

<b>CHAPTER 4:</b>	<b>BUSINESS REGULATIONS</b>	186
<b>SECTION 4.100</b>	<b>CARNIVALS, CIRCUSES, AND SHOWS</b>	186
4.101	PERMIT REQUIRED TO CONDUCT CERTAIN ENTERTAINMENTS	186
4.102	APPLICATION FOR PERMIT	186
4.103	APPLICATION FOR PERMIT TO CONTAIN SPECIFIC INFORMATION	186
4.104	PERMIT FEES	187
4.105	CHIEF OF POLICE TO INVESTIGATE AND APPROVE APPLICATIONS	187
4.106	PERMITS SUBJECT TO REVOCATION	187
4.107	CHARITABLE AND CIVIC AFFAIRS EXCLUDED FROM PROVISIONS OF THIS SECTION	187
<b>SECTION 4.200</b>	<b>SOLICITORS, PEDDLERS AND CANVASSERS</b>	187
4.201	PURPOSE OF SECTION	187
4.202	DEFINITIONS	187
4.203	UNLAWFUL TO PEDDLE WITHOUT AN IDENTIFICATION CARD; AVAILABLE FOR SOLICITORS AND CANVASSERS	188
4.204	WRITTEN APPLICATION REQUIRED	188
4.205	IDENTIFICATION CARD FEE	189
4.206	INVESTIGATION	190
4.207	ISSUANCE OF IDENTIFICATION CARD	190
4.208	DENIAL; ADMINISTRATIVE REVOCATION	190
4.209	REVOCATION OF IDENTIFICATION CARD	190
4.210	AGGRIEVED PERSONS MAY APPEAL TO CITY COUNCIL	191
4.211	CHIEF OF POLICE TO KEEP RECORD OF IDENTIFICATION CARDS	191
4.212	DISPLAY OF IDENTIFICATION CARDS	191
4.213	CRIMINAL PROSECUTION FOR VIOLATIONS	191
4.214	GENERAL PROHIBITIONS	192
4.215	EXEMPTIONS	192
<b>SECTION 4.300</b>	<b>WRECKERS</b>	194
4.301	PURPOSE	194
4.302	COMPLIANCE WITH STATE LAW	194
4.303	DEFINITIONS	194
4.304	REQUIREMENTS TO PERFORM NONCONSENT TOWS	196
4.305	CERTIFICATE OF REGISTRATION FOR NONCONSENT TOWS, ISSUANCE, AND EXPIRATION	197
4.306	SUSPENSION AND REVOCATION OF CERTIFICATE OF REGISTRATION FOR NONCONSENT TOWS	198
4.307	ROTATION LIST ESTABLISHED FOR NONCONSENT TOWS	198
4.308	ROTATION LIST QUALIFICATIONS	198
4.309	SUSPENSION AND REMOVAL FROM THE NONCONSENT ROTATION LIST	200
4.310	INSPECTION STICKER	200
4.311	INSPECTION STICKER - ISSUANCE AND EXPIRATION	201
4.312	SUSPENSION AND REVOCATION OF AN INSPECTION STICKER	201
4.313	INSPECTION OF WRECKER EQUIPMENT AND STORAGE FACILITIES	201
4.314	PROCEDURES FOR NOTIFYING WRECKER SERVICES	202
4.315	UNLAWFUL FOR POLICE TO INFLUENCE SELECTION	203
4.316	PARKING OF WRECKER AT THE SCENE OF A COLLISION	203

4.317	WRECKER DRIVERS TO OBEY ORDERS OF POLICE OFFICER	203
4.318	DUTY TO REMOVE DEBRIS	204
4.319	SOLICITATION PROHIBITED	204
4.320	ADMINISTRATIVE DISPOSITION OF VIOLATIONS	204
4.321	CERTIFICATE OF REGISTRATION, INSPECTION STICKER AND ROTATION LIST APPEALS	206
4.322	GENERAL PROHIBITIONS	207
4.323	REMOVAL OF MOTOR VEHICLES FROM PRIVATE PROPERTY	207
4.324	REPOSSESSION OF VEHICLES	208
<b>SECTION 4.400</b>	<b>MESSAGE PARLORS</b> (Repealed)	209
<b>SECTION 4.500</b>	<b>SEXUALLY ORIENTED BUSINESSES</b>	209
4.501	AUTHORITY	209
4.502	DEFINITIONS	209
4.503	EXEMPT BUSINESSES	209.1
4.504	PERMIT REQUIRED	209.2
4.505	PERMIT AND AIDS WARNING DISPLAYED	210
4.506	PERMIT APPLICATION	210
4.507	REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS	212
4.508	INVESTIGATION BY DIRECTOR OF PLANNING	213
4.509	ISSUANCE OF SEXUALLY ORIENTED BUSINESS PERMIT	213
4.510	APPEAL PROCEDURES	215
4.511	FEE	215
4.512	PERMIT RENEWAL	216
4.513	PERMIT RENEWAL FEE	216
4.514	RETURN OF FEES	216
4.515	MISCELLANEOUS PROVISIONS	216
<b>SECTION 4.600</b>	<b>SHOOTING AND ARCHERY RANGES</b>	217
4.601	DEFINITIONS	217
4.602	PERMIT REQUIRED	218
4.603	APPLICATION FOR PERMIT	218
4.604	ISSUANCE OF PERMIT	219
4.605	RIGHT OF APPEAL	221
4.606	PERMITS FOR GOVERNMENT AGENCIES	221
4.607	APPLICABILITY TO EXISTING ARCHERY RANGES AND SHOOTING FACILITIES	221
<b>SECTION 4.700</b>	<b>WIRELESS TRANSMISSION FACILITY</b>	221.1
4.701	DEFINITIONS	221.1
4.702	WTF GENERAL STANDARDS	221.1
4.703	MONOPOLES AND SELF-ENCLOSED MONOPOLES	221.4
4.704	ATTACHED WTF	221.7
4.705	STEALTH WTF	221.9

# CHAPTER 4

## BUSINESS REGULATIONS

### SECTION 4.100 CARNIVALS, CIRCUSES, AND SHOWS

#### 4.101 PERMIT REQUIRED TO CONDUCT CERTAIN ENTERTAINMENTS

It shall be unlawful for any person, corporation or any other entity or organization to conduct, operate or assist in conducting or operating any theatrical performance, medicine show, carnival, tent show or circus without first having obtained a permit as herein provided.

#### 4.102 APPLICATION FOR PERMIT

Any person desiring to hold, conduct, or maintain any theatrical performance, medicine show, carnival, tent show or circus within the city shall make application in writing to the chief of police for a permit to hold such theatrical performance, medicine show, carnival, tent show or circus within the city, at least ten (10) days prior to the date said show is to be given.

#### 4.103 APPLICATION FOR PERMIT TO CONTAIN SPECIFIC INFORMATION

The application for permit shall be made under oath by the person who either owns or shall be responsible for such presentation within the city and shall contain the following:

- (1) The name and permanent address of the person making such application.
- (2) The names and permanent address of the owners of the show sought to be presented.
- (3) The name, sex, age and permanent address of all participants therein.
- (4) A list by name and description of all shows, rides, booths and other attractions operated in connection therewith.
- (5) A statement of any admission charges to be made.
- (6) A description of the property where such proposed show is to be located.
- (7) The dates and numbers of performances to be given, including the hours during which such show is to be opened.
- (8) A statement that the operator agrees to conduct the presentation and all attractions and exhibits therein in a decent, orderly and law-abiding way.

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4.104 PERMIT FEES

No permit shall be granted until the fees therefor have been paid. Such fees shall be twenty-five dollars (\$25.00) for the first day and ten dollars (\$10.00) for each additional day.

4.105 CHIEF OF POLICE TO INVESTIGATE AND APPROVE APPLICATIONS

The chief of police shall make an investigation after the filing of such application to determine whether or not the proposed performance is in conflict with any of the provisions of this section, or the laws of this State. If the chief of police determines that a permit should be denied, his decision may be appealed to the city council by filing a request for a hearing with the city secretary.

4.106 PERMITS SUBJECT TO REVOCATION

All permits granted under this section shall be subject to revocation by the chief of police or the city council should it be ascertained that there was a mistake made in issuing such permit or that it is being given in violation of this section or the laws of the State, or that there has been a misrepresentation or concealment of any material fact concerning the character or quality of the medicine show, carnival, tent show, circus, or theatrical performance.

4.107 CHARITABLE AND CIVIC AFFAIRS EXCLUDED  
FROM PROVISIONS OF THIS SECTION

This section shall not be applicable to charitable or civic affairs given for purely charitable or civic purposes.

(Ordinance No. 544 of June 22, 1978)

**SECTION 4.200 SOLICITORS, PEDDLERS, AND CANVASSERS**

4.201 PURPOSE OF SECTION

This entire Section is and shall be deemed an exercise of the police power of the State of Texas, and of the City of Round Rock, Texas, for the public safety, comfort, convenience and protection of the City and citizens of said City, and all of the provisions hereof shall be construed for the accomplishment of that purpose.

4.202 DEFINITIONS

For the purpose of this Section, the following terms are defined as follows:

- (1) Business Hours means the hours from 8:00 a.m. to 5:00 p.m. on days that the Round Rock City Hall is open for business.

- (2) Canvasser is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation from or appointment with the resident, for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.
- (3) Peddler is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation from or appointment with the resident, for the primary purpose of attempting to sell a good or service. A “peddler” does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence.
- (4) Solicitor is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation from or appointment with the resident, for the primary purpose of (1) attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service, or (2) distributing a handbill or flyer advertising a commercial event or service.

4.203 UNLAWFUL TO PEDDLE WITHOUT AN IDENTIFICATION CARD; AVAILABLE FOR SOLICITORS AND CANVASSERS

It shall hereafter be unlawful for any person or persons to act as a Peddler without having first applied for and obtained an Identification Card from the Round Rock Police Department. It shall also hereafter be unlawful for any person or persons to act as a Peddler in the City of Round Rock without carrying such Identification Card while engaged in such soliciting or selling. Canvassers and Solicitors are not required to have an Identification Card, but any Canvasser or Solicitor desiring an Identification Card for the purpose of reassuring City residents of the Canvasser’s or Solicitor’s good faith may voluntarily submit an application for an Identification Card.

