivision (1) or subdivision (3) of subsection (c) of section 8-64 is overdue by more than thirty days on payment to the town of any taxes, fees, fines or other penalties relating to the sexually oriented business or the licensed premises;
 - (6) the business as proposed in the application, if permitted, would not have complied with all applicable statutes, codes, ordinances, laws and regulations including, but not limited to, the fire, building, health, and zoning codes of the town, and the provisions of section 8-61 through section 8-79, inclusive. If the premises are not in compliance, the applicant shall be advised of the reasons in writing and any measures the applicant must take to bring the premises into compliance for a license to issue;
 - (7) the licensed premises are not in compliance with all distance requirements set forth in section 8-69;
 - (8) the applicant has failed to complete the license application as specified in subsection (c) of section 8-64, or has provided materially false or misleading information in the application;
 - (9) the application fee has not been paid;
 - (10) the granting of the application would violate a statute, ordinance or court order; or
 - (11) the business described in the application, if a limited partnership, limited liability company or corporation, is not in good standing under the laws of the state.
- (e) Any failure of the Director to approve or deny an application for license within forty-five days of the date on which the application was filed shall constitute a denial subject to appeal.
- (f) If the sexually oriented business application is denied except pursuant to subsection (e), the town shall retain fifty percent of the permit fee as payment for expenses incurred in the investigation of the application and shall return the remainder to the applicant.
- (g) When an application is denied solely for reasons stated in subdivision (6) of subsection (d) of this section and such violation is correctable, the applicant shall be given an additional thirty days from the date of such notification of denial to bring the licensed premises into compliance. Upon verification by the Director of Inspections and Permits, or designate, that the correction has been made, which shall be determined no later than forty-eight hours after receipt by the Director of Inspections and Permits, or designate, of written notice of such correction, a license shall be issued unless no new violations or other disqualifying factors have occurred within such thirty days.
- (h) As a condition of the license, the entire licensed premises shall be open to random physical inspections for compliance with the provisions of section 8-61 through section 8-79, inclusive, by any Town official or employee in the discharge of such official or employee's duties during all hours when the licensed premises are open for business. Any refusal to allow such an inspection shall constitute a violation of this article. This subsection shall be narrowly construed to authorize reasonable inspections of the licensed premises but not to authorize a harassing or excessive pattern of inspections.
- (i) The license, if granted, shall state the name, business and residence address of the applicant,

CHAPTER 8. Businesses

Sec. 8-66. Expiration and
Renewal.

Sec. 8-67. Suspension and
Revocation.

the expiration date, the address of the sexually oriented business, and the department or public official and telephone number to whom to report any violation of the provisions of section 8-61 through section 8-79, inclusive. The license shall also include a notice that the subject premises are subject to random inspections by town official or employees of the town for compliance with the provisions of section 8-61 through section 8-79, inclusive.

(j) The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read by the public at all times.

Sec. 8-66. Expiration and Renewal.

(a) Each license issued pursuant to section 8-65 shall expire one year from the date it is issued, unless it is renewed upon application, pursuant to section 8-64, accompanied by payment of a renewal fee as set forth in the Fee Schedule. Such application and application fee shall be submitted to the Director of Inspections and Permits, or designate, at least thirty days before the expiration date of the license, but not more than ninety days. If the application is filed within such time and the renewal fee paid, the Director of Inspections and Permits, or designate, shall, prior to the expiration of the previous license, renew the license for an additional one year, unless the Director of Inspections and Permits, or designate, finds any grounds for denial of the original application pursuant to subsection (d) of section 8-65. If renewed, the Director of Inspections and Permits, or designate, shall mail the renewed license to the applicant prior to the expiration date of the previous license. If not renewed, the Director of Inspections and Permits, or designate, shall mail a notice of non-renewal to the applicant by certified mail, return receipt requested, prior to the expiration date of the previous license, stating the reasons for such non-renewal.

(b) If there are uncorrected violations of section 8-61 through section 8-79, inclusive or uncorrected violations of any fire, building, health or zoning codes or regulations, of which the applicant has received written notice, the current license shall be extended for a maximum of thirty days beyond the original expiration date in order for all corrections to be completed and inspections done to determine compliance. If the applicant does not make such corrections of violations within such thirty days, no license renewal shall be issued. The Director of Inspections and Permits, or designate, shall mail a notice of non-renewal to the applicant by certified mail, return receipt requested, within five days after the extended thirty-day period, stating the reasons for such non-renewal.

