

Title 5 BUSINESS LICENSES AND REGULATIONS

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Chapter 5.04 PUBLIC UTILITY FRANCHISES*

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5.04.010 Purchase price.

Upon the purchase, or the condemnation and purchase, by the city, of the property and franchises of any person or corporation holding or operating or doing business under any franchise granted by the city, only the reasonable and actual value of the tangible property actually and necessarily used in or connected with the business shall be paid for by the city and nothing shall be paid for the franchise.

(Ord. 28 §2, 1909).

5.04.020 Granting period.

No franchise shall be granted for a period of longer than twenty-five years and no exclusive franchise shall be granted.

(Ord. 28 §3, 1909).

5.04.030 Service classification—Rates.

In each franchise granted, the council may, in its discretion, and as a condition precedent to granting the franchise, require the applicant therefor to classify its service and fix a maximum rate or price for each class of service, and the council may insert in such franchise the maximum rate or price for each class of service as a condition precedent to granting the same and provide that such franchise shall become null and void upon the holder or owner thereof charging a higher rate or price for each class of service than is fixed in the franchise as the maximum rate or price of each class of service. In case the council elects to exercise its right to declare the franchise null and void, either upon its own initiative or upon complaint of a citizen of the town, in writing, filed with the town clerk/treasurer, notice of the time and place of hearing and the nature of the complaint, shall be given as provided in Section 5.04.050.

(Ord. 28 §1/2, 1909).

5.04.040 Application—Hearing.

An application for franchise to use any of the streets, alleys, or public places in the town shall be made in writing and shall be filed with the town clerk/treasurer, upon application being made and filed the council shall fix a time and place for hearing the same and shall cause the town clerk/treasurer, at the expense of the applicant, to give public notice thereof, by posting written or printed notices in three public places in the town and at least one conspicuous place on the streets, alleys or public places or parts thereof, for the use of which, application is made, at least fifteen days prior to the day fixed for such hearing and by publishing a like notice three times in the official newspaper of the town, the last publication to be at least five days prior to the day fixed for such hearing, which said notice shall contain a copy of the proposed franchise and shall state the name or names of the applicant therefor, a description of the streets, alleys, or public places or parts thereof, for the use of which the application is made, and the time and place fixed for the hearing; if the application is for a franchise for the use of all of the streets, alleys and public places of the town, then it shall be a sufficient description of such streets, alleys and public places to so specify in the application. The hearing may be adjourned from time to time, by order of the council.

At the time of such hearing the applicant shall file with the town clerk/treasurer, a petition favoring the proposed franchise, signed by at least three-fifths of the qualified electors of the town, to be based and calculated upon the number of votes cast at the last municipal election held in the town, provided, that the registration of the electors is not required to qualify them as such petitioners. The petition shall be headed or prefaced by a plainly type-written or printed copy of the proposed franchise. If, after said petition has been filed and notice given as herein required and a hearing had thereon, the council deems it to be for the public interest to grant such franchise in whole or in part; it may make and enter the proper order granting the franchise as published and applied for, with such changes and modifications thereof as the council deems to be for the public interest, and the council may require a bond in a reasonable amount from the person or corporation obtaining franchises, conditioned for the faithful performance of the conditions and terms of the franchises, and providing for a recovery on such bond, in case of failure of such person or corporation to perform the conditions and terms of such franchises.

(Ord. 64 §1, 1914)

5.04.050 Council supervision and control.

In each franchise granted the council shall retain supervision and control of the construction and maintenance of the proposed system of works under any franchise granted, and shall reserve unto the city the right and privilege to regulate and control the manner and the quality of the service to be rendered by the recipient of the franchise, either upon its own initiative or upon a complaint of a citizen of the city in writing, filed with the clerk/treasurer. In exercising the foregoing rights and powers to regulate and control the manner and quality of the service, notice in writing, stating the time and place of hearing, and the nature of the complaint, shall be given to the holder of the franchise, and to the complainant, in case said matter

has been initiated by complaint, the date of the hearing to be not more than sixty nor less than twenty days after service of such notice on the holder of the franchise and the complainant. Service of the notice shall be made in the manner provided by statute for service of summons in civil actions.

(Ord. 64 §2, 1914).

Chapter 5.08 LICENSES AND REGULATIONS-CERTAIN ACTIVITIES ⁽¹⁾

Sections:

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5.08.010 License-Required.

It shall be unlawful for any person, persons, firm, company, corporation or aggregation of individuals to carry on, engage in or conduct any of the certain trades, occupations or businesses set out in this chapter until they first procure a city license therefor.

(Ord. 153 §1, 1940).

5.08.020 Circus and carnival license-Fee.

- (a) Every person, persons, firm, company or corporation or aggregation of people owning or exhibiting a circus or carnival within the corporate limits of the city, and within one mile thereof, shall secure a license from the city and pay the sum of fifty dollars therefor before exhibiting on or before opening the same for exhibition for each and every day it is proposed to carry on such exhibition.
- (b) Circus and carnival defined. A circus shall be construed for the purpose of this act to be an exhibition given for the entertainment of the public by trained performers, whether the same being animals or human beings, or both, or either, and circus and carnival shall also be construed to include any menagerie or dog or pony show. Carnivals shall be construed to mean and be all side show or collection thereof, rides or other carnival attractions unless a particular license fee is set out herein for some particular ride or exhibit.

(Ord. 153 §2, 1940).

5.08.040 Theater-Fee.

- (a) It shall be unlawful for any person, persons, firm or corporation owning, leasing, operating or conducting any moving picture show, theater, concert hall or opera house within the city, to operate, carry on or conduct the same without first obtaining a license so to do. The license fee for each such shall be the sum of sixty dollars per year.
- (b) A moving picture show, theater, opera house or concert hall under this chapter shall be construed to mean every house, building, or room, which is fitted with a stage or other paraphernalia, such as is generally used in houses of like nature in which moving picture shows, theatrical performances, concerts or entertainment are given, whether a fee is charged the public for admission, or seats, or both, or not.

(Ord. 153 §4, 1940).