4.204 WRITTEN APPLICATION REQUIRED

Any person desiring to act as a Peddler in the City, shall make written application to the Round Rock Police Department during business hours for an Identification Card in accordance with this Section. Any person desiring to act as a Canvasser or Solicitor has the option of making a written application for an Identification Card. The applicant shall provide the following information:

- (1) Name of applicant.

- (2) A photo-identification card, including a driver's license, state identification card, student identification card, passport, or other photo-identification card issued by a government within the United States.

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- (3) The permanent and (if any) local address of the applicant.
- (4) A brief description of the proposed activity related to this identification card. (Copies of literature to be distributed may be substituted for this description at the option of the applicant).
- (5) Date and place of birth and (if available) the social security number of the applicant.
- (6) A list of all misdemeanor and felony convictions of the applicant for the seven years immediately prior to the application.
- (7) The motor vehicle make, model, year, color, and state license plate number of any vehicle which will be used by the applicant.
- (8) If a card is requested for a Peddler, the following information is also required:
- (a) The name and permanent address of the business offering the event, activity, good or service (i.e., the Peddler's principal or employer).
  - (b) A copy of the principal's sales tax license as issued by the state of Texas.
  - (c) The location where books and records are kept of sales which occur within the City and which are available for city inspection to determine that all city sales taxes have been paid.
- (9) If a card is requested for a Solicitor, the following information is also required:
- (a) The name and permanent address of the organization, person, or group for whom donations (or proceeds) are accepted.
  - (b) The web address for this organization, person, or group (or other address) where residents having subsequent questions can go for more information.
- (10) Any other information the applicant wishes to provide, such as copies of literature to be distributed, references to other municipalities where similar activities have occurred, etc.

4.205 IDENTIFICATION CARD FEE

The Identification Card fee for each Peddler shall be fifty dollars (\$50.00) A Canvasser or Solicitor desiring an Identification Card will not be charged a fee. Identification Cards shall be valid for ninety (90) days from the date of their issuance. The fees herein provided for shall be used for the purpose of defraying expenses incident to the issuing of said Identification Cards.

4.206 INVESTIGATION

During any time following the application for one or more Identification Cards and its issuance, the City may investigate as to the truth and accuracy of the information contained in the application. If the City has not completed this investigation within sixteen (16) business hours, the Identification Card will nonetheless be issued, subject, however, to administrative revocation upon completion of the investigation. If a Canvasser or Solicitor requests an Identification Card, the investigation will proceed as described above, but if the City refuses to issue the Identification Card (or revokes it after issuance), the Canvasser or Solicitor will be advised that the failure to procure an Identification Card does not prevent him/her from canvassing or soliciting the residents of the City.

4.207 ISSUANCE OF IDENTIFICATION CARD

The Identification Card(s) shall be issued promptly after application but in all cases within sixteen (16) business hours of completion of an application, unless it is determined within that time that:

- (1) the applicant has been convicted of a felony or a misdemeanor involving moral turpitude within the past seven years, or
- (2) any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.

4.208 DENIAL; ADMINISTRATIVE REVOCATION.

\_\_\_\_\_ If the issuing officer denies (or upon completion of an investigation revokes) the Identification Card to one or more persons he/she shall immediately convey the decision to the applicant orally and shall within sixteen (16) business hours after the denial prepare a written report of the reason for the denial which shall be immediately made available to the applicant.

4.209 REVOCATION OF IDENTIFICATION CARD

In addition to the administrative revocation of an Identification Card, a card may be revoked by the chief of police, the acting or assistant chief of police, the city manager, or the acting or assistant city manager for any of the following reasons:

- (1) Any violation of this Section by the applicant or by the business or organization that the applicant is representing;
- (2) Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity;
- (3) Conviction of any felony or a misdemeanor involving moral turpitude

within the last seven years; or

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- (4) Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

Any police officer shall have the authority to confiscate the Identification Card of any person reasonably believed to have violated one or more of the above provisions for up to 16 business hours pending a revocation decision as set forth above.

4.210 AGGRIEVED PERSONS MAY APPEAL TO CITY COUNCIL

Any Solicitor, Peddler or Canvasser aggrieved by the denial or revocation of an Identification Card or in the decision with reference to the revocation of the Identification Card , shall have the right of appeal to the City Council.

Such appeal shall be taken by filing a petition with the city secretary within ten (10) days after notice of the action complained of has been mailed to the address on such person's application, or personally served with notice. The petition shall contain a written statement setting forth fully the grounds for appeal.

The city secretary shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant. The decision and order of the City Council on such appeal shall be final and conclusive.

4.211 CHIEF OF POLICE TO KEEP RECORD OF IDENTIFICATION CARDS

The chief of police shall keep a permanent record of all Identification Cards issued. This record shall be open for inspection during business hours.

4.212 DISPLAY OF IDENTIFICATION CARDS

Each Peddler shall display the Identification Card on the outer clothing of the individual in a manner that it is reasonably visible to any person who might be approached by said Peddler.

4.213 CRIMINAL PROSECUTION FOR VIOLATIONS

The revocation of any Identification Card for violation of any provision of this Section shall not preclude a criminal prosecution for such violation.

#### 4.214 GENERAL PROHIBITIONS

It shall be unlawful for any Peddler, Solicitor or Canvasser to:

- (1) Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words “no soliciting” or “no solicitors” and which is clearly visible to the peddler, solicitor or canvasser;
- (2) Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property;
- (3) Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.
- (4) Enter upon the property of another except between the hours of 9:00 a.m. and 8:00 p.m.

The above prohibitions shall not apply when the Peddler, Solicitor, or Canvasser has an express invitation from the resident or occupant of a dwelling allowing him/her to enter upon any posted property.

#### 4.215 EXEMPTIONS

The provisions of this Section shall not apply to any federal, state or local government employee or to a employee of a public utility in the performance of his/her employment.

(Ordinance No. G-04-08-12-12A1 of August 12, 2004)

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**SECTION 4.300 WRECKERS**4.301 PURPOSE

The proper and safe functioning of the Wrecker Business has a critical impact on the safety and welfare of the public since it involves the use of the public streets of the City, often in circumstances necessitating prompt removal of dangerous obstruction to traffic. Therefore, the privilege of any Person to engage in the Wrecker Business in the City shall be subject to regulation in order to protect the health, safety and welfare of the public.

4.302 COMPLIANCE WITH STATE LAW

Any Person operating a Tow Truck and/or Wrecker shall comply with all applicable state laws. A failure to comply with applicable state laws is a violation of this Section 4.300.

4.303 DEFINITIONS

For the purposes of this Section 4.300, the following words, terms and phrases, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

- (1) Accident or Collision shall mean any occurrence which renders a Vehicle wrecked or disabled.
- (2) Certificate Holder shall mean any Person possessing a current, valid Certificate of Registration to engage in the Wrecker Business in the City of Round Rock.
- (3) Certificate of Registration shall mean written authorization granted by the Chief of Police, under the provisions of this Section 4.300, to a Wrecker Company having a place of business within the City or outside the City operating a Tow Truck that performs Nonconsent Tows.
- (4) Chief of Police shall mean the Chief of Police for the City of Round Rock or the Person designated by him/her to act in his/her stead for the purposes of this Section 4.300.
- (5) City, shall include all areas that have been fully annexed by the City of Round Rock.
- (6) Consent Tow shall mean any tow of a Motor Vehicle initiated by the Owner or operator of the Vehicle or by a Person who has possession, custody, or control of the Vehicle. The term does not include a tow of a Motor Vehicle initiated by a peace officer.
- (7) Inspection Sticker shall mean written authorization granted by the Chief of Police, under the provisions of this Section 4.300 and affixed to a Tow Truck used by a Wrecker Company on the Rotation List, indicating that the Tow Truck has passed the required inspection.

- (8) Manufacturer's Certificate shall mean a plate permanently affixed to either a truck, Wrecker equipment or tow sling by the manufacturer of the equipment which states the Vehicle's or equipment's gross poundage capacity.
- (9) Motor Vehicle shall mean any Vehicle which is self-propelled. This does not include motor assisted bicycles as defined by the laws of the State of Texas.
- (10) Nonconsent Tow shall mean any tow of a Motor Vehicle that is not a Consent Tow.
- (11) Owner shall mean any Person who holds the legal title to a Motor Vehicle, or has the legal right of possession thereof. This does not include any Person who has gained possession of a Motor Vehicle only as a result of Wrecker services performed.
- (12) Person shall mean an individual, a corporation, a partnership, joint venture, or association.
- (13) Repossession shall mean a tow made by, or on behalf of a lien holder taking possession of collateral.
- (14) Rotation List shall mean the list prepared in accordance with the provisions of this Section 4.300, of Wrecker Companies which have applied and qualified to appear thereon, and which maintain inspected Tow Trucks of a capacity required to be on said list.
- (15) Tow Truck shall mean a Motor Vehicle, equipped with a mechanical device used to tow, winch, or otherwise move another Motor Vehicle.
- (16) Vehicle shall mean every device in, upon, or by which any Person or property is or may be transported or drawn upon a public highway, including, but not limited to, Motor Vehicles, but not including devices moved only by human power, or used exclusively on stationary rails or tracks.
- (17) Wrecker shall have the same definition as Tow Truck.
- (18) Wrecker Business shall mean the business of towing Vehicles not belonging to the Wrecker Company on a public street within the incorporated limits of Round Rock for compensation, or with the expectation of compensation including, but not limited to, compensation for towing, storage, and repair. It does not include towing a Vehicle to a point outside the City when the Owner requests that it be towed to a point outside the City, except as otherwise provided in this Section 4.300.
- (19) Wrecker Company shall mean any Person engaged in the Wrecker Business.