(c) Notwithstanding the provisions in subsection (a) and subsection (b) of this section, in no instance shall a renewal be issued if within the one-year period of the previous license, such sexually oriented business has had two or more material violations of section 8-61 through section 8-79, inclusive, to which the manager has received written notice, or has had one or more uncorrected material violations of section 8-61 through section 8-79, inclusive, pending for more than thirty days. As used in this section, "material violation" means any violation of the provisions of section 8-61 through section 8-79, inclusive, unless such violation is of a technical nature.

(d) Should a license not be renewed for any violation of section 8-61 through section 8-79, inclusive, no license shall be issued for five years from the expiration of the previous license.

Sec. 8-67. Suspension and Revocation.

CHAPTER 8. Businesses

Sec. 8-67. Suspension and Revocation.

Sec. 8-67. Suspension and Revocation.

(a) The Director of Inspections and Permits, or designate, may suspend a sexually oriented business license for a period not to exceed thirty days if there are uncorrected violations of section 8-61 through section 8-79, inclusive, or uncorrected violations of any fire, building, health or zoning codes or regulations, of which the manager has received written notice, or any condition under subsection (d) of section 8-65 that constitutes grounds for denial of such license. The Director of Inspections and Permits, or designate, shall issue such suspension in writing stating the reasons therefore and shall notify the applicant by certified mail, return receipt requested, or by service at such address or at the licensed premises. If a suspension is issued for a correctable violation, the Director of Inspections and Permits, or designate, within forty-eight hours of receipt of written notice that the correction has been made, shall verify the correction or failure to correct and shall terminate such suspension upon verification of such correction. No sexually oriented business shall continue to operate while under suspension.

(b) The Director of Inspections and Permits, or designate, shall revoke any license if the Director finds:

(1) any grounds for denial of such license application under subsection (d) of section 8-65;

(2) that materially false or misleading information or data was given on, or material facts were omitted from, any application for a sexually oriented business license;

(3) within a one-year period there have been two or more material violations of this article, to which the manager has received written notice;

(4) there have been one or more uncorrected material violations of this article pending for over thirty days, to which the manager has received written notice;

(5) there has been a failure to correct within thirty days any violation for which the license was suspended pursuant to subsection (a) of this section;

(6) there has been a violation of subsection (c) of section 8-64;

(7) the applicant or any other person disclosed under subdivision (1) and subdivision (3) of subsection (c) of section 8-64, or any manager has knowingly allowed any illegal activity to occur on the licensed premises including, but not limited to, prostitution, gambling, or the possession, use or sale of controlled substances; or

(8) the applicant or any other person disclosed under subdivision (1) and subdivision (3) of subsection (c) of section 8-64, or any manager has knowingly operated the sexually oriented business while the business's license was under suspension.

(c) At least ten days prior to the revocation of any license, the Director of Inspections and Permits, or designate, shall issue such revocation in writing stating the reasons therefore and shall notify the applicant by certified mail, return receipt requested, or by service at such address or at the licensed premises.

(d) Subject to subsection (f) of section 8-68, no sexually oriented business shall continue operations after its license has been revoked and no new license shall be issued for the same applicant for five years from the date of revocation.

(e) As used in this section, "material violation: means any violation of the provisions of section 8-61 through section 8-79, inclusive, unless such violation is of a technical nature.

Sec. 8-68. Appeal.

(a) Within ten days of receipt of notification of a denial, non-renewal, suspension or revocation of a license, the applicant may appeal such decision by submitting a written appeal to the town clerk requesting an appeal hearing before the Town Council.

(b) Such hearing shall be scheduled no later than twenty days from the date of the appeal filed in accordance with subsection (a). Not less than ten days before the date of such hearing, a notice of hearing shall be sent to the applicant by certified mail, return receipt requested, or by service at such address or at the licensed premises, and shall be posted in a conspicuous place on the proposed or licensed premises.

(c) At such hearing, the applicant shall have the opportunity to present evidence on its behalf and shall have the right to cross-examine town officials and other witnesses. The Town Council shall conduct the hearing in accordance with the provisions of Chapter 54 of the Connecticut General Statutes.