5.08.050 Minstrel or theatrical show license-Fee.

Every person, persons, firm, company, corporation or aggregation of people managing, owning, exhibiting or conducting any exhibition in a tent or other enclosure, a theatrical performance or minstrel show or other performance, shall pay to the city, in advance, in the manner hereinafter prescribed, for a license therefor the sum of fifteen dollars per day or portion thereof.

(Ord. 153 §5, 1940).

5.08.100 Peddler license required-Fee.

- (a) It is unlawful for any person, firm or corporation to hawk or peddle any article or thing within the city without first taking out a license so to do. The practice of going in and upon private residences in the city, by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited so to do by the owner or owners, occupant or occupants, of the private residences for the purpose of soliciting orders for the sale of goods, wares and merchandise, and/or disposing of and/or peddling or hawking the same, without a license, is declared to be a nuisance and punishable as such nuisance as a misdemeanor.
- (b) The provisions of subsection (a) of this section shall not apply to the following:
 - (1) A farmer or gardener vending his own unprocessed farm products raised or grown exclusively upon lands owned or tenanted by him;
 - (2) Unpaid solicitors for national or local religious, charitable and/or community service organizations operated not for profit shall be required to have a city permit which shall be issued without charge;
 - (3) Street salesmen and those conducting a street stand for the conducting of sale of goods, wares or merchandise for local bona fide charitable organizations or events exempted by the city council.
- (c) The license fee for such peddlers license shall be twenty-five dollars per year, and only a yearly license shall be issued.

(Ord. 504 §2, 1993; Ord. 384 §1, 1983; Ord. 153 §10, 1940).

5.08.110 Junk dealer license-Fee-Records required.

- (a) Every person, firm or corporation who carries on the business of buying or selling old iron, rags or junk shall obtain a business license as provided by Oroville ordinance.
- (b) Organized recycling of aluminum, glass and paper with the prior approval of the city council shall be excluded from the provisions of this section.

(Ord. 504 §§4, 5, 1993; Ord. 153 §11, 1940).

5.08.120 Pawnbroker license-Fee-Records required.

- (a) Every person, firm or corporation engaging in whole or in part in the business of loaning money on security of pledges, deposits or conditional sales of personal property shall be deemed a pawnbroker and shall secure a business license therefor before engaging in the business.
- (b) Every pawnbroker or secondhand dealer shall maintain in his place of business a book or other permanent record in which shall be written in the English language at the time of each loan or sale:
 - (1) The date of transaction;
 - (2) The name of the person or employee conducting the same;
 - (3) The name, age and general description of the person with whom the transaction was made;
 - (4) An accurate description of the property or pledge involved in the transaction;
 - (5) The amount loaned and the terms of the loan and the number of any pawn ticket issued therefor and such record shall be, at all reasonable times, open to the inspection of any police officer of the city.

(Ord. 504 §§6, 7(part), 1993; Ord. 153 §12, 1940).

5.08.150 Temporary merchant license-Fee.

- (a) It is unlawful for any person, firm or corporation to open, conduct or carry on any store or place for the temporary sale of goods or merchandise for a less period than ninety days within the city without first taking out and procuring a license so to do.
- (b) The fee for such license shall be the sum of ten dollars per day; provided, however, that if any such person, firm or corporation desiring to open, conduct or carry on a store or place for the temporary sale of goods, wares or merchandise within the city while attempting to secure a permanent location for such business, executes and delivers to the city a good and sufficient surety bond payable to the city in the penal sum of five hundred dollars to be approved by the mayor, conditioned that the obligor of the bond shall pay to the city the license fee of ten dollars per day for each and every day said store or place shall be open, conducted or carried on, in case the business thereof is not made, a permanent business, no license fee shall be required.

(Ord. 153 §15, 1940).

5.08.170 Dray, express, taxicab and bus license-Fee.

It is unlawful for any person, firm or corporation in the city to use any vehicle for the conveyance of persons, baggage or property of any kind from place to place for hire without having conspicuously displayed so as to be seen from both sides of such vehicle the number of the license authorizing the use

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of such vehicle for such purposes in plain figures, said number to be furnished by the clerk/treasurer at the time the license is issued.

(Ord. 504 §7(part), 1993; Ord. 153 §17, 1940).

5.08.180 License-How issued.

All license fees in this chapter provided shall be paid to the city clerk/ treasurer who shall issue to the applicant a receipt therefor, which receipt shall be presented to the city council who shall thereupon direct the city clerk/treasurer to issue a license which entitles the holder thereof to conduct, carry on and operate whatever business within the city, which is designated in the preceding sections of this chapter, for the length of time for which he shall have paid. The clerk/treasurer shall keep proper records showing to whom such license was issued and date of expiration. The provisions of this section do not apply to Section 5.08.160 of this chapter where the same conflicts therewith.

(Ord. 504 §8, 1993; Ord. 153 §18, 1940).

5.08.190 License-Revocation.

- (a) All licenses herein granted may be revoked by the city council, first, for the violation of any laws of the state, and second, for the violation of any ordinance of the city, upon the recommendation of the mayor or city marshal or upon the complaint in writing of any private citizen; provided, the same is accompanied by a good and sufficient bond, conditioned to pay all the costs and expenses of trial if the same is frivolous.
- (b) Vote required to revoke. Upon the filing of such recommendation of complaint, at the next meeting of the council, regular or special, the city council shall investigate the charges, and cite the licensee or licensees to appear before it, and upon satisfactory proof may revoke the same by a majority vote of the members present. Upon revocation the money for the unexpired term shall be refunded to the licensee or licensees.

(Ord. 153 §19, 1940).

5.08.200 License-Payment evidence required.

The city marshal, his deputies or any police officer of the city, has the power and it shall be his duty to see that this chapter is strictly enforced, and every person, firm or corporation whose duty it is to have a license under this chapter, shall at all times be prepared to furnish any of the members of the police force satisfactory evidence that the license has been paid, and it shall be the duty of any member of the police force to arrest without warrant, any person whose duty it is to pay a license fee, and who has not paid the same, and take him before the police court of the city to be dealt with according to the law and the ordinances of the city.