4.304 REQUIREMENTS TO PERFORM NONCONSENT TOWS

- (1) It shall be unlawful for a Person to operate a Tow Truck that performs Nonconsent Tows in the City unless the Person has a Certificate of Registration issued by the Chief of Police, except as provided in (2)(i), below.
- (2) An applicant for a Certificate of Registration to perform Nonconsent Tows shall submit, on a form provided by the Chief of Police, a verified application containing or accompanied by the following:
  - (a) The true name, the trade name, principal business address, and telephone number, that is answered twenty-four (24) hours a day, of the Wrecker Company.
  - (b) The list of Wreckers proposed to be operated by the Wrecker Company, including but not limited to the Motor Vehicle Identification number, make, unit number and the name of the owner of the Wrecker listed (the Wrecker Company affiliate), if different from the Wrecker Company applying for the Certificate of Registration.
  - (c) The name of the owner(s) of the Wrecker Company, partners or corporation officers.
  - (d) A certificate of public liability and property damage insurance, for each Tow Truck to be registered issued by a casualty company authorized to do business in the State of Texas, in the standard form approved by the City Attorney, containing a provision that at least ten (10) days' prior notice of cancellation of said insurance shall be given to the Chief of Police, by the insurance company, and with the insured provision of such policy including the City as an additional insured and the coverage provision insuring members of the public from any loss or damage that may arise to any Person or property by reason of the operation of a Certificate Holder's business and providing that the combined single limit liability insurance coverage amount for bodily injury to or death of an individual per occurrence, loss or damage to property shall be \$300,000.00 for Wreckers, whose gross vehicle weight is less than 26,000 pounds and \$500,000.00 for Wreckers, whose gross vehicle weight is 26,000 pounds or more.
  - (e) A certificate of on-hook cargo insurance to cover damage to a towed Vehicle during hookup and/or towing in the minimum amount of fifty thousand dollars (\$50,000.00).
  - (f) A copy of a vehicle storage facility license issued by the Texas Department of Transportation, pursuant to the *Vehicle Storage Facility Act, Article 6687-9a, Revised Civil Statutes*, as now enacted or as hereafter amended.
  - (g) A copy of the motor carrier certificate of registration issued by the Texas Department of Transportation.

- (h) A fee of \$ 15.00.
- (i) This Section 4.304 does not apply to nor prohibit a Wrecker Company which obtained a motor carrier certificate of registration from the Texas Department of Transportation and having a place of business outside the incorporated city limits, from making a Consent Tow within the City.

4.305 CERTIFICATE OF REGISTRATION FOR NONCONSENT TOWS, ISSUANCE, AND EXPIRATION

- (1) The Chief of Police or authorized designee shall register a Wrecker Company and issue a Certificate of Registration under this Section 4.300 which is determined to be in compliance with the requirements under Section 4.304. However, the Chief of Police may deny an application for a Certificate of Registration, if the applicant:
  - (a) has had a registration revoked under *Texas Transportation Code Section 643.252*, as now enacted or as hereafter amended;
  - (b) operates a Tow Truck after the state registration has been revoked;
  - (c) causes or allows the operation of a Tow Truck by an unlicensed driver on the public roadways;
  - (d) operates a Tow Truck performing Nonconsent Tows without a Certificate of Registration on the public roadways;
  - (e) submits false information on a registration application;
  - (f) fails to maintain insurance required by State law for the operation of a Wrecker Company or its equipment; or
  - (g) other legal grounds exist for denying such Certificate of Registration.
- (2) Each Certificate of Registration issued shall expire at midnight on December 31st of the calendar year of issuance, and will be renewable only upon compliance with the provisions of this Section 4.300 and any other applicable laws, ordinances, or regulations which shall be in effect at the time of the renewal application.
- (3) Each Wrecker Company which has received a Certificate of Registration under this Section 4.300 shall at all times carry a copy of its Certificate of Registration in each Wrecker it operates.
- (4) Each Wrecker Company which has received a Certificate of Registration shall be responsible for updating the information provided in the application by submitting supplemental information on forms provided by the Chief of Police. Failure to provide updated information, such as, but not limited to, replacement or additions of Tow Trucks, drivers' license suspensions or revocations, change in insurance company, or expiration of storage facility license, shall be grounds for suspension or revocation of a Certificate of Registration.

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4.306 SUSPENSION AND REVOCATION OF CERTIFICATE OF REGISTRATION FOR NONCONSENT TOWS

The Chief of Police may suspend or revoke a Certificate of Registration issued under this Section 4.300, or place a Wrecker Company on probation, if the Wrecker Company or any of its Wreckers fall out of compliance with State law or the requirements set out in this Section 4.300, or for any other lawful reason.

4.307 ROTATION LIST ESTABLISHED FOR NONCONSENT TOWS

The Chief of Police shall establish and maintain a Rotation List, from which list Wreckers shall be picked to answer calls for Nonconsent Tows. Each Wrecker Company who applies and meets the requirements herein shall be entitled to one (1) place on said list. The names of the Wrecker Companies on the list shall be listed in numerical order, beginning with the date the application is approved.

4.308 ROTATION LIST QUALIFICATIONS

- (1) A Wrecker Company may participate on the Rotation List if the Wrecker Company meets the following requirements:
  - (a) it has registered and received a Certificate of Registration and Inspection Sticker for each Tow Truck it owns or will use while on the Rotation List under this Section 4.300;
  - (b) it owns, leases, or otherwise lawfully possesses and operates a storage facility located within the incorporated limits of the City where all Motor Vehicles it tows on behalf of the City shall be stored at all times and which (i) is enclosed by a permanent six (6) foot solid wood or steel chain link fence, and (ii) has a gate which is locked, when there is no attendant on duty or after normal business hours;
  - (c) it maintains at least one (1) Wrecker;
  - (d) it maintains twenty-four (24) hour Wrecker service and a local telephone number which is answered twenty-four (24) hours a day;
  - (e) it is able to respond to any location in the City within thirty (30) minutes of being notified by telephone. Tow Trucks 2 ½ tons or more in size must be able to respond within forty-five (45) minutes after notification.
  - (f) it has someone available twenty-four (24) hours a day to release any Vehicle impounded within thirty (30) minutes of a request by the Owner or the Police Department.

- (g) it or the owner of the leased storage facility holds a license issued by the Texas Department of Transportation, pursuant to the *Vehicle Storage Facility Act, Article 6687-9a, Revised Civil Statutes*, as now enacted or as hereafter amended.
  - (h) it submits an application for placement on the Rotation List.
- (2) A Wrecker Company shall submit a verified application for placement on the Rotation List, on a form provided by the Chief of Police, containing or accompanied by the following:
- (a) A copy of a vehicle storage facility license issued by the Texas Department of Transportation for a storage facility within the City.
  - (b) A list of all drivers and drivers' driving records, obtained from the Texas Department of Public Safety, said list shall be updated as new drivers are added or when a driver's license is suspended or revoked.
  - (c) A City of Round Rock Certificate of Insurance form indicating General Liability in the amount of \$1,000,000.00, in addition to the insurance requirements under Section 4.304(2)(d).
  - (d) A certificate from the appropriate tax assessor-collector agency that certifies that all city taxes on all properties, real and personal, to be used in connection with the applicant's Wrecker Business are current. The certificate shall list the name of the Wrecker Business, its subsidiaries or assumed names.
- (3) The following maximum fees may be charged by Wrecker Companies under this Section 4.300 for the use of Wreckers on the Rotation List.
- |   |             |
|---|-------------|
| (a) Nonconsent Tow  | \$95.00     |
| (b) Extra-large Wreckers*   | \$393.00    |
| (c) Dollies or Flatbed (if required)<br>(in addition to the Nonconsent Tow fee) | \$35.00     |
| (d) Winching  | \$35.00/hr. |
| (e) Standby (after first 30 min.)   | \$35.00/hr. |
| (f) Additional Labor  | \$15.00/hr. |

\*towage of a Vehicle with a manufacturer's gross vehicle weight rating of more than 26,000 pounds.

- (4) A Wrecker Company will automatically be removed from the Rotation List on the expiration date of its Certificate of Registration, as provided in Section 4.305 and will be placed back on the list only upon compliance with the provisions of this Section 4.300 and any other applicable laws, ordinances, or regulations which shall be in effect at the time of the renewal request application.

- (5) Each Wrecker Company having a place on the Rotation List shall be responsible for updating the information provided in the application by submitting supplemental information on forms provided by the Chief of Police. Failure to provide updated information, such as, but not limited to, replacement or additions of Tow Trucks, drivers' license suspensions or revocations, change in insurance company, change in storage facility, or expiration of storage facility license, shall be grounds for suspension or removal from the Rotation List.

#### 4.309 SUSPENSION AND REMOVAL FROM THE NONCONSENT ROTATION LIST

The Chief of Police may suspend or remove a Wrecker Company from a place on the Rotation List pursuant to this Section 4.300, if a Wrecker Company or any of its Tow Trucks fails to comply with any of the requirements in this Section 4.300.

#### 4.310 INSPECTION STICKER

- (1) In order to receive an Inspection Sticker, each Wrecker shall meet the following minimum requirements:
- (a) Shall have a capacity of not less than one (1) ton.
  - (b) Shall display in a permanent manner the name and twenty-four (24) hour phone number of the holder of the Certificate of Registration on both sides of each Wrecker.
  - (c) Shall display in a permanent manner the names of the Wrecker Companies listed on the Certificate of Registration as affiliates.
  - (d) Shall be in a condition such that it can be safely and reliably used as a Wrecker.
  - (e) Shall include the Manufacturer's Certificate and be equipped with a power-operated winch, winch line and boom, with a rated or tested lifting capacity of not less than eight thousand (8,000) pounds single line capacity.
  - (f) Shall carry at all times the following standard equipment:
    - (i) slings and/or tow bars along with "J" hooks and chains
    - (ii) safety chain
    - (iii) 10 lb. fire extinguisher (or the equivalent)
    - (iv) shovel
    - (v) wrecker bar
    - (vi) broom
    - (vii) dolly (except for slide bed Tow Trucks)
    - (viii) ropes or other device for securing steering wheel
    - (ix) overhead visibar or beacon type light visible from front and rear
    - (x) tow lights

- (g) Any other information the Chief of Police may determine is necessary for the safe operation of a Tow Truck under this Section 4.300.
- (2) An Inspection Sticker shall be denied if the safety requirements provided for in this Section 4.310 are not met.