(d) Within ten days of the close of such hearing, the Town Council shall either sustain or overrule the denial, non-renewal, suspension or revocation and shall issue written notice of its final decision, stating the reasons therefore, and shall forward such decision to the applicant by certified mail, return receipt requested. If the denial, non-renewal, suspension or revocation is overruled, the Director of Inspections and Permits, or designate, shall immediately issue such license or renewal of license, terminate the suspension or rescind the revocation, as the case may be.

(e) The decision of the Town Council may be appealed to the superior court within twenty days receipt of written notice of such decision or the applicant may challenge such decision in any court of competent jurisdiction by any available procedure, including a writ of certiorari, a writ of mandamus, a petition for temporary injunction or an action for declaratory or injunctive relief pursuant to 42 U.S.C. § 1983. If any court action challenging the Town Council's decision is initiated, the Town Council shall prepare and transmit to the court a transcript of the hearing within ten days of receipt of written notice of such action. The Town shall consent to an expedited briefing or disposition of the action, shall comply with any expedited schedule set by the court and shall facilitate prompt judicial review of the proceedings.

(f) During the pendency of any appeal of a non-renewal, suspension or revocation, the sexually oriented business may operate, unless otherwise ordered by the superior court.

Sec. 8-69. Location.

(a) The provisions of section 503.1.b of the town zoning regulations, as may be amended from time to time, are hereby incorporated by reference, and any violation of such regulations shall be deemed a violation of the provisions of section 8-61 through section 8-79, inclusive.

(b) The licensed premises of a sexually oriented business shall be at least two hundred and fifty feet from the property line of any property on which any school, college or other

Sec. 8-70. Operating Requirements.

CHAPTER 8. Businesses

Sec. 8-70. Operating Requirements.

institution of higher education licensed by the state of Connecticut, or any portion thereof, is located.

Sec. 8-70. Operating Requirements.

(a) The following requirements shall apply to each sexually oriented business within the town:

(1) No manager or employee of a sexually oriented business shall perform or permit to be performed, offer to perform, or allow patrons to perform any illegal activity on the licensed premises;

(2) A sexually oriented business shall comply with all applicable statutes, codes, ordinances, laws and regulations including, but not limited to, the fire, building, health, and zoning codes of the town and state;

(3) A sexually oriented business shall be physically arranged in such a manner that the entire interior portion of any room or other area used for the purpose of viewing live sexually oriented entertainment or live semi-nude entertainment or any depiction of semi-nude bodies, sexual anatomical areas or sexual activity in any media shall be clearly visible and continuously open to view from the common areas of the premises. Visibility into such areas shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction. Such areas shall be readily accessible at all times to employees. There shall be no enclosed booths, cubicles, rooms or stalls within the licensed premises used for such purpose;

(4) The entire licensed premises shall, at all times during which such business is opened to the public, provide overhead lighting of sufficient intensity to illuminate every place to which patrons are permitted access as follows: (A) for sexually oriented retail stores or theaters, an illumination of no less than twenty foot candles as measured at the floor or ground level; (B) for sexually oriented cabarets, an illumination of no less than five foot candles as measured at the floor or ground level, except during performances during which time illumination shall be no less than two foot candles as measured at the floor or ground level;

(5) No sexually oriented business shall be conducted in such a manner that permits the observation of any depiction or portrayal of live sexually oriented entertainment, live semi-nude entertainment, sexual anatomical areas, semi-nude bodies or specified sexual activities from outside of the building that houses the sexually oriented business, provided this subdivision shall not prohibit a patron from removing any book, publication or video that the patron has purchased or rented from the licensed premises;

(6) No sexually oriented business shall advertise the availability at such business of any activity that would be in violation of section 8-61 through section 8-79, inclusive, or any state or federal law. No exterior sign, display, decoration, show window or other advertising of such business shall contain any material depicting or describing live sexually oriented entertainment, live semi-nude entertainment, sexual anatomical areas, semi-nude bodies or sexual activities;

(7) No alcoholic beverage or other intoxicant shall be displayed, served, ingested or sold on the premises of any sexually oriented business unless permitted by the state and unless the same are allowed under the zoning regulations of the Town of East Hartford. No employee shall be under the influence of any alcoholic beverage or other intoxicant while working at a sexually

Sec. 8-70. Operating Requirements.