(Ord. 153 §20, 1940).

5.08.210 License-Required when.

Whenever it appears in this chapter than any business, amusement or exhibition pays a certain license, it shall be construed that every person, firm or corporation, manager or person in charge of the affairs of any such business pays the license fee.

(Ord. 153 §21, 1940).

FOOTNOTE(S):

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* For the statutory provisions authorizing fourth class cities to license for regulation and revenue, all and every kind of business carried on therein, and all shows, exhibitions and lawful games carried on within one mile of the town limits, see RCW 35.27.370(9).

Chapter 5.12 VENDING AND MUSIC MACHINES [\[2\]](#)

Sections:

[5.12.010 Definition.](#)

[5.12.020 License-Required.](#)

[5.12.030 License-Application-Display required.](#)

[5.12.040 License-Fee.](#)

[5.12.050 License-Fee-Due when.](#)

5.12.010 Definition.

For the purpose of this chapter the words "vending and music machines" means any automatic machine or device wherein a person deposits a coin or token or slug and receives music, the right to play video games, the right to play pool, or any other form of entertainment or amusement.

(Ord. 609 §1, 1999; Ord. 133 §1, 1941).

5.12.020 License-Required.

It is unlawful for any person, firm or corporation to own, maintain or operate, or permit to be operated, any vending or music machine in or upon the premises owned by him, or over which he has control, within the boundaries of the city, without first having secured and paid for a license for each and every vending or music machine so owned, maintained, operated, or permitted to be operated.

(Ord. 133 §2, 1941).

5.12.030 License-Application-Display required.

The license shall be obtained from the city clerk/treasurer, after application therefor has been made to the city council and permission given to such applicant by the city council. The application shall be in such

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form as the city council may require or deem sufficient, and shall state the names of the owners of the vending or music machine, and a specified designation of the place and location the same is to be operated, and shall particularly and specifically describe such "vending or music machine" sufficiently to enable such machine if license is issued therefor, to be identified from such description.

The allegations of the application shall be sworn to by the applicant as being true and correct.

The license, if issued, shall likewise contain in full, as set out in the application, the names of the owners of the vending or music machine, the place and location where the machine is licensed for operation, and the description of the machine.

No person of questionable moral character or deemed by the city council unsuitable as a licensee shall be entitled to hold such license, nor shall any such license be issued for a machine to be installed in or on any premises which, in the opinion of the city council, shall be unsuitable for the operation of such machines.

The license for each machine shall be attached in plain view to the machine, and shall license the machine for operation on the premises as may be specified in the license. Such license shall not be transferable from one machine to another, unless the transfer is noted by the city clerk/treasurer, nor may a machine licensed to any premises be transferred to any other premises; provided that the city council may at any time for cause deemed to it sufficient revoke any license issued by virtue of this chapter.

(Ord. 133 §3, 1941).

5.12.040 License-Fee.

The license fees to be charged hereunder, together with the length of time for which such license shall be issued, are as follows:

- (1) For the operation of music vending machines, thirty dollars per year payable in advance, with no refunds or prorations;
- (2) For the operation of video game machines and/or coin-operated pool tables, the license fees shall be as follows:
 - (A) Individual business owner/operators owning their own machines shall pay the sum of thirty-five dollars per machine per year,
 - (B) Businesses that supply video game machines and/or pool tables to several locations within the city shall pay the following license fees:
 - (i) One through five machines supplied within the city, one hundred fifty dollars per year;
 - (ii) Six through ten machines supplied within the city, two hundred fifty dollars per year;
 - (iii) Eleven or more machines supplied within the city, three hundred fifty dollars per year.

License fees are payable one year in advance with no refunds and no prorations permitted.

(Ord. 609 §2, 1999: Ord. 511 §1, 1993: Ord. 505 §1, 1993: Ord. 146 §1, 1941: Ord. 133 §4, 1941).

5.12.050 License-Fee-Due when.

The license fees to be charged under this chapter shall be paid in advance on or before the thirty-first day of January of each year.

(Ord. 505 §2, 1993).

FOOTNOTE(S):

--- (2) ---

* For the statutory provisions authorizing fourth class cities to license, for regulation and revenue, every and all kinds of business carried on within the town, see RCW 35.27.370(9).

Chapter 5.16 SECONDHAND DEALERS AND PAWNBROKERS

Sections:

[5.16.010 Definitions.](#)

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[5.16.070 Retention of property.](#)

[5.16.080 Sale of pledged property.](#)

[5.16.090 Receiving property from certain persons prohibited.](#)

[5.16.100 Violation-Penalty.](#)

5.16.010 Definitions.

The words set forth in this section shall, for the purposes of construing this chapter, be defined as follows:

"Pawnbrokers" means and includes every person engaged in whole or in part in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.

"Secondhand dealer" means and includes every person engaged in whole or in part in the business of purchasing, selling, trading, consignment selling or otherwise transferring for value, secondhand property including, but not limited to, metal, junk, melted metals, precious metals. "Secondhand dealer" also includes persons or entities conducting business at flea markets or swap meets, more than three times per year.

(Ord. 550 §1, 1995).

5.16.020 License-Application-Fee.

It is unlawful for any person in any manner to engage in or conduct any business as a secondhand dealer or pawnbroker within the city, without first having in full force and effect a business license issued by the city. Application for such license shall be made to the city upon a form to be furnished by the city, requiring such information as may be reasonably related to the ownership and conduct of such business. The fee for such license shall be for each calendar year or part thereof.

(Ord. 550 §2, 1995).

5.16.030 License to be displayed.

Licenses issued to secondhand dealers and pawnbrokers shall at all times be prominently displayed at the principal place of business of the licensee in Oroville, Washington. No person may operate as a pawnbroker or secondhand dealer unless the person maintains a fixed place of business within the city.

(Ord. 550 §3, 1995).