#### 4.311 INSPECTION STICKER - ISSUANCE AND EXPIRATION

- (1) The Chief of Police or authorized designee shall issue an Inspection Sticker for a Tow Truck if in compliance with the requirements under Section 4.310. An inspection fee of \$15.00 is required and shall be charged for each Tow Truck inspected. The inspection fee is non-refundable and shall be paid whether or not the Tow Truck passes inspection. The Chief of Police may deny the issuance of an Inspection Sticker on the same grounds as provided for in Section 4.305(1)(a)-(g) above.
- (2) Each Inspection Sticker issued shall expire at midnight on December 31st of the calendar year of issuance, and will be renewable only upon compliance with the provisions of this Section 4.300 and any other applicable laws, ordinances, or regulations which shall be in effect at the time of the renewal application.
- (3) Each Tow Truck which has received an Inspection Sticker under this Section 4.300 shall prominently displayed it on the front or back windshield.
- (4) Each Wrecker Company which has received an Inspection Sticker for a Tow Truck shall be responsible for keeping the Tow Truck in compliance with the safety requirements provided for in Section 4.310, at all times. Failure to comply with the safety requirements provided for in Section 4.310, shall be grounds for suspension or revocation of an Inspection Sticker.

#### 4.312 SUSPENSION AND REVOCATION OF AN INSPECTION STICKER

The Chief of Police may suspend or revoke an Inspection Sticker issued under this Section 4.300, or place a Wrecker Company on probation, if the Wrecker Company or any of its Wreckers fail to comply with State law or the requirements set out in this Section 4.300, or for any other lawful reason.

#### 4.313 INSPECTION OF WRECKER EQUIPMENT AND STORAGE FACILITIES

Any Wrecker Company, Certificate Holder, or applicant, by virtue of making an application with the City, agrees to allow during normal business hours, the inspection of Wreckers, Wrecker equipment, and storage facilities for compliance under this Section 4.300. This authority shall be cumulative of any other authority held by the Chief of Police, other law enforcement officials, or other legally authorized public officials.

4.314 PROCEDURES FOR NOTIFYING WRECKER SERVICES

- (1) When the police officer investigating a Collision determines that (i) any Vehicle involved in a Collision is unable to safely proceed under its own power; or (ii) the driver of any Vehicle involved in a Collision is physically unable to safely move the Vehicle to a location where it will not create a traffic hazard, such officer shall request the Owner to designate a Wrecker Company which he/she desires to remove the Vehicle.
  - (a) Such designation by the Owner will be indicated in writing on a form provided by the Chief of Police and signed by the Owner.
  - (b) When the designation has been properly made, the police officer shall communicate the name of the designated Wrecker Company, auto repair shop, automobile dealer, or automobile club to the police communications center.
  - (c) The police communications center shall cause the designated Wrecker Company, auto repair shop, automobile dealer, or automobile club to be called and directed to send a Wrecker capable of removing the Vehicle.
  - (d) If the designated Wrecker Company, auto repair shop, automobile dealer, or automobile club does not have available a Wrecker of the type required to move the Vehicle, the Owner will be requested to make another designation.
- (2) If the Owner of a Vehicle is (i) physically unable to designate the Wrecker Company, auto repair shop, automobile dealer, or automobile club he desires to remove the Vehicle; (ii) fails or refuses to designate one; (iii) has no preference; or (iv) is not available, then the police officer shall communicate that fact to the police communications center, and advise as to the type of Wrecker required.
  - (a) Such designation by the Owner will be indicated in writing on a form provided by the Chief of Police and signed by the Owner if he/she is physically able. If the Owner is not able or is not available, the police officer shall so indicate by a notation on the form.
  - (b) The police communications center shall call the Wrecker Company next in line on the Rotation List after the last Wrecker Company so called, and request the Wrecker Company to tow the Vehicle from the scene.
  - (c) On each succeeding communication or the inability or refusal of a Wrecker Company to send a Wrecker, the next Wrecker Company on the Rotation List shall be called. After the last Wrecker Company on said list has been called, the next such call shall go to the first Wrecker Company on said list.

- (3) If the Wrecker Company, after arrival at the scene, determines in conjunction with the police officer in charge, that assistance is needed, then the police officer shall communicate that fact to the police communications center, which shall proceed under paragraph (1) of this Section 4.314.
- (4) Failure of any Wrecker Company selected under paragraph (1) or paragraph (2) of this Section 4.314 to deliver a Wrecker to the scene within thirty (30) minutes of notification or forty-five (45) minutes for a Tow Truck 2 ½ tons or more in size without justification acceptable to the police officer on the scene shall cause the Wrecker Company to forfeit that call. Additionally, the Chief of Police shall have the discretion to suspend or revoke a Wrecker Company from a place on the Rotation List for failure to timely respond.
- (5) In any circumstance in which a Vehicle or other object is so located on a public street as to constitute a hazard or obstacle, or to interfere with traffic, or in the event a stolen Vehicle is found or in any other circumstance in which a police officer in the course of his duty directs the removal of a Vehicle from or to any location, any police officer may require its removal at the Owner's expense, by any practicable means, including but not limited to, use of a Wrecker selected by the Owner, or failing that, selected by the use of the Rotation List.

#### 4.315 UNLAWFUL FOR POLICE TO INFLUENCE SELECTION

It shall be unlawful for a police officer to directly or indirectly recommend to any Person the name of any Wrecker Company, auto repair shop, automobile dealer, or automobile club engaged in the Wrecker Business; nor shall any such police officer influence or attempt to influence in any manner the decision of any Person in choosing or selecting a Wrecker Company, auto repair shop, automobile dealer, or automobile club.

#### 4.316 PARKING OF WRECKER AT THE SCENE OF A COLLISION

Whenever a Wrecker arrives at the place where a Motor Vehicle has been disabled by an Accident, the Wrecker driver shall park his Wrecker as close to the street curb as possible and otherwise dispose of it in such a manner as not to interfere with traffic. The Wrecker driver shall not park the Wrecker within a distance of fifty (50) feet from a wrecked or disabled Vehicle, unless permitted to do so by a police officer.

#### 4.317 WRECKER DRIVERS TO OBEY ORDERS OF POLICE OFFICER

It shall be unlawful for the driver of any Wrecker arriving at the place where any Accident has occurred or an abandoned Vehicle is located to disobey any lawful order given them by any police officer of the City investigating such Accident or to interfere in any manner with such officer in the performance of his/her duty.

4.318 DUTY TO REMOVE DEBRIS

It shall be the duty of each Wrecker that removes a wrecked, damaged, or disabled Vehicle from the place where an Accident has occurred to clear and remove from the street any and all debris, parts, or glass accumulated as a result of the Accident from the street.

4.319 SOLICITATION PROHIBITED

It shall be unlawful for any Wrecker Company or its employees to solicit in any manner, directly or indirectly, on the streets of the City, for Wrecker Business involving any Vehicle which is wrecked or disabled on a public street. This prohibition applies regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading, selling, or purchasing such Vehicle. Proof of the presence of any Person engaged in the Wrecker Business or of the presence of any Wrecker, whether or not certified or identified under the provisions of this Section 4.300, except a Wrecker called pursuant to the provisions of this Section 4.300, at or near the scene or site of a Collision on any public street in the City after the wreck occurs and prior to removal of all disabled or damaged Vehicles shall be prima facie evidence of a solicitation in violation of this subsection.

4.320 ADMINISTRATIVE DISPOSITION OF VIOLATIONS

In lieu of or in addition to any criminal prosecution or civil remedy for the violation of any provision of this Section 4.300, the Chief of Police shall have, as to the holders of any Certificate of Registration or Inspection Sticker, or as to any applicant therefor, the duty and authority to enforce the provisions of this Section 4.300 by administrative action in accordance with the principles and procedures set forth hereinafter.

- (1) The proper and safe functioning of the Wrecker Business has critical impact on the health, safety, and welfare of the public and involves use of the public streets of the City of Round Rock often in circumstances necessitating prompt removal of dangerous obstructions to traffic on said streets. Accordingly, the privilege of any Person to engage in the Wrecker Business in the City of Round Rock shall be subject to strict regulation in order to protect the public.
- (2) For purposes of invoking any administrative remedy against a Certificate Holder, the acts or omissions of any agent or employee of said holder shall be considered to be the acts or omissions of said holder.
- (3) Administrative remedies which the Chief of Police may employ to enforce the provisions of this Section 4.300 include, but are not limited to:
  - (a) suspension or revocation of any Certificate of Registration or Inspection Sticker; or
  - (b) suspension, revocation or removal of a Wrecker Company from the Rotation List.

- (4) Grounds for suspension or revocation of a Certificate of Registration include (i) any conduct in the Wrecker Business which endangers the life or safety of any Person; (ii) repeated violations of the provisions of this Section 4.300; (iii) violation of the zoning ordinance or fire prevention code for one (1) week after notice of said violation has been given to said Wrecker Business by the building official or the fire marshal, respectively; (iv) failure to maintain in effect any insurance required by this Section 4.300; and (v) fraud or theft in the conduct of the Wrecker Business.
- (5) Grounds for suspension or revocation of an Inspection Sticker include responding to a Nonconsent Tow call when said Wrecker:
- (a) is in such condition that it cannot safely tow a Vehicle;
  - (b) is not then covered by insurance as required in this Section 4.300; or
  - (c) does not then meet all requirements for an Inspection Sticker.
- (6) Grounds for removal of a Wrecker Company from the Rotation List include:
- (a) failure to meet at all times the requirements for a place on the list;
  - (b) failure to, maintain at all times at least one (1) Wrecker in a condition that meets the requirements for an Inspection Sticker and for eligibility to be on the Rotation List;
  - (c) responding to a Nonconsent Tow call with a Wrecker which does not then meet the requirements of the Rotation List;
  - (d) driving a Wrecker in response to a Nonconsent Tow call in a manner which endangers the life or safety of any Person;
  - (e) driving a Wrecker to a location to perform Wrecker services in response to a call made by the police communications center, when the Wrecker Company is not the next company on the list, the Wrecker Company owning that Wrecker shall be subject to removal from the list for a period of at least thirty (30) days;
  - (f) collecting or charging any fees or charges in excess of those set out in this Section 4.300;
  - (g) violation of the zoning ordinance or fire protection ordinance, as determined by the building official or the fire marshal, respectively;
  - (h) failing to answer within the required time when called by the police communications center; or
  - (i) declining to respond to a call from the police communications center to perform Wrecker services.