CHAPTER 8. Businesses

Sec. 8-70. Operating Requirements.

oriented business. No patron, who is impaired to the extent it would be illegal to serve alcoholic liquor to such patron, shall be allowed to enter the licensed premises;

(8) No gambling shall be permitted by any person on the licensed premises;

(9) No one under eighteen years of age, except if such business serves alcoholic beverages, then no applicant or individual shall be under the age of twenty-one years old, shall be allowed on the licensed premises;

(10) The manager shall be responsible for the conduct of all employees while on the licensed premises. Any act or omission of any employee constituting a violation of the provisions of section 8-61 through section 8-79, inclusive, shall be deemed the act or omission of the manager when such manager knew of such act or omission, for purposes of determining whether the operating license shall be renewed, suspended or revoked and whether the manager shall be subject to the penalties imposed under the provisions of section 8-61 through section 8-79, inclusive;

(11) No manager shall knowingly employ in any sexually oriented business any person who, within three years of the commencement of such employment, has been convicted in this or any other state of any of the crimes specified in subdivision (9) of subsection (c) of section 8-64, regardless of the pendency of any appeal;

(12) No manager shall knowingly employ in any sexually oriented business any person who is not a United States citizen or who does not have the legal status or appropriate authorization from the United States government to work in the United States and the State of Connecticut;

(13) A sexually oriented business shall display a sign outside each entrance of such business bearing the words "sexually oriented business. Persons Under 18 Not Admitted" in legible letters between two and six inches tall, except if such business serves alcoholic beverages, then such sign shall indicate that no person under the age of 21 shall be admitted.

(14) No sexually oriented business shall open for business before 9:00 a.m., Monday through Sunday, nor shall it remain open after 1:00 a.m.;

(15) On or before the fifth day of the first month succeeding the issuance of a license pursuant to section 8-65 and on or before the fifth day of each month thereafter, the applicant shall provide the Director of Inspections and Permits, or designate, with a list of the names, driver's licenses, if any, social security number and date of birth of all employees during the preceding month of operation;

(16) A sexually oriented business shall, at all times during which such business is open to the public, have a manager licensed pursuant to subsection (b) of this section on the licensed premises;

(17) A sexually oriented business shall maintain a twenty-four hour per day video monitoring system that records activity in all areas of the licensed premises. The manager shall maintain the recordings of such video monitoring for a period not less than ninety days from the last day surveillance was monitored on such tape for the purpose of reviewing for compliance with the provisions of section 8-61 through section 8-79, inclusive, by town officials or employees in the discharge of their duties, upon request; and

Sec. 8-71. Live Adult
Entertainment.

CHAPTER 8. Businesses

Sec. 8-71. Live Adult
Entertainment.

(18) There shall be no loitering in the parking lots or other outside areas used by patrons of the sexually oriented business. No person shall remain in the parking areas of such business after thirty minutes from the time such business is no longer opened to the public except for access to a person's motor vehicle for purposes of leaving the licensed premises.

(b) No person shall act in the capacity of a manager of a sexually oriented business without a license from the Director of Inspections and Permits, or designate. Such person shall file an application with the Director. Such application shall include the person's name, and any other name previously used by such person, home address, birth certificate, social security number, driver's license, if any, fingerprints and an application fee as established in the Fee Schedule. The Director shall issue such license within ten days of receipt of the application or shall deny such application if the applicant: (1) is under the age of twenty-one years; (2) has been convicted of any crimes listed in subdivision (9) of subsection (c) of section 8-64 within ten years of the date of application; or (3) has violated any provision of section 8-61 through section 8-79, inclusive, within three years of the date of application. Any failure of the Director to approve or deny an application within ten days shall be deemed a denial subject to appeal. Any applicant who has been denied may appeal such denial in accordance with the provisions of section 8-68. Any license issued pursuant to this subsection shall expire one year from the date of issuance.

Sec. 8-71. Live Adult Entertainment.