5.16.040 Recordkeeping.

- (a) It shall be the duty of every secondhand dealer or pawnbroker, required to be licensed under this chapter, to maintain in his/her place of business in the city, a book or other permanent record in which shall be legibly written in the English language, at the time of each purchase, sale, or loan, a record thereof containing the following information:
- (1) The signature of the person with whom the transaction is made;
 - (2) The date of the transaction;
 - (3) The name of the person, agent, or employee or the identification number of the person or employee conducting the transaction;
 - (4) The name, date of birth, sex, height, weight, race, street, and house number, and a general description of the dress, complexion, color of hair, and facial appearance of the person with whom the transaction is made, property bought or received in pledge;
 - (5) The name and street and house number of the owner of the property bought or received in pledge;
 - (6) The street and house number of the place from which the property bought or received in pledge was last removed;
 - (7) A complete description of the property pledged, bought, or consigned, including the brand name, serial number, model number or name, any initials or engraving, size, pattern and color of stone or stones, and in the case of firearms, the caliber, barrel length, type of action, and whether it is a pistol, rifle, or shotgun;
 - (8) The price paid or the amount loaned;
 - (9) The name, street and house number of all persons witnessing the transaction;
 - (10) The number of any pawn ticket issued therefor;
 - (11) The type and identifying number of identification used by the person with whom the transaction was made, which shall consist of a valid drivers license or identification card issued by any state, or two pieces of identification issued by a government agency, one of which shall be descriptive of the person identified. At all times, one piece of current government issued picture identification will be required; and

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- (12) The nature of the transaction, a number identifying the transaction, the store identification as designated by the applicable law enforcement agency, or the name and address of the business and the name and address of the person or employee conducting the transaction, and the location of the property.
- (b) The record shall, at all times during the ordinary hours of business, or at reasonable times if ordinary hours of business are not kept, be open to the inspection of any commissioned law enforcement officer of the state or any of its political subdivisions, and shall be maintained wherever that business is conducted for three years following the date of transaction. No person may operate as a pawnbroker or secondhand dealer unless the person maintains a fixed place of business within the city.

(Ord. 550 §4, 1995).

5.16.050 Inspection authority.

Records, and all goods received, shall at all times during the ordinary hours of business, be open to the inspection of the city prosecutor or any peace officer.

(Ord. 550 §5, 1995).

5.16.060 Report of lost or stolen property.

Every secondhand dealer and pawnbroker required to be licensed under this chapter shall, if he/she has good cause to believe that any property in his possession has been previously lost or stolen, forthwith report such fact to the chief of police, together with the name of the owner, if known, and the date when, and the name of the person from whom the same was received by him/her.

(Ord. 550 §6, 1995).

5.16.070 Retention of property.

No property bought or received in pledge by any secondhand dealer or pawnbroker required to be licensed hereunder shall be removed from his/her place of business, except when redeemed by or returned to the owner thereof, within thirty days after the receipt of the property, nor shall any such property be changed or altered during said period. Property shall at all times, during the ordinary hours of business, be open to inspection to any commissioned law enforcement officer of the state or any of its political subdivisions.

(Ord. 550 §7, 1995).

5.16.080 Sale of pledged property.

A secondhand dealer or pawnbroker shall not sell any property received in pledge, until both the term of the loan and a grace period of a minimum of sixty days has expired. However, if pledged article is not redeemed within the ninety day period of both the term of the loan and the grace period, the secondhand dealer or pawnbroker shall have all rights, title and interest of the item of personal property.

(Ord. 550 §8, 1995).

5.16.090 Receiving property from certain persons prohibited.

It is unlawful for any secondhand dealer or pawnbroker required to be licensed hereunder, his clerks, agents or employees, to receive any property from any person under the age of eighteen years, any person under the influence of intoxicating liquor and/or drugs, or from any person who is known to the pawnbroker or secondhand dealer as having been convicted of burglary, robbery, theft, or possession of or receiving stolen property within the past ten years, whether the person is acting in his or her behalf or the agent of another, or from any person who he has reason to suspect or believe to be such.

(Ord. 550 §9, 1995).

5.16.100 Violation-Penalty.

Any secondhand dealer or pawnbroker, or the clerk, agent, or employee of such secondhand dealer or pawnbroker, or any other person violating or failing to comply with any of the terms or provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished, as provided in Chapter 1.12 of this code.

(Ord. 550 §10, 1995).

Chapter 5.20 PUBLIC DANCES

Sections:

[5.20.010 Definitions.](#)

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[5.20.060 Litter control-Security for cleanup.](#)

[5.20.070 Operating without a permit-Penalty.](#)

5.20.010 Definitions.

For the purpose of this chapter, and unless the context plainly requires otherwise, the following definitions are adopted:

"Banquet permit" means a duly authorized permit issued by the Washington State Liquor Board and properly presented to the city law enforcement agency.

"City" means the city of Oroville, its officers, employees and agents.

"Clerk" means the Oroville city clerk, or her or his authorized representative.

"Knowledge" means that the person knows or acts knowingly or with knowledge when:

1. He/she is aware of a fact, facts or circumstances or result described by this chapter, or
2. He/she has information which would lead a reasonable person in the same situation to believe the fact exists, which fact is described by this chapter.

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"Permit holder" means the person, not organization, who applied for and received the permit.

"Person" includes only natural persons and does not include corporations, partnerships, or unincorporated associations.

"Public dance" means any dance that is open to the public within the city limits. The term "public dance" does not include dances conducted by Class H licensed establishments or accredited educational institutions on their property.

"Public dancehall or area" or "the dance premises" means any place where a public dance is conducted, operated or maintained, and includes the premises in which the public dance is conducted, operated or maintained, including but not limited to all parking areas, hallways, bathrooms and all adjoining areas on that premises accessible to the public during the dance.

"Recklessly" means that a person acts recklessly or with recklessness when he/she knows of and disregards a substantial risk that a wrongful act may occur, and his/her disregard of such substantial risk is a gross deviation from the standard of conduct that a reasonable person would exercise in the same situation.

(Ord. 605 §2, 1998).