4.321 CERTIFICATE OF REGISTRATION, INSPECTION STICKER AND ROTATION LIST APPEALS

- (1) Suspension or revocation of a Certificate of Registration may be ordered by the Chief of Police. The reasons for suspension or revocation of a Certificate of Registration shall be given in writing to the Certificate Holder whose Certificate of Registration is being suspended or revoked within ten (10) days of such suspension or revocation. Mailing of such notice to the last known business address provided on the application of said Certificate Holder shall constitute sufficient notice. The notice shall provide an opportunity for a hearing before the Chief of Police on the suspension or revocation by filing a request for a hearing within five (5) days from the receipt of the notice. Pending a ruling by the Chief of Police, a Certificate of Registration that has been suspended or revoked, shall be considered suspended or revoked. If a written request for a hearing is not filed within the required time, the suspension or revocation shall be final.
- (2) Suspension or revocation of an Inspection Sticker may be ordered by the Chief of Police without notice. The reasons for suspension or revocation of an Inspection Sticker shall be given in writing to the Wrecker Company within five (5) days of such suspension or revocation. Faxing of such notice to the last known business fax number provided on the application of said Wrecker Company shall constitute sufficient notice. The notice shall provide an opportunity for a hearing before the Chief of Police on the suspension or revocation of the Inspection Sticker by filing a request for a hearing within five (5) days from the receipt of the notice. Pending a ruling by the Chief of Police, an Inspection Sticker that has been suspended or revoked, shall be considered suspended or revoked. If a written request for a hearing is not filed within the required time, the suspension or revocation shall be final.
- (3) Suspension or removal from the Rotation List may be ordered by the Chief of Police without notice. The reasons for suspension or removal from the list shall be given in writing to the Wrecker Company within five (5) days of such suspension or removal. Faxing of such notice to the last known business fax number provided on the application of said Wrecker Company shall constitute sufficient notice. The notice shall provide an opportunity for a hearing before the Chief of Police on the suspension or removal by filing a request for a hearing within five (5) days from the receipt of the notice. Pending a ruling by the Chief of Police, the Wrecker Company shall be considered suspended or removed from the list. If a written request for a hearing is not filed within the required time, the suspension or removal shall be final.
- (4) If after a Certificate of Registration has been suspended or revoked, the condition for which it was suspended or revoked has been corrected, and proof of such correction is made to the Chief of Police, then a new Certificate of Registration shall be issued upon proper application, fee payment, and proof of meeting all requirements therefor.

- (5) Appeals from a ruling by the Chief of Police shall be made in writing to the City Manager within twenty (20) days of such ruling. A hearing or personal appearance shall be at the discretion of the City Manager. Written notice of the ruling of the City Manager shall be given to the Certificate Holder within thirty (30) days of the date of the appeal. Pending a ruling by the City Manager, a Certificate of Registration, Inspection Sticker that has been suspended or revoked or a Wrecker Company that has been suspended or removed from the Rotation List shall be considered suspended, revoked or removed. If a written request to appeal is not filed within the required time, the suspension, revocation or removal shall be final.
- (6) If an Inspection Sticker is revoked, a new Inspection Sticker shall not be issued for that Tow Truck for a period of at least six (6) months from the date of revocation.

#### 4.322 GENERAL PROHIBITIONS

- (1) It shall be unlawful for any Person to drive, or cause to be driven, a Wrecker to or near the scene of a Collision on a street within the City unless such Person has been called to the scene by the Police Department or by a party involved in the Collision; provided, however, that the prohibition of this subsection shall not be applicable when such actions are necessary to prevent death or bodily injury to any Person involved in a Collision.
- (2) It shall be unlawful for any Person to engage in Nonconsent Tows in the City unless such Person possesses a current, valid Certificate of Registration. The Police Department shall be authorized to summon Wreckers without Certificate of Registration in emergency situations.
- (3) It shall be unlawful for any Person to operate a Tow Truck in the City, unless it is equipped as required by state law; and Section 4.310 herein, if the Wrecker Company is participating in the Rotation List, as described herein. A Tow Truck and its required equipment shall be in safe operating condition at all times when the Tow Truck is operating on the public roadway.

#### 4.323 REMOVAL OF MOTOR VEHICLES FROM PRIVATE PROPERTY

The driver of a Tow Truck who removes a Vehicle from private property under this Section 4.300 shall notify the Round Rock Police Department within 30 minutes of such removal. The information to be provided in such notification shall include:

- (1) The date, time and location of the removal;
- (2) The physical description and license or registration number of the Vehicle;
- (3) The name of the Certificate Holder which performed the removal; and
- (4) The storage location of the Vehicle.

4.324 REPOSSESSION OF VEHICLES

The driver of a Tow Truck who removes a Vehicle for the purpose of repossessing the Vehicle shall be required to do the following:

- (1) contact the Police Department prior to making such Repossession; and
- (2) present a written notice from the Lien Holder requesting such Repossession which shall include the following information:
  - (a) Name of Owner of said Vehicle;
  - (b) Date, time and location of the removal;
  - (c) The physical description and license or registration number of the Vehicle;
  - (d) The name of the Certificate Holder which is to perform the removal; and
  - (e) The storage location of the Vehicle.

(Ordinance No. G-03-08-28-9A1 of August 28, 2003)

**SECTION 4.400      MESSAGE PARLORS**

**Editor's Note** - Ordinance No. 743 of May 8, 1980 creating Section 4.400 - Massage Parlors was repealed on October 14, 1993 by Ordinance No. G-93-10-14-8F.

**SECTION 4.500      SEXUALLY ORIENTED BUSINESSES**4.501    AUTHORITY

This Section is adopted by the City Council of Round Rock, Texas acting in its capacity as the governing body of Round Rock, Texas, to promote the public health, safety, and welfare, as authorized by Vernon's Texas Civil Statutes. (TEX.LOC.GOV'T. CODE ANN. §243.003 (Vernon Supp. 1992)).

4.502    DEFINITIONS

As used in this Section:

- (1) "County" means Williamson County or Travis County, as may be applicable;
- (2) "Church or place of religious worship" means a building in which persons regularly assemble for worship, intended primarily for purposes connected with faith, or for propagating a particular form of belief;
- (3) "Child care facility" means a building used as a day nursery, children's boarding home, child placing agency or other place for the care or custody of children under fifteen years of age, licensed by the State of Texas pursuant to Vernon's Texas Civil Statutes. (TEX.HUM.RES.CODE ANN. §42.041 (Vernon 1990));

- (4) "City" means the City of Round Rock, Texas;
- (5) "Director" means the Director of Planning of the City, or his duly appointed successor(s);
- (6) "Dwelling" means a house, duplex, apartment, townhouse, condominium, mobile home or any other building used for residential purposes;
- (7) "Hospital" means a building used to provide health services for human in-patient medical care for the sick or injured licensed pursuant to the Texas Hospital Licensing law (Tex.Civ.Stat.Ann.art.4437f(Vernon 1976)) or operated by an agency of the federal government, or a convalescent facility licensed pursuant to Vernon's Texas Civil Statutes (TEX. HEALTH & SAFETY CODE ANN. §242.031 (Vernon 1992));
- (8) "Person" means an individual, partnership, corporation, or other entity;
- (9) "Public building" means a building used by federal, state, or local government and open to the general public;
- (10) "Public park" means a tract of land maintained by the federal, state, or local government for the recreation and enjoyment of the general public;
- (11) "Regulations" means the regulations of the City of certain Sexually Oriented Businesses contained in this Section 4.500;
- (12) "School" means a building where persons regularly assemble for the purposes of instruction or education together with the playgrounds, dormitories, stadiums, and other structures or ground used in conjunction therewith;
- (13) "Sexually Oriented Business" means a sex parlor, nude studio, modeling studio, topless dancing bar, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer;
- (14) "State" means the State of Texas.

(Ordinance No. G-95-08-10-12E of August 10, 1995)

#### 4.503 EXEMPT BUSINESSES

The following are exempt from regulation under this chapter:

- (1) A bookstore, movie theater, or video store, unless that business is a Sexually Oriented Business as defined in paragraph 4.502 above;
- (2) A business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing functions authorized under the license held; or
- (3) A business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts.

#### 4.504 PERMIT REQUIRED

- (1) It shall be unlawful for any person to own or operate a Sexually Oriented Business at a location within the corporate limits of the City without a valid permit issued therefor by the Director of Planning in accordance with the provisions of these Regulations.
- (2) Before the issuance of a permit, the applicant must certify that the proposed Sexually Oriented Business will be located a minimum of 1,000 feet from the following restricted establishments which are located either within the City's extraterritorial jurisdiction or within the City's corporate limits:
  - (a) A child care facility;
  - (b) A church or place of religious worship;
  - (c) A dwelling;
  - (d) A public park;
  - (e) A school; or
  - (f) Another sexually oriented business.
- (3) Subsection (2) of this paragraph 4.504 will apply to all Sexually Oriented Businesses regardless of whether or not they exist on the effective date of these Regulations. However, should any court determine that such requirement is unconstitutional or invalid insofar as it applies to Sexually Oriented Businesses existing on or before the effective date of these Regulations, then and in that event, the applicant may certify that the Sexually Oriented Business was in existence on the effective date of these Regulations in lieu of making the certification provided for in said paragraph 4.504(2), above.
- (4) For the purposes of paragraph 4.504(2), measurements shall be made in a straight line, without regard to intervening structures or objects, from the property line of the property on which the Sexually Oriented Business is located to the property line of the property on which the use described in subparagraph (2) above, is located.