(a) In addition to the requirements contained in section 8-70, the following requirements shall apply to all sexually oriented cabaret:

(1) No person shall engage in live sexually oriented entertainment;

(2) No person shall perform live semi-nude entertainment for patrons of a sexually oriented business except upon a stage at least eighteen inches above floor level and separated from any and all such patrons by a minimum distance of ten feet or of a greater distance as required by the liquor division of the state department of consumer protection;

(3) Separate dressing room facilities for male and female sexually oriented entertainers shall be provided that shall not be occupied or used in any way by any person other than such entertainers;

(4) No sexually oriented entertainer shall, on the licensed premises, expose any sexual anatomical areas to any patron of a sexually oriented business either before or after a performance including, but not limited to, when such entertainer is entering or exiting the stage;

(5) No sexually oriented entertainer, either before, during or after a performance, shall knowingly or intentionally have physical contact with any patron of a sexually oriented cabaret while on the licensed premises;

(6) No employee of any sexually oriented cabaret shall engage in any live sexually oriented entertainment or live semi-nude entertainment while acting as a waiter, host or bartender or in any other capacity for such business;

(7) No payments, tip or gratuity offered to or accepted by a sexually oriented entertainer may be accepted prior to any performance, dance or exhibition provided by such entertainer; and

(8) No sexually oriented entertainer performing upon any stage area shall be permitted to accept any form of gratuity offered directly to the entertainer by any patron. Any gratuity offered to any entertainer performing upon any stage area must be placed into a permanently affixed, non-movable receptacle provided for receipt of gratuities by the sexually oriented business or provided through a manager.

(b) No person shall perform live semi-nude entertainment without a license from the Director of Inspections and Permits, or designate. Such person shall file an application with the Director. Such application shall include the person's name, and any other name previously used by such person, home address, birth certificate, social security number, driver's license, fingerprints and an application fee established in the Fee Schedule. The Director shall issue such license within ten days of receipt of the application or shall deny such application if the applicant: (1) is under the age of twenty-one years; (2) has been convicted of any crimes listed in subdivision (9) of subsection (c) of section 8-64 within ten years of the date of the application; or (3) has violated any provisions of section 8-61 through 8-79, inclusive, within three years of the date of the application. Any failure of the Director to approve or deny an application within ten days shall be deemed a denial subject to appeal. Any applicant who has been denied may appeal such denial in accordance with the provisions of section 8-68. Any license issued pursuant to this subsection shall expire one year from the date of issuance.

Sec. 8-72. Massage Parlors.

Sec. 8-72. Requirements for establishments where massage is performed by massage therapists who meet the requirements of section 8-73, 8-74 and 8-76.

The following requirements shall apply:

(1) Construction of rooms used for toilets, tubs, steam baths and showers shall be waterproofed with approved waterproof materials;

(2) Toilet facilities shall be provided in convenient locations. When five or more persons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. Toilets shall be designated as to the sex accommodated therein;

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

(4) Every portion of the premises, including appliances and apparatus, shall be kept clean and operated in a sanitary condition. Adequate lighting shall be provided, and each room or enclosure where a massage is being administered shall have an illumination of no less than five foot candles as measured at the floor level while such room or enclosure is occupied;

(5) All employees of the massage parlor shall be clean and wear clean outer garments, which use is restricted to the massage parlor. Provisions for a separate dressing room for each sex must be available on the licensed premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing;

(6) All employees shall be modestly attired. Diaphanous, flimsy, transparent, form-fitting, or tight clothing is prohibited. Clothing must cover the employee's or masseur's chest at all times.

Sec. 8-73. Masseur Permit Required.

CHAPTER 8. Businesses

Sec. 8-74. Masseur Permit Application; Contents

Hemlines of skirts, dresses or other attire may be no higher than three inches above the top of the knee;

(7) All sexual anatomical areas of patrons must be covered by towels, cloth or undergarments when in the presence of any employee or masseur. No person in a massage parlor to expose his specified anatomical areas to any other person or for any person to expose the specified anatomical areas of another person;

(8) No person shall engage in any sexual activity or to place his hand upon, to touch with any part of his body, to fondle in any manner, or to massage any sexual anatomical areas of any other person;

(9) The premises shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in an approved sanitary manner;

(10) Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day business is in operation. Bathtubs shall be thoroughly cleaned after each use;

(11) No business shall place, publish, or distribute or cause to be placed, published, or distributed any advertising material that depicts any portion of the human body or contains any written text that would reasonably suggest to prospective patrons that any services are available other than those services described in the definition of massage parlor in section 8-61, or that employees or masseurs are dressed in any manner other than described in subdivision (6) of this section.