5.20.020 Dance permit required-Exceptions.

- (a) A public dance shall not be conducted or operated unless a person conducting or operating such has obtained a permit in accordance with this chapter. That person shall be on the dance premises at all times during said dance.
- (b) Exceptions. None, except as set forth in the definition of "public dance" in Section 5.20.010

(Ord. 605 §3, 1998).

5.20.030 Permit application-Requirements.

The person desiring to conduct and/or operate a public dance shall be responsible for obtaining a public dance permit. Each applicant shall complete and submit, a minimum of thirty days prior to the date of the dance, an application on the form attached that shall include the following:

1. The name, address and phone number (home and business) and signature of the applicant.
2. The name and address and signature of the owner of the dance premises upon which the dance is to be conducted.
3. Liability insurance covering the event naming the city as additional insured with minimum limits of coverage in the amount of one hundred thousand dollars per occurrence.
4. A written statement setting forth all measures to be used to insure that adequate traffic control, parking and crowd protection, both within and without the dance premises, will be maintained. Such statement shall include names, addresses and phone numbers of those individuals to be so used. The statement shall be presented to the city law enforcement agency for approval prior to the issuance of the permit.
5. Such other information as the city clerk requires by rule adopted pursuant to this chapter for the health, safety and welfare of persons attending public dances.
6. The city council may reject in an open meeting any application for a public dance.
7. An agreement by the permit applicant and owner of the dance premises authorizing an inspection as set forth in Section 5.20.040(a), and agreeing to indemnify the city as required herein.

(Ord. 605 §4, 1998).

5.20.040 Revocation of permit.

- (a) The city is authorized to inspect the dance premises prior to and during any dance to determine compliance with city ordinances and state law.
- (b) If violations are noted upon inspection the permit may be cancelled or revoked.
- (c) Law enforcement officers may immediately revoke the permit for incidents of, but not limited to, liquor violations, overcrowding, excessive noise, illegal drug use, rioting/disorderly conduct, assaults or threats or any conduct that compromises public safety. Officers may also allow permit holder to remedy the violation in a timely manner to avoid revocation.
- (d) Officers may also allow permit holder to remedy the violation in a timely manner to avoid revocation.

(Ord. 605 §5, 1998).

5.20.050 Indemnification and proof of liability insurance.

- (a) The permit holder for the public dance shall indemnify and hold the city, its officers, employees and agents harmless from any and all losses, claims, actions or damages suffered by any person or persons by reason of or resulting from the permit in its exercise or use or occupancy of the premises permitted in accordance with this chapter.
- (b) The applicant shall deliver to the city clerk a copy of all insurance policies required under this provision and all endorsements thereto and other evidence to the reasonable satisfaction of the city clerk that the applicant has secured and is maintaining insurance as required by this chapter.

(Ord. 605 §6, 1998).

5.20.060 Litter control-Security for cleanup.

Prior to issuance of any public dance permit, a cash security deposit in the amount of one hundred dollars shall be submitted to the city clerk as security for cleanup of all litter resulting from any public dance. In the event that the permit holder fails to clean up all litter on any public or private property which results from any public dance conducted by the applicant within twenty four hours of the end of the dance, the city may cause such litter to be cleaned up and pay the cost of the cleanup out of the security funds. In the event the cost of cleanup exceeds the deposit, the permit holder shall pay the excess cost. Litter resulting from the public dance shall be limited to that occurring within a one-block radius of the location, unless clearly identified to the dance.

(Ord. 605 §7, 1998).

5.20.070 Operating without a permit-Penalty.

Any person, corporation, partnership, association or other entity or group who shall conduct or operate a public dance without a valid permit issued pursuant to this chapter shall be guilty of a civil infraction and shall be subject to the penalties set forth in Chapter 1.12 of the Oroville Municipal Code.

(Ord. 605 §8, 1998).

Chapter 5.24 SEXUALLY ORIENTED BUSINESSES

Sections:

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5.24.010 Purpose.

It is deliberately intended that the contents of this chapter recognize the importance and benefits of freedom of expression to a democratic society. Therefore, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Similarly, this chapter has neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Conversely, it is neither the intent nor effect of this section to condone or legitimize the distribution of obscene material for child pornography nor the display or distribution of harmful materials to minors. However, the city of Oroville finds that other communities have proven through studies and experience that these businesses, when unregulated, promote illegal activities including obscenity, sexual offenses, and prostitution, as well as creating a variety of secondary impacts on local communities including increase of crime, decline in property values, blighting of neighborhoods, diminution of quality of life, corruption of youth, and depression of business activity. Therefore, the licensing and operation of adult entertainment facilities should be regulated and monitored through the system of licensing and operating regulations contained in this chapter.

(Ord. 668 §1(part), 2003).

5.24.015 Scope.

This chapter governs the licensing and operation of sexually oriented businesses within the city. The location and siting of sexually oriented businesses is governed by the zoning regulations contained in Chapter 17.70 of this code. All sexually oriented businesses shall satisfy the requirements of both this chapter and Title 17 of this code.

(Ord. 668 §1(part), 2003).

5.24.020 Definitions.

For the purposes of this chapter, the following definitions shall apply:

"Administrator" means the permit administrator of the city of Oroville or his or her designee.

"Adult cabaret" means a nightclub, bar restaurant, or similar commercial establishment that regularly features:

- (1) Persons who appear in a state of nudity or seminude;
- (2) Live performances that are characterized by the exposure of specified anatomical areas; or
- (3) Films, motion pictures, video cassettes, DVDs, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

"Adult hotel/motel" means a hotel, motel, or similar commercial establishment:

- (1) Which offers sleeping accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, DVDs, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and
- (2) Which offers a sleeping room for rent for a rental fee period of time that is less than ten hours; or
- (3) Which allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

"Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, DVDs, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction of specified sexual activities, or specified anatomical areas.

"Adult panorama theater or arcade" means a place to which the public is permitted or invited in which coin-operated, slug-operated, or electronically, electrically, mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to one person per machine at any one time, and where the images so displayed are distinguished or characterized by the depiction or description of specified sexual activities or specified anatomical areas.

"Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or seminudity or live performances that are characterized by the depiction of specified sexual activities, or specified anatomical areas.