(Ordinance No. G-95-08-10-12E of August 10, 1995)

4.505 PERMIT AND AIDS WARNING DISPLAYED

- (1) A Sexually Oriented Business permit issued under these Regulations shall be displayed at all times in an open and conspicuous place at or near the entrance to the Sexually Oriented Business for which it was issued, so that it may be easily read at any time.
- (2) In addition to the permit described above, a sign shall be displayed which warns patrons of a Sexually Oriented Business of the symptoms and causes of Acquired Immune Deficiency Syndrome (AIDS). Such sign shall conform to the guidelines for AIDS warning signs promulgated by the Director of Planning.

4.506 PERMIT APPLICATION

\_\_\_\_\_ Any person desiring a Sexually Oriented Business permit shall file a written application with the Director of Planning on a form to be prescribed by the Director of Planning.

- (1) The application shall set forth the following:
  - (a) The name of the applicant and whether the applicant is an individual, general partnership, limited partnership, corporation or other entity.
    - (i) In the case of a partnership, limited partnership, or other entity, the application shall set forth the names and addresses of all persons of entities having a pecuniary interest in the partnership, limited partnership, or other entity.
    - (ii) In the case of a corporation, the application shall set forth the names and addresses of the incorporators, board of directors, officers, and all shareholders thereof.
    - (iii) In no case may an entity which is not a natural person hold a pecuniary interest in the applicant entity (whether natural or legal).
  - (b) The name under which the Sexually Oriented Business is to be operated and a specific description of the service to be provided.
  - (c) The address and full legal description of the parcel of land on which the Sexually Oriented Business is to be located.
  - (d) The name and address of the legal owner of the property.
  - (e) The name, residence address and telephone number, if any, of the manager or other individual to be principally in charge of the operation of the Sexually Oriented Business.

- (f) Written declaration that the information contained in the application is true and correct, said declaration being duly dated and signed. If the applicant is an individual, the application shall be signed and sworn to by the applicant. If the applicant is a partnership, the application shall be signed and sworn to by a partner thereof. If the applicant is a corporation or other entity, the application shall be signed and sworn to by an authorized officer of such corporation or entity.
  - (g) Certification that the Sexually Oriented Business is not located within 1,000 feet of one of the enumerated uses set out in paragraph 4.504(2) above.
  - (h) Certification that the Applicant has not been convicted of a felony or crime involving moral turpitude for the past ten (10) years.
  - (i) Any Sexually Oriented Business existing on or before the effective date of these Regulations will have thirty (30) days to apply for a Sexually Oriented Business permit under these Regulations.
- (2) The application shall be accompanied by the following:
- (a) A tender of correct permit fee as hereinafter provided;
  - (b) A certified copy of the assumed name certificate filed in compliance with the Assumed Business or Professional Name Act (TEX.BUS. & COM.CODE ANN. §§36.10, 36.11 (Vernon Supp. 1992)) if the applicant is to operate the restricted establishment under an assumed name;
  - (c) A certified copy of the articles of incorporation, together with all amendments thereto, if applicant is a corporation;
  - (d) A certified copy of the certificate of authority to transact business in this state, together with all amendments thereto, if applicant is a foreign corporation;
  - (e) A certified copy of the certificate of limited partnership, together with all amendments thereto, filed in the Office of the Secretary of State under the Uniform Limited Partnership Act (Tex.Civ.Stat.Ann.art. 6132a (Vernon Supp. 1992)), if the applicant is a limited partnership formed under the laws of Texas; and
  - (f) A certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto, filed in the Office of the Secretary of State under the Texas Limited Partnership Act, if the applicant is a foreign limited partnership.

4.507 REGULATIONS PERTAINING TO EXHIBITION  
OF SEXUALLY EXPLICIT FILMS OR VIDEOS

- (1) A person who operates or causes to be operated a Sexually Oriented Business which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction which depicts sexual activities, shall comply with the following requirements:
  - (a) Upon application for a Sexually Oriented Business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit and the AIDS warning sign will be conspicuously posted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Director may waive the foregoing requirement for a diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
  - (b) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Director.
  - (c) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
  - (d) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
  - (e) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in subparagraph (d) above, remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no

patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subparagraph (a) above.

- (f) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than thirty (30.0) footcandle as measured at the floor level.
  - (g) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described in subparagraph (f) above, is maintained at all times that any patron is present in the premises.
- (2) A person having a duty under subparagraphs 1(a)-(g) above, commits an offense if he knowingly fails to fulfill that duty.

#### 4.508 INVESTIGATION BY DIRECTOR OF PLANNING

- (1) Upon receiving the application for a Sexually Oriented Business permit, the Director shall cause to be conducted an investigation for the purpose of determining whether or not such premises comply with the requirements set forth in these Regulations.
- (2) Once a permit has been issued, the Director or his duly authorized representative, including but not limited to any peace officer certified by the State of Texas, may at any and all reasonable times inspect the premises in which the Sexually Oriented Business is located with respect to requirements under these Regulations. Any denial of this inspection is grounds for immediate revocation of applicant's permit to operate a Sexually Oriented Business.

#### 4.509 ISSUANCE OF SEXUALLY ORIENTED BUSINESS PERMIT

- (1) Any permit required by these Regulations shall be issued and signed by the Director or his duly authorized representative.
- (2) The Director shall issue a Sexually Oriented Business permit within thirty (30) days of receipt of the application unless he finds that:
  - (a) The application or the establishment location does not meet all requirements of these Regulations;
  - (b) An applicant is under 18 years of age;
  - (c) An applicant or an applicant's spouse is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a Sexually Oriented Business;

- (d) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
- (e) An applicant or an applicant's spouse has been convicted of a violation of a provision of these Regulations, other than the offense of operating a Sexually Oriented Business without a license, within two years immediately preceding the application;
- (f) The license fee required by these Regulations has not been paid;
- (g) An applicant has been employed in a Sexually Oriented Business in a managerial capacity within the preceding 12 months and has demonstrated an inability to operate or manage a Sexually Oriented Commercial Enterprise in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers;
- (h) An applicant or an applicant's spouse has been convicted of a crime involving:
  - (i) any of the following offenses as described in Chapter 43 of the Texas Penal Code: prostitution; promotion of prostitution; aggravated promotion of prostitution; obscenity, sale, distribution, or display of harmful material to minors, sexual performance by a child; or possession of child pornography;
  - (ii) any of the following offenses as described in Chapter 21 of the Texas Penal Code: public lewdness; indecent exposure; or indecency with a child;
  - (iii) sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code;
  - (iv) incest, solicitation of a child, or harboring a runaway child as described in Chapter 25 of the Texas Penal Code; or
  - (v) criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses, for which:
    - (aa) less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction was for a misdemeanor offense;
    - (bb) less than ten years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction was for a felony offense; or

- (cc) less than ten years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction is the later date, if the convictions were for two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.
- (3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or the applicant's spouse.
- (4) An applicant who has been convicted or whose spouse has been convicted of an offense listed in subparagraph (2)(h) above, may qualify for a Sexually Oriented Business permit only when the time period required has elapsed.
- (5) The Director shall notify each applicant of their eligibility for a Sexually Oriented Business permit within thirty (30) days of receipt of the completed application. If the applicant complies with the provisions of these Regulations, then the Director shall issue the permit. If the applicant fails to comply with the provisions of these Regulations, then the applicant shall be so notified and shall be entitled to a hearing pursuant to the provisions of paragraph 4.510 below.

#### 4.510 APPEAL PROCEDURES

- (1) Upon issuance, denial or revocation by the Director of an applicant's permit to operate a Sexually Oriented Business, applicant or any aggrieved party shall within ten (10) working days submit to the City Council a written request for a hearing on the action taken. An aggrieved party means any person who resides within 1,000 feet of an applied-for Sexually Oriented Business, or who owns or operates one of the restricted establishments enumerated under paragraph 4.504(2) of these Regulations, within 1,000 feet of an applied-for Sexually Oriented Business.
- (2) If the City Council denies the issuance of a license, or suspends or revokes a license, the City shall send to the applicant or licensee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. Upon receipt of this notice, the applicant or licensee shall have the right to appeal to a state district court. An appeal to state district court must occur within thirty (30) days after receipt of notice from City Council.

#### 4.511 FEE

- (1) To defray the actual cost of processing the Sexually Oriented Business permit application, the applicant shall be required to pay a fee of Two Hundred Fifty Dollars (\$250.00) to be submitted with the application.

4.512 PERMIT RENEWAL

- (1) A Sexually Oriented Business permit shall be valid for twelve (12) months from its date of issuance, at which time the permit shall expire.
- (2) On or before its date of expiration, applicant may file a written application for renewal of permit with the Director on a form to be prescribed by him. If issued, each successive renewal permit shall be valid for twelve (12) months from its date of issuance, at which time it shall expire.
- (3) Should a permit expire before the filing of a written application for renewal, then applicant must file for a new permit in accordance with the provisions of paragraphs 4.508 and 4.509 of these Regulations.

4.513 PERMIT RENEWAL FEE

- (1) To defray the actual cost of processing the Sexually Oriented Business permit renewal application, the applicant shall be required to pay a fee of Fifty Dollars (\$50.00) to be submitted with the permit renewal application.

4.514 RETURN OF FEES

- (1) No portion of any fee collected under these Regulations shall be returned after a permit, renewal or otherwise, has been issued or refused.

4.515 MISCELLANEOUS PROVISIONS

- (1) A Sexually Oriented Business permit is not transferable, assignable, or divisible.
- (2) Each permit issued under these Regulations shall be valid at the location therein specified, and not otherwise.
- (3) It shall be unlawful for any person to knowingly make any false, fraudulent or untruthful statement, either written or oral, or in any way knowingly to conceal any material fact, or to give or to use any assumed name or fictitious name other than one duly filed for record in compliance with the Assumed Business or Professional Name Act (Vernon's Texas Codes Annotated, Business and Commerce Code, Chapter 36).
- (4) It shall be unlawful for any person to use a Sexually Oriented Business permit which has been issued to another person.
- (5) It shall be unlawful for any person to counterfeit, forge, change, deface, or alter a Sexually Oriented Business permit.
- (6) Violation of any provision of these Regulations is a Class C misdemeanor.