Effective 11-05-15

Sec. 8-73. Masseur Permit Required.

No massage therapist shall engage in the practice of massage without first having obtained a masseur permit from the Chief of Police or his designate upon a form provided by the Chief of Police. The applicant shall pay a filing fee, which shall not be refundable, as set by the Council in the Schedule of Fees.

Effective 11-05-15

Sec. 8-74. Masseur Permit Application; Contents

The application for a masseur permit shall contain the following:

- (1) Name, and any other name previously used by such person, and resident's address;
- (2) Social Security Number and date of birth;
- (3) Applicant's weight, height, color of hair and eyes, and fingerprints;
- (4) Written evidence that the applicant is at least eighteen years of age;
- (5) Business, occupation, or employment of the applicant for three years immediately preceding date of application;
- (6) Whether such person has ever been convicted of any crime within the last ten years

Sec. 8-75. Applicability to
Masseurs Without Educational
Requirements.

CHAPTER 8. Businesses

Sec. 8-78. Register of Patrons.

except minor traffic violations and if so convicted, the place and court in which the conviction was obtained and the sentence imposed as a result of such conviction; and

(7) Copy of the license issued by the Connecticut Department of Public Health to practice Massage Therapy under the provisions of Section 20-206a et.seq. of the Connecticut General Statutes as amended, and evidence that all testing and educational requirements thereunder have been completed.

Effective 11-05-15

Sec. 8-75. Applicability to Masseurs Without Educational Requirements.

The Director of Health and Social Services, and Chief of Police, or their designees, shall have the right to periodically inspect establishments where massage therapy is provided to ensure compliance with these requirements. Such inspections shall be made in a reasonable time and in a reasonable manner. No permittee shall fail to allow access when requested, or hinder such officials' access in anyway.

Effective 11-05-15

Sec. 8-76. Issuance of Masseur Permit.

The Chief of Police or his designate shall issue a masseur permit within twenty-one days following application, unless he find that the applicant for the masseur permit has been convicted of: (1) a felony; (2) an offense involving sexual misconduct with minors; or (3) obscenity, keeping or residing in a house of ill fame, solicitation of a lewd or unlawful act, prostitution or pandering. Any applicant who has been denied may appeal such denial in accordance with the procedure set forth in section 8-68.

Effective 11-05-15

Sec. 8-77. Revocation of Masseur Permit.

(a) A masseur permit issued by the Chief of Police or his designate shall be revoked or suspended after a hearing before the Chief of Police where it appears that the masseur has been convicted of any offense enumerated in section 8-76 or that the establishment where massage therapy is being performed is not compliant with the provisions of section 8-72.

(b) The Chief of Police or his designate, before revoking or suspending any masseur permit, shall give the masseur at least ten days written notice of the examination into his conviction record, or non-compliance with section 8-72, and the opportunity for a hearing before the Chief of Police, at which hearing, the Chief of Police or his designate shall determine the relevant facts regarding the occurrences of the conviction. Any person whose masseur permit has been suspended or revoked may appeal such revocation or suspension in accordance with the procedure set forth in section 8-68.

Effective 11-05-15

Sec. 8-78. Register of Patrons.

(a) Every person who engages in or operates a massage parlor shall keep a daily register, approved as to form by the Chief of Police or his designate, of all patrons with names, addresses and hours of arrival and, if applicable, the rooms or cubicles assigned. The daily register shall at

Sec. 8-79.

CHAPTER 8. Businesses

Sec. 8-79. Definitions.

all times during business hours be subject to inspection by the Department of Public Health and Social Services officials and by the Police Department and shall be kept on file for one year.

(b) No person shall give, sign or use any false name or address in the daily register required to be kept by the massage establishment.

Sec. 8-79.

Massage Parlors Prohibited Consistent with Section 20-206a et.seq. of the Connecticut General Statutes as amended, Massage parlors, as defined in Section 8-61 (8) hereof, are not permitted.

Effective 11-05-15

Sections 8-60 through 8-79, unless otherwise noted, effective 09-19-08.

ARTICLE 8. NEWS RACKS.

Sec. 8-78. Purpose.