"Manager" means any person who manages, directs, administers or is in charge of, the affairs and/or the conduct of a sexually oriented business.

"Obscene" or "obscenity" means any matter:

- (1) Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; or

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- (2) Which explicitly depicts or describes patently offensive representations or descriptions of:
 - (A) Ultimate acts, normal or perverted, actual or simulated,
 - (B) Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital areas,
 - (C) Violent or destructive sexual acts, including but not limited to, human or animal mutilation, dismemberment, rape, or torture, or
 - (D) Has a dominant theme which appeals to the prurient interests of minors in sex; which is patently offensive because it affronts contemporary community standards relating to the descriptions or representation of sexual matters or sadomasochistic abuse; and
- (3) Which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.

"OMC," as used in this chapter, means the Oroville Municipal Code.

"Sexually oriented business" means a business meeting the definition of an adult cabaret, adult hotel/motel, adult motion picture theater, adult panorama theater or arcade, sexually oriented retail establishment, or adult theater.

"Sexually oriented retail establishment" means any premises in which ten percent or more of the "stock in trade" (as defined in this chapter) consists of merchandise distinguished or characterized by the depiction of, description, simulation, or relation to "specified sexual activities" or "specified anatomical areas." The term "merchandise," as used above, includes but is not limited to the following: books, magazines, posters, cards, pictures, periodicals, or other printed matter; prerecorded video tapes, DVDs, discs, film, or other such medium, instruments, devices, equipment, paraphernalia or other such products. The "stock in trade" of a particular business establishment shall be determined by examining the retail dollar value of all sexually oriented merchandise compared to the retail dollar value of all nonsexually oriented materials readily available for purchase, rental, view, or use by patrons of the establishment, excluding inventory located in any portion of the premises not regularly open to patrons; and, the total volume of shelf space and display area reserved for sexually oriented materials compared to the total volume of shelf space and display area reserved for nonsexually oriented materials.

"Specified anatomical areas" mean and include any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, anus, or areola of the female breasts or any artificial depiction of the same; or
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

"Specified sexual activities" mean and include any of the following:

- (1) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated;
- (4) Human genitals or artificial depictions of the same in a state of sexual stimulation or arousal; or
- (5) Excretory functions as part of or in conjunction with any of the activities set forth in subsections (1) through (4) of this definition.

(Ord. 668 §1(part), 2003).

5.24.030 Prohibition.

To prevent illegal activities such as obscenity, sexual offenses, tax evasion, and prostitution, as well as a variety of secondary affects including but not limited to, increase in crime, decline of property values, blighting of neighborhoods, diminution of the quality of life, and depression of business activity, a person or persons shall not use any property or premises for a sexually oriented business or use within the city unless such business or use is in compliance with all regulations and conditions enumerated in this chapter and Title 17 of this code.

(Ord. 668 §1(part), 2003).

5.24.040 Applicability to currently operating sexually oriented businesses.

Any sexually oriented business legally operating upon the effective date of the ordinance codified in this chapter shall be exempt from the licensing requirements and procedures of Sections 5.24.060, 5.24.070 and 5.24.090 of this chapter for the remainder of the calendar year of the effective date.

(Ord. 668 §1(part), 2003).

5.24.050 Exemptions.

This chapter shall not be construed to prohibit or otherwise regulate the following uses and activities:

- (1) Plays, operas, musicals, or other dramatic works that are not obscene;
- (2) Classes, seminars, and lectures held for serious scientific or educational purposes that are not obscene;
- (3) Exhibitions, performances, expressions, or dances that are not obscene;
- (4) Persons appearing in a state of nudity or seminudity in a nude or seminude model studio operated by:
 - (A) A proprietary school, licensed by the state of Washington; a college, or junior college supported entirely or partly by taxation,
 - (B) A private college approved by a national accrediting association, which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

(Ord. 668 §1(part), 2003).

5.24.060 Sexually oriented business license required.

It is unlawful for any person to conduct, manage, or operate a sexually oriented business unless such person is the holder of a valid and sustaining business license from the city to do so, obtained in the manner provided in this chapter.

(Ord. 668 §1(part), 2003).

5.24.070 Application procedure.

- (a) All applications for a sexually oriented business license shall be submitted in the name of the person or entity proposing to conduct such public amusement/entertainment on the business premises and

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shall be signed by such person and notarized or certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the administrator, which shall require the following information:

- (1) The name (including aliases or previous names), home address, home telephone number, date and place of birth, driver's license number, if any, and social security number of the applicant if the applicant is an individual;
 - (2) The business name, address and telephone number of the sexually oriented business;
 - (3) The names, addresses, telephone numbers, and social security numbers of all owners, leaseholders, and other persons holding a significant interest based on responsibility for management of the business, including corporate officers, specifying the interest or management responsibility of each;
 - (4) Addresses of the applicant for the five-year period immediately preceding the date of the application;
 - (5) A description of the sexually oriented or similar business history of the applicant; whether such person or entity, previously operating in this or another city, county, or state, has had a business license or sexually oriented business related license revoked or suspended; the reason for revocation or suspension if applicable; and the activity or occupation subsequent to such action, suspension, or revocation;
 - (6) Any and all criminal convictions or forfeitures other than parking offenses or minor traffic violations including dates of conviction, nature of the crime, name and location of court and disposition for each owner, partner, or corporation;
 - (7) A description of the business, occupation, or employment of the applicant for the three-year period immediately preceding the date of the application;
 - (8) Authorization for the city, its agents and employees to seek information to confirm any statement set forth in the application;
 - (9) A scaled drawing or diagram showing the configuration of the premises of the proposed sexually oriented business, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and station, arcade booths, restrooms, parking areas, and service areas shall be clearly marked on the drawing;
 - (10) Supplemental identification and/or information deemed necessary by the administrator to confirm matters set forth in the application.
- (b) Each applicant shall verify, under penalty of perjury that the information contained in the application is true.
- (c) If any person or entity acquires, subsequent to the issuance of a sexually oriented business license, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided, in writing, to the administrator no later than twenty-one days following such acquisition. The required notice shall include the information required for the original sexually oriented business license application. If the change in interest is greater than fifty percent, then the business will be treated as a new and separate sexually oriented business requiring the issuance of a new sexually oriented business license.
- (d) An application shall be deemed complete upon the applicant's provision of all information requested by this section, including identification of "none" where that is the correct response. At the request of the applicant, the clerk/treasurer may grant an extension of time not to exceed ten days in which the applicant may provide all information required for a complete application.
- (e) No person granted a sexually oriented business license pursuant to this chapter shall operate such a business under a name not specified on the license, nor shall any person or entity operate a sexually oriented business under any designation or at any location not specified on the license.