- (7) The operation of a Sexually Oriented Business without a Sexually Oriented Business permit is hereby declared to be a public nuisance.
- \_\_\_\_\_(8) The City may sue in the district courts of Williamson County to enjoin the violation of any provision of these Regulations.
- \_\_\_\_\_(9) These Regulations do not legalize anything prohibited under the Texas Penal Code or any other laws of the State of Texas.
- (10) The hours of operation for a Sexually Oriented Business licensed under these Regulations is from 9:00 a.m. until 10:00 p.m. every day.
- (11) If any provision of these Regulations or its application to any person or circumstances is held invalid for any reason, the invalidity does not affect any other provision or application of these Regulations which can be given effect without the invalid provision or application, and to this extent the provisions of these Regulations are declared to be severable.

(Ordinance No. 2603 of November 24, 1992)

## **SECTION 4.600 SHOOTING AND ARCHERY RANGES**

### 4.601 DEFINITIONS

For the purposes of this Section, the following words and phrases shall have the meanings respectively ascribed to them in this section:

- (1) Archery. The act, practice, or skill of shooting with bow and arrow.
- (2) Archery Range. A facility for the practice of archery, but not including an archery range where only toy bows and soft rubber tip arrows are used.
- (3) Building Official. The Chief Building Official or his or her designee. The City Manager may delegate duties and obligations of the Building Official pursuant to this Section to the Chief of Police, the Fire Chief, or such other city official as the City Manager may, in his or her sole discretion, determine to be capable of exercising some or all of the authority, duties, and obligations of the Building Official acting pursuant to this Section.
- (4) Firing Line. A designated area at an archery range or shooting facility designed and intended for use as the location from which persons may shoot arrows or discharge firearms in the direction of a target.
- (5) Firearm. A weapon capable of discharging a projectile by means of an explosive charge, including without limitation a rifle, pistol, shotgun or any other type of gun; but not including an air pistol or air rifle incapable of discharging a projectile at a muzzle speed in excess of 300 feet per second.

- (6) Shooting Facility. An area, either enclosed or out of doors, at which firearms are discharged at targets and which is designed so that projectiles fired from firearms at targets are prevented, by means of backstops or other barriers, from going beyond the boundaries of the area.

4.602 PERMIT REQUIRED

It shall be unlawful for any person to conduct or operate, or to allow to be conducted or operated, on property under his or her ownership or control, an archery range or shooting facility unless such archery range or shooting facility is conducted and operated in accordance with a permit issued pursuant to this Section 4.600.

4.603 APPLICATION FOR PERMIT

- (1) Any person wishing to operate or conduct an archery range or shooting facility shall file a written application for a permit to do so with the Building Official upon forms provided by the Building Official which shall include the following:
- (a) the name, mailing address, and telephone number of the applicant for the permit (including the names, addresses, and telephone numbers of all partners if the applicant is organized as a partnership and the names, addresses, and telephone numbers of all officers and directors of the corporation if the applicant is a corporation) and the business name, address, and telephone number of the proposed archery range or shooting facility;
  - (b) plans drawn to scale and showing the location and dimensions of all improvements existing or to be constructed, specifically showing the location and dimensions of proposed firing lines and target areas and the location, design, and materials for the construction of backstops, baffles, and all other surfaces downrange from a firing line;
  - (c) applications for all building permits required to construct any structures to be used in connection with the archery range or shooting facility;
  - (d) for any shooting facility not located entirely inside a building, a site plan showing the existing and proposed topography of the land and all existing structures and uses of property located within (i) 1,200 yards downrange and a 20 degree outward angle from either end of a firing line for any firearms other than shotguns, or 300 yards downrange and a 20 degree outward angle from either end of a firing line for firearms other than shotguns on a baffled range, (ii) 300 yards downrange and 180 degrees on either side of any skeet launching facility at a skeet

range for the exclusive use of shotguns, and (iii) 300 yards downrange and 110 degrees on either side of any trap launching facility at a trap range for the exclusive use of shotguns;

- (e) a complete and true copy of the proposed rules and regulations and operating procedures governing the use of such archery range or shooting facility and the proposed hours of operation;
  - (f) evidence satisfactory to the Building Official of the applicant's ability to comply with the insurance requirement imposed by subsection (2)(f) of Section 4.604 below;
  - (g) the name and address of every property owner of land located within 300 feet of the boundaries of the tract of land on which the archery range or shooting facility will be operated; and
  - (h) any other information reasonably required by the Building Official to determine the safety of the archery range or shooting facility.
- (2) Upon the receipt of any application filed pursuant to subsection (1) above, the Building Official shall mail notice that such application has been filed by the applicant to the owners of all real property located within 300 feet of the boundaries of the tract of land on which the archery range or shooting facility will be operated. The applicant shall post notice in a form and at locations approved by the Building Official reasonably sufficient, in the discretion of the Building Official, to advise the public that an application has been filed pursuant to this Section 4.600.

#### 4.604 ISSUANCE OF PERMIT

- (1) If the Building Official determines from the information provided in the application that the archery range or shooting facility will satisfy the specific requirements of subsection (2) below, the Building Official shall conditionally approve the permit for the archery range or shooting facility, subject to the completion of any improvements shown on the application in accordance with the approved plans and specifications. After inspecting the completed improvement and certifying that the criteria of subsection (2) have been satisfied, the Building Official shall issue the permit. Conditional approval of a permit under this section shall not be deemed or construed to constitute approval of any building or other permit required pursuant to the applicable ordinances of the City of Round Rock.
- (2) The application for a permit for an archery range or shooting facility shall demonstrate compliance with the following specific criteria:

- (a) Any archery range or shooting facility shall be designed and operated in a manner to prevent any arrow, bullet, or other projectile from traveling beyond the boundaries of such archery range or shooting facility. In reviewing the design of a shooting facility, the Building Official may consider range development guidelines promulgated by the National Rifle Association.
  - (b) Any outdoor shooting facility at which firearms other than shotguns will be discharged shall be designed to prevent any projectile fired from the firing line from initially striking any surface not designed to completely stop the projectile or prevent the occurrence of potentially dangerous ricochets.
  - (c) The rules and regulations for the archery range or shooting facility shall be posted and maintained in a visible location at the archery range or shooting facility.
  - (d) The rules and regulations for the archery range or shooting facility shall prohibit the possession or use of alcoholic beverages by persons on the firing line or the discharge of firearms by any person under the influence of alcohol.
  - (e) The operating procedures for the archery range or shooting facility shall prohibit the use of any firing line at the facility except when the permit holder is present and supervising at such firing line to ensure compliance with the approved rules and regulations.
  - (f) The applicant for a permit issued pursuant to this Section 4.600 shall obtain and maintain in effect during the operation of the archery range or shooting facility liability insurance coverage in a minimum amount of \$300,000 per person and \$500,000 per event.
- (3) Permits which are issued under this Section 4.600 shall recite that the issuance thereof does not constitute any assurance by the City of Round Rock, its employees, officers, or agents, that injury may not result from the operation or use of the approved archery range or shooting facility. Permits shall be valid for a one year (1) period, and may contain such restrictions as to types of firearms and ammunition permitted to be discharged at a shooting facility, maintenance of improvements and safety equipment, rules and regulations governing the use of such facility, limitations on the times of operation, and other terms and conditions relating to the use and operation of the archery range or shooting facility as the Building Official may deem reasonably necessary to ensure the safety and welfare of the public, neighboring property owners, and persons using the archery range or shooting facility.

4.605 RIGHT OF APPEAL

Any party aggrieved by a decision of the Building Official pursuant to this Section 4.600 may appeal that decision to the City Council by filing a written notice of the appeal specifically alleging the error of the Building Official with the City Secretary. The filing of an appeal shall not stay the action or determination of the Building Official which is appealed. The City Council shall schedule a public hearing on the appeal within thirty (30) days following the date such appeal is filed and may uphold, reverse, or modify the decision of the Building Official at the conclusion of such public hearing.

4.606 PERMITS FOR GOVERNMENT AGENCIES

Notwithstanding anything in this Section 4.600 to the contrary, a permit to operate an archery range or shooting facility shall be issued to any federal, state, or local governmental agency upon receipt of a certification from an authorized official of such agency that the archery range or shooting facility is under the control and management of the agency and is operated for the exclusive use of governmental employees.

4.607 APPLICABILITY TO EXISTING ARCHERY  
RANGES AND SHOOTING FACILITIES

Any archery range or shooting facility otherwise in compliance with applicable ordinances as of the effective date of this Section, and any lawfully existing archery range or shooting facility annexed into the City subsequent to the effective date of this Section, may operate without the permit required by this Section for a period of forty-five (45) days. If application for the permit required by this Section is filed within such forty-five (45) day period, the archery range or shooting facility may continue operating without a permit for an additional forty-five (45) day period pending processing and conditional approval of a permit. If a permit is conditionally approved within such forty-five (45) day period and with the construction of improvements necessary to satisfy the shooting facility may continue operating without the issuance of a permit for an additional ninety (90) days. The Building Official may grant a single extension of up to sixty (60) days if the applicant is unable, with diligent effort to complete the improvements within the initial ninety (90) day period. Notwithstanding any other provision of the Round Rock City Code and without the issuance of a building, site development, or other permit which may otherwise be required, the Building Official may authorize the construction of improvements and site development on an existing archery range or shooting facility for the sole purpose of meeting the requirements imposed by 4.604(2).