The Town Council finds that the unregulated maintenance of news racks in public rights-of-way can present an inconvenience and a danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving all types of motor vehicles, cyclists, and to persons entering and leaving buildings. The Council also finds that the unregulated maintenance of such news racks also can present an inconvenience and a danger to persons performing essential utility, traffic control, and emergency services; prevent easy access for the use, repair, maintenance and replacement of posts, poles, traffic signs and traffic signals; makes it difficult and/or hazardous to maintain, repair or replace hydrants and mailboxes; encourages the keeping of unsightly news racks; and increases the Town's exposure to claims for personal injuries or damages to property brought by persons injured directly or indirectly by the unregulated placement of such news racks. To avoid such conditions, found by the Council to be injurious to the public health, safety and welfare, the Council finds it necessary and desirable to enact this ordinance to regulate the placement, appearance, maintenance and insurance of news racks located on public rights-of-way.

Sec. 8-79. Definitions.

- a. For the purpose of this Chapter, the following terms shall have the following meaning:
 1. News rack shall mean any self-service or coin-operated box, container, storage unit, or any other vending or dispensing device installed, used or maintained for the display and sale of magazines or other news periodicals. The use of the singular herein shall include the plural.
 2. Public rights-of-way means any place of any nature which is dedicated to use by the public for pedestrian and/or vehicular travel and includes, but is not limited to, streets, sidewalks,

Sec. 8-80. News Racks
Prohibited on Public Streets.

CHAPTER 8. Businesses

Sec. 8-82. Review by the
Director of Inspections and
Permits.

tree belts located between sidewalks and curbs, curbs, gutters, crossing intersections, parkways, highways, alleys, lanes, malls, courts, avenues, boulevards, roads, roadways, viaducts, underpasses, tunnels, bridges, thoroughfares, parks, square, and any other similar public ways.

3. Person shall mean any individual, natural person, corporation, partnership, voluntary association, society, club, firm, company, trust or any other group acting as a unit or the manager, lessee, agent, servant, partner, member, director, officer or employee of any such entity including executors, trustees, administrators, receivers or other representatives appointed according to law.
4. Owner shall mean the title owner of any news rack and the lessee, renter, officer, servant, employee and agent of any such owner.
5. Public street means that portion of any public right-of-way designed or ordinarily used for vehicular travel.

Sec. 8-80. News Racks Prohibited on Public Streets.

It shall be unlawful for any person to install, place or maintain any news rack which projects into, onto, or over any part of a public street or which rests wholly or in part upon, along or over any portion of any public street.

Sec. 8-81. Application for Permit.

On and after May 10, 1994, any person who wishes to place or locate a news rack on any public right-of-way shall consult with the Director of Inspections and Permits concerning its location, and shall, as part of said consultation, provide the following information:

- (1) The name, address and telephone number of the owner;
- (2) The name, address and telephone number of a responsible person whom the town may notify or contact at any time concerning the owner's news rack;
- (3) The number and names of newspapers or periodicals to be contained in each news rack;
- (4) Type of brand of news rack, including a description of the news rack and supporting or enclosing structure;
- (5) A site plan showing the exact location of such news rack and supporting or enclosing structure and sufficient information to enable the Director to determine that said location complies with Sections 8-83 and 8-84 of this chapter.

Sec. 8-82. Review by the Director of Inspections and Permits.

If the Director of Inspections and Permits finds that any of the regulations hereinafter set forth would be violated by the proposed news rack, he shall so inform the person proposing the placement within five business days of receipt of the information comprising Sec. 8-81(1)-(5) inclusive, and during said five-day period no such news rack shall be so placed. Thereafter, the Director and such person shall further consult to

Sec. 8-83. General Regulations. **CHAPTER 8. Businesses**

Sec. 8-86. Violations; Notice; Hearing.

attempt to ensure conformity with said regulations.

May 10, 1994

Sec. 8-83. General Regulations.