- (f) A nonrefundable application fee must be paid at the time of filing an application in order to defray the costs of processing the application.

(Ord. 668 §1(part), 2003).

5.24.080 Review of application and issuance of license.

- (a) Upon receipt of a complete application and fee, the administrator shall provide copies to the city clerk/treasurer, police, fire, public works, and planning departments for their investigation and review to determine compliance of the proposed sexually oriented business with the laws and regulations which each department administers. Each department will, within thirty days of such application, inspect the application, and premises if necessary, and shall make a written report to the administrator whether such application and premises comply with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the facilities are not yet constructed, the departments shall base their recommendations as to compliance upon their review of the drawings submitted with the application. A department shall recommend denial of a license under this subsection if it finds that the proposed sexually oriented business is not in conformance with the requirements of this chapter, or other law in effect in the city. A recommendation for denial shall cite the specific reason(s), including citation of applicable laws.
- (b) A sexually oriented business license shall be issued by the administrator within thirty days of the date of filing a complete license application and application fee, unless the administrator determines that the application has failed to meet any of the requirements of this chapter; or fails to provide any information required by this chapter; or that the applicant has made a false, misleading, or fraudulent statement of material fact on the application for a license.
- (c) If granted, a sexually oriented business license shall state on its face the name of the person or persons to whom it is issued, the expiration date, and the address of the licensed sexually oriented business. The license shall be posted in a conspicuous place within the business so that it can be easily read at any time the business is open.
- (d) If the administrator finds that the applicant has failed to meet any of the requirements for issuance of a sexually oriented business license, he or she shall deny the application in writing and shall cite the specific reasons for the denial, including applicable laws.

(Ord. 668 §1(part), 2003).

5.24.090 License nontransferable.

No license issued pursuant to this chapter shall be transferable to any other person, entity, or premises.

(Ord. 668 §1(part), 2003).

5.24.100 Application and license fees.

- (a) The application fee as set by resolution of the city council must accompany an application for any sexually oriented business.
- (b) All sexually oriented business licenses issued pursuant to this chapter expire annually on December 31st and must be renewed by January 1st.
- (c) License fees effective on a date other than January 1st, shall not be prorated, except that in the event that the original application is made subsequent to June 30th, then one-half of the annual fee may be accepted for the remainder of such year.

(Ord. 668 §1(part), 2003).

5.24.110 Standards of conduct and operation.

- (a) The administrator shall not license any sexually oriented business which does not conform to the requirements of this section, and shall revoke or suspend the license of any such premises which do not maintain conformity with this section.
- (b) Standard of Conduct and Operation Applicable to Adult Cabarets and Adult Theaters. The following regulations shall apply to adult cabarets:
 - (1) No employee or entertainer at an adult cabaret or adult theater shall perform acts of or acts which simulate specified sexual activities or other acts which are obscene or otherwise prohibited by law.
 - (2) The portion of the adult cabaret or adult theater premises in which live sexually oriented entertainment is performed shall be a stage or platform at least twenty-four inches in elevation above the level of the patron seating areas, and shall be separated by a distance of at least six feet from all areas of the premises to which patrons have access. A continuous railing at least three feet in height and located at least six feet from all points of the performance area shall separate the performance area and the patron areas.
 - (3) No employee or entertainer shall appear nude or seminude in any part of the premises open to view of members of the public, except on or in the performance area defined under subsection (b)(2) of this section.
 - (4) At no time shall patrons or customers be allowed to go into or upon the performance area described in subsection (b)(2) of this section.
 - (5) The manager of an adult cabaret shall be required to maintain visual observation of the public at all times any performer is present in the public or performance areas of the business. Where there is more than one performance area, or the performance area is of such a size and configuration that one manager is unable to visually observe, performers, employees, and members of the public; then a manager or assistant manager shall be provided for each public or performance area or portion of a public or performance area visually separated from other portions of the adult cabaret.
 - (6) No entertainer employed or otherwise working at an adult cabaret shall accept or receive any gratuity from patrons.
 - (7) When not performing, on-duty performers are prohibited from being present in areas of the establishment that are open to the general public.
 - (8) There shall be a designated security employee on the property at all times the premises are open to the public.
 - (9) Signs in both English and Spanish of sufficient size to be readable at twenty feet shall be conspicuously displayed in the public area of adult cabarets stating the following:

THESE PREMISES ARE REGULATED BY THE CITY OF
OROVILLE. ADMISSION IS RESTRICTED TO PERSONS
EIGHTEEN (18) YEARS OR OLDER. ENTERTAINERS ARE:

- (i) Not permitted to engage in any type of sexual conduct;
- (ii) Not permitted to appear nude or semi-nude, except on stage;
- (iii) Not permitted to dance or model where patrons are congregated;
- (iv) Not permitted to accept or receive any gratuity from patrons.

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- (c) Standard of Conduct and Operation Applicable to Adult Panorama Theaters or Arcades and Adult Motion Picture Theaters. In addition to regulations found in Section 18.50.180, the following regulations shall apply to adult panorama theaters or arcades and adult motion picture theaters:

- (1) The licensee shall permanently post and maintain on the interior or exterior of each booth or viewing area a sign with one-inch lettering in a contrasting background stating:

"Occupancy of this booth is limited to only one person. There may be no lewd or obscene conduct in the stations or booth or on the premises. Violators are subject to civil infractions imposed by the City of Oroville."