(Ordinance No. G-93-07-08-8B of July 8, 1993 as amended by Ordinance No. G-95-03-09-9D of March 9, 1995)

**SECTION 4.700 \_\_\_\_\_ WIRELESS TRANSMISSION FACILITY****4.701 DEFINITIONS**

- (1) “Attached Wireless Transmission Facility” (Attached WTF) shall mean a WTF that is attached to a Monopole, Self-Enclosed Monopole, building or other permanent structure.
- (2) “Collocation” shall mean the locating of wireless communications equipment from more than one provider on a single mount or support structure.
- (3) “Monopole” shall mean a WTF constructed as a free-standing structure which consists of a single vertical pole, fixed into the ground and/or attached to a foundation with no guy wires containing one or more externally mounted antennas and associated equipment.
- (4) “Self-Enclosed Monopole” shall mean a WTF constructed as a free-standing structure which consists of a single vertical pole, fixed into the ground and/or attached to a foundation with no guy wires containing one or more antennas and associated equipment no larger than thirty-six (36) inches in diameter at any given point with no externally-mounted or visible antennae.
- (5) “Stealth Wireless Transmission Facility” (Stealth WTF) shall mean a WTF, that is screened, disguised, concealed or otherwise camouflaged as a natural structure, structure or part of a structure such that the WTF is indistinguishable from other natural structures, structures or the structure that it is attached to or within.
- (6) “Wireless Transmission Facility” (WTF) shall mean an antenna and associated equipment intended for transmitting or receiving television, am/fm radio, digital, microwave cellular, telephone or similar forms of electronic communication.

**4.702 WTF GENERAL STANDARDS**

All WTFs shall comply with the following standards:

**(1) Location prioritization**

The City shall prioritize proposed locations for new WTFs in the following order:

- (a) Attached to an existing WTF.
- (b) Attached to a Utility Infrastructure, as defined in Section 10.1000 of this Code.
- (c) Attached as a Stealth WTF to an existing building or structure in a non-residential zoning district.
- (d) Attached to an existing building or structure in a non-residential zoning district.

- (e) Located as a free-standing Stealth WTF in a permitted non-residential zoning district.
- (f) Located as a Self-Enclosed Monopole in a permitted non-residential zoning district.
- (g) Located as a Monopole in a permitted non-residential zoning district.
- (h) Attached as a Stealth WTF to an existing non-residential building or structure in a residential zoning district.
- (i) Attached to an existing non-residential building or structure in a residential zoning district.
- (j) Located as a free-standing Stealth WTF on a lot of a non-residential use within a residential zoning district.
- (k) Located as a Self-Enclosed Monopole on a lot of a non-residential use within a residential zoning district.

(2) Historic regulations

Any application to locate a WTF in an historic district or on a building or structure that is listed on an historic register shall be subject to review and approval by the Historic Preservation Commission in accordance with Section 11.315 of this Code.

(3) Combination with other uses

Except as provided in paragraph (5) below, a WTF is permitted on a lot with an existing use.

(4) Combination with nonconforming buildings, uses and land

A WTF is permitted on a nonconforming building, on a lot with an existing nonconforming use, or in combination with a nonconforming use of land, provided that the WTF shall cease to operate if and when the provisions in Section 11.600 of this Code require that the nonconforming building, structure, use or use of land be removed, if the nonconforming use is not able to be brought into compliance with the required provisions of this Code.

(5) Prohibited combination

A WTF is prohibited on billboard signs.

(6) Signage

Advertising is prohibited anywhere on a WTF, with the exception of the

minimum signage as required by the Federal Communications Commission (FCC) regulations or necessary for the operation of a WTF.

(7) Identification Sign

An identification sign for each service provider responsible for the operation and maintenance of a WTF at the site, not larger than two square feet, shall be posted at a location from which it can be easily read from outside the perimeter of the WTF, and shall provide the name, address, and emergency number of the responsible service provider.

(8) Noise

Equipment located at the base of a WTF shall not generate noise in excess of seventy-five (75) db at the property line.

(9) Automation

Except as provided in paragraph (9) below and during construction or an emergency, a WTF shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance.

(10) Maintenance and repair

All WTFs and associated equipment shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person. Routine testing and maintenance shall be limited to weekdays between 8:30 a.m. and 4:30 p.m. Emergency repairs shall be allowed at all times.

(11) Removal

Any WTF that is not operated for a continuous period of six (6) months shall be considered abandoned, and shall be removed within sixty (60) days of receipt of notice from the City of such abandonment. Each property owner and person in control of the site is responsible for removal, jointly and severally. If such facility is not removed within said sixty (60) days, the City may remove such facility at their expense. If there are two or more users of a single WTF, then this provision shall not become effective until all users cease operations on the facility housing the users.

(12) Improvement and Replacement

An existing WTF may be improved or replaced with a new WTF provided the improvements or replacement comply with the provisions of this Section 4.700.

(13) Violations

In addition to any other relief provided by this Section 4.700, the City may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Section and other

available relief.

4.703 MONOPOLES AND SELF-ENCLOSED MONOPOLES(1) Permitted locations

- (a) Monopoles may only be located in LI and I zoning districts, subject to the conditions set forth in this Section 4.700.
- (b) Self-Enclosed Monopoles may be located in SF-R, SF-1, SF-2, C-1, BP, LI, I, PF-3 and OS zoning districts, subject to the following conditions and the conditions set forth in this Section:
  - (i) Self-Enclosed Monopoles in SF-R, SF-1, SF-2, C-1, BP, PF-3 and OS districts shall be located at a minimum of two hundred (200) feet from a residential property line and one hundred (100) feet from the centerline of a public right-of-way.
  - (ii) Self-Enclosed Monopoles shall only be permitted in C-1, BP and PF-3 zoning districts on lots that are ten (10) acres or more; or on a lot adjacent to other lots that are zoned C-1, BP and PF-3, which when combined provide the cumulative sum of ten (10) acres or more.
  - (iii) Only one (1) Self-Enclosed Monopole is permitted for every ten (10) acres of contiguous development in C-1, BP or PF-3 districts. Multiple Self-Enclosed Monopoles may be clustered together.
  - (iv) Self-Enclosed Monopoles in BP, PF-3 or C-1 districts are permitted only in the service area at the rear or side of a building.
  - (v) Self-Enclosed Monopoles in BP, PF-3 or C-1 districts may not be located in a street yard or in a side or rear yard that abuts a residential use.
  - (vi) Self-Enclosed Monopoles shall only be permitted in OS zoning districts on lots that are ten (10) acres or more; or on a lot adjacent to other lots zoned OS, which when combined provide the cumulative sum of ten (10) acres or more.
  - (vii) Self-Enclosed Monopoles in OS districts must be approved by the Director of the Parks and Recreation Department.
  - (viii) Self-Enclosed Monopoles shall only be permitted in SF-R, SF-1 and SF-2 districts on lots used for the following non-residential purposes: churches, schools or fire stations.
  - (ix) Self-Enclosed Monopoles shall only be permitted in SF-R,

SF-1 and SF-2 districts as a Special Exception in accordance with Section 11.309 of this Code.

(2) Setbacks

The standard setbacks for each zoning district shall apply to Monopoles and any associated equipment with additional setbacks or separation being required in the sections below.

(3) Maximum height

(a) LI and I Zoning Districts

The maximum height of a Monopole in LI and I zoning districts shall be no more than one hundred and fifty (150) feet (including antenna).

(b) SF-R, SF-1, SF-2, C-1, BP, PF-3 and OS Zoning Districts

The maximum height of a Self-Enclosed Monopole in SF-R, SF-1, SF-2, C-1, BP, PF-3 and OS zoning districts shall be no more than eighty (80) feet (including antenna).

(c) The maximum height of associated equipment located at the base of a Monopole or Self-Enclosed Monopole shall be no more than ten (10) feet.

(4) Color

Monopoles and Self-Enclosed Monopoles shall be painted a non-contrasting gray, beige or similar neutral color minimizing its visibility, unless otherwise required by the FCC or Federal Aviation Administration (FAA).

(5) Lighting

No Monopole or Self-Enclosed Monopole shall be artificially lighted except as required by the FCC and FAA. Security lighting around the equipment shelter is permitted provided it is not visible from neighboring properties. Lighting for maintenance purposes is permitted, provided the lights are not used at any other time.

(6) Screening

The equipment shelter at the base of a Monopole or Self-Enclosed Monopole shall be screened from public view by an unpainted split-face decorative masonry wall with a minimum height of one (1) foot greater than the height of the equipment shelter.

(7) Hazardous waste

No hazardous waste shall be discharged on the site of any Monopole or Self-Enclosed Monopole. If any hazardous materials are to be used on

site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred (100) percent of the volume of the hazardous materials stored or used on the site.

(8) Collocation requirements

New Monopoles and Self-Enclosed Monopoles shall be designed to accommodate at a minimum three (3) WTFs, including the antennae and any associated ground-mounted equipment, unless the applicant demonstrates that such a design is not feasible for economic, technical or physical reasons. Service providers shall allow the collocation of Attached WTF's by competing service providers.

(9) Application requirements for site plan review and building permit

The following steps must be taken for the application of a new Monopole or Self-Enclosed Monopole to be considered for review:

- (a) Applications and all associated plans and documentation shall be submitted to the Planning and Community Development Department.
- (b) The applicant shall provide an inventory of all existing WTFs used by the applicant within the City limits or its ETJ, including, but not limited to, the location, height and design of each existing WTF.
- (c) The applicant shall demonstrate in writing that the WTF must be located where it is proposed in order to service the applicant's service area and shall address the location prioritization criteria listed above.
- (d) The applicant shall provide evidence of written contact with all wireless service providers which supply service within a quarter mile of the proposed facility. The applicant shall inquire about potential collocation opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within thirty (30) days. The applicant's letter(s) as well as response(s) shall be included in the application as a means of demonstrating the need for a new Monopole or Self-Enclosed Monopole.
- (e) If the WTF is to be located on a lot with another principal use, the applicant shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that vehicular access is provided to the facility.
- (f) The applicant shall provide a site plan for the proposed WTF in accordance with the requirements of Section 11.306 of this Code, as applicable.
- (g) The applicant shall provide detailed construction plans showing the design and installation of the WTF. These plans shall be

sealed by a Professional Engineer and/or Licensed Architect, as applicable, and shall be in compliance with the National Electric Code.

- (h) After the WTF has been constructed, the project engineer shall provide a letter certifying that the WTF was constructed in accordance with the approved plans.

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#### 4.704 ATTACHED WTF