- (a) No news rack or news rack enclosure shall be located so as to obstruct the following:
 - (1) Reasonable use of public rights of way by pedestrians.
 - (2) The vision of operators of vehicles at street intersections.
 - (3) The reasonable use of bus stops. News racks may be located within bus stop zones, but shall not be placed so as to block the front or rear door of the buses.
 - (4) Reasonable access to the front doors of buildings.
 - (5) Reasonable use of parking spaces and parking meters. News racks may be located within parking zones and/or metered spaces if no other alternative is available. The news racks shall, wherever possible, be placed at the rear of the parking space so as not to block car doors.
 - (6) The reasonable use of cross-walks, handicapped ramps, sidewalks, driveways, fire hydrants and boxes, and sign stanchions.
 - (7) Truck loading zones and taxi-cab stands. Where no other space is available, news racks may be placed in loading zones if the row consists of no more than three news racks and it is located so as not to interfere with vehicles doors and loading.
- (b) The owner shall be responsible for any damage or repairs caused by the installation or removal of any news rack.
- (c) News racks may contain advertising concerning the newspaper contained in the news rack and its contents.
- (d) News racks shall be maintained in good working order, neatly painted, and with unbroken hoods.
- (e) The name, address and telephone number of the responsible person who may be contacted at any time concerning the news rack shall be displayed on the hood of the news rack in such manner as to be readily visible and readable to a prospective customer thereof.
- (f) Each news rack shall be maintained in accordance with the terms of this chapter.

Sec. 8-84. Dimensions and Design.

The following criteria concerning dimensions and design shall apply:

- (a) No news rack shall exceed the following:
 - (1) A height of fifty inches measured from the surface of the sidewalk or ground.
 - (2) A depth of two (2) feet; or
 - (3) A length of two and one-half (2-1/2) feet
- (b) The color of any news rack shall be in the neutral range of colors. May 10,1994

Sec. 8-85. Insurance and Indemnification.

The owner shall at all times maintain a policy of liability insurance in a minimum amount of five hundred thousand dollars (\$500,000) for the injury or death of any number of persons per occurrence, and one hundred thousand dollars (\$100,000) for property damage per occurrence. Such coverage will name the Town as an additional insured. All such policies and certificates of insurance shall be issued by companies authorized to do business in the State of Connecticut.

Sec. 8-86. Violations; Notice;
Hearing.

CHAPTER 8. Businesses

Sec. 8-88. Severability.

Sec. 8-86. Violations; Notice; Hearing.

If at any time it is determined by the Director of Inspections and Permits that any news rack is not in compliance with requirements of this Chapter, a "Notice of Probable Violation" shall be issued, in writing, to the owner. Said notice shall set forth the location of the news rack involved, the precise conditions the Director believes constitute a violation of this Chapter, and the specific provisions of this Chapter the Director believes have been violated. The notice shall contain the date, time and place on which a hearing is to be had with respect to such charges, and shall be mailed to the owner by registered or certified mail. The hearing shall be held not less than ten days from the date the notice has been so mailed. The owner may, prior to said hearing, file a written response to said notice specifically setting forth the reason or reasons the owner believes this Chapter has not been violated; or, in the alternative, the owner shall cause said violation or violations to be corrected. The hearing shall be held before a person designated by the Corporation Counsel of the Town of East Hartford who is neither an official nor employee of, or contracting party with, the Town. If at such hearing the hearing officer shall determine that the Director of Inspections and Permits has by clear and convincing evidence proven that the violations contained in the Notice have in fact occurred and continue to exist, he may order the violation to be corrected within a period of time not less than five days from the date that notice of the decision has been mailed to the owner, in default of which correction the owner shall be required to remove the news rack. If at the hearing the hearing officer finds that the violation or violations have been corrected, or for some other reason do not exist, he shall dismiss the charges.

May 10, 1994

From any order to correct violations or to remove a news rack, the owner shall have a right of appeal to the Superior Court for the Judicial District of Hartford/New Britain at Hartford. Said appeal shall be filed and served within the time provided by and in accordance with the provisions of Connecticut General Statutes Section 4-183, as the same may be amended from time to time, and appeal proceedings shall be governed by said statute. Enforcement of any decision by the hearing officer shall be stayed until the expiration of the time within which the owner may appeal; and if the owner shall appeal, the order shall be stayed until 20 days after notice of the decision of the Superior Court on said appeal has been sent to all parties. Service of any such appeal shall be made upon the Director of Inspections and Permits.

Sec. 8-87. Enforcement.

It shall be the duty of the Director of Inspections and Permits to enforce the provisions of this chapter.

Sec. 8-88. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases hereby be declared invalid or unconstitutional.

Voted: 4/5/94
Published: 4/15/94
Effective: 5/10/94