- (2) The licensee shall not operate or maintain any warning system or device, of any nature or kind, for the purpose of warning customers or patrons or any other persons occupying panorama/arcade booths or adult motion picture theaters that police officers, or city fire, licensing, or building inspectors are approaching or have entered the licensee's premises.
- (3) Doors to areas on the premises which are available for use by persons other than the owner, manager, or their agents or employees may not be locked during business hours.
- (4) No person under the age of eighteen years of age may be on or within an adult panorama theater or arcade or adult motion picture theater premise whether as a patron, member, customer, agent, employee, or independent contractor.
- (5) There shall be a designated security employee on the property at all times the premises are open to the public.
- (6) Signs in both English and Spanish of sufficient size to be readable at twenty feet shall be conspicuously displayed in the public area of the adult panorama theater or arcade stating the following:

THESE PREMISES ARE REGULATED BY THE CITY OF
OROVILLE. ADMISSION IS RESTRICTED TO PERSONS
EIGHTEEN (18) YEARS OR OLDER.

(Ord. 668 §1(part), 2003).

5.24.120 Business hours.

It is unlawful for any sexually oriented business to be operated or otherwise open to the public between the hours of two a.m. and eleven-thirty a.m.

(Ord. 668 §1(part), 2003).

5.24.130 On-premises manager.

- (a) A manager, or other person designated by the manager and responsible for the operation of the business shall be on duty at a sexually oriented business at all times sexually oriented entertainment or materials are being provided, or are available, or members of the public are present on the premises.
- (b) The manager shall not be a performer.

(Ord. 668 §1(part), 2003).

5.24.140 Recordkeeping.

- (a) All papers, records, and other information required to be kept pursuant to this chapter shall be open to inspection by the administrator during the hours when the licensed premises are open for business. The purpose of such inspections shall be to determine whether the papers, records, and other information meet the requirements of this chapter.
- (b) Each sexually oriented business shall maintain and retain for a period of two years the name, address, and age of each person employed or otherwise retained or allowed to perform on the premises. This information shall be open to inspection by the city during hours of operation of the business.

(Ord. 668 §1(part), 2003).

5.24.150 Inspections.

In order to insure compliance with this chapter all areas of the licensed sexually oriented business which are open to members of the public shall be open to inspection by city agents and employees during the hours when the premises are open for business. The purpose of such inspections shall be to determine if the licensed sexually oriented business is being operated in accordance with the requirements of this chapter. It is expressly declared that unannounced inspections are necessary to insure compliance with this chapter.

(Ord. 668 §1(part), 2003).

5.24.160 Suspension or revocation of license.

- (a) The administrator may revoke any license issued under this chapter or may suspend any such license for a period of time not to exceed one year where one or more of the following conditions exist:
 - (1) The license was procured by fraud or by a false or misleading representation of fact in the application or in any report or record required to be filed with the administrator;
 - (2) The building, structure, equipment, operation, or location of the business for which the license was issued does not comply with the requirements or standards of this chapter;
 - (3) The license holder, his or her employee, agent, partner, director, officer, or manager has violated or permitted violation of any of the provisions of this chapter.
- (b) Upon determination that grounds for revocation or suspension of a license exist, the administrator shall send the license holder a notice of revocation or suspension via certified mail, return receipt requested. The notice shall set forth the grounds for revocation or suspension. Upon issuance of such notice, the license is no longer valid and current.
- (c) In addition to the revocation and suspension provisions described in this section, sexually oriented businesses found in violation of this chapter are also subject to the civil penalties found in Section 5.24.190 of this chapter.

(Ord. 668 §1(part), 2003).

5.24.170 Appeals.

- (a) Upon notice of nonissuance, revocation or suspension of any license under this chapter, the applicant or license holder may appeal by filing a notice of appeal with the administrator within ten days of the date of the notice of nonissuance, revocation or suspension. The issuance of such notice shall only stay the effect of the notice of nonissuance, but not in the case of revocation or suspension.

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- (b) At the time of the filing of a notice of appeal, the administrator shall take action to have the applicant or licensee placed on the agenda of the next regularly scheduled council meeting occurring more than five days after receipt of the notice of appeal; and inform the applicant or licensee, in writing, of the date, time, and location of the meeting. At such meeting, the city council shall set a date for a public hearing on the appeal. The public hearing shall be within twenty days from the council's receipt of the notice of appeal.
- (c) The council shall conduct the public hearing at which the applicant or licensee may present verbal and/or written testimony as to his or her compliance with the statutes or ordinance provision which he or she is allegedly not conforming with.
- (d) After the close of the public hearing, the city council shall either grant the license, or sustain the denial, revocation or suspension. The city council shall base its decision on the preponderance of the evidence and shall make findings of fact which shall be incorporated in its minutes as to the basis for its decision.
- (e) The decision of the city council shall be final unless appealed to the superior court within twenty days of the date the decision is entered.

(Ord. 668 §1(part), 2003).

5.24.180 Compliance with other ordinances.

- (a) This chapter is separate and independent from other provisions of the Oroville Municipal Code that are applicable to sexually oriented businesses or uses, and does not relieve any person from the requirement to comply with such provisions.
- (b) In addition to the remedies described in Section 5.24.160 of this chapter, violation of any provisions of the Oroville Municipal Code that are applicable to sexually oriented businesses shall constitute grounds for nonissuance, revocation, or suspension of a sexually oriented business license.

(Ord. 668 §1(part), 2003).

5.24.190 Violation a civil penalty.

- (a) Any person, firm, or corporation violating any part of the provisions of this chapter shall be deemed to have committed a civil violation of the laws of the city and shall be subject to a civil penalty of up to five hundred dollars for each day or portion thereof during which any violation of this chapter is committed or permitted.
- (b) The administrator shall be notified by the police department upon that department's issuance of a citation for a violation of any provision of this chapter.
- (c) In addition to the civil penalty described in this section, sexually oriented businesses found in violation of this chapter shall also be subject to the revocation and suspension provisions enumerated in Section 5.24.160 of this chapter.

(Ord. 668 §1(part), 2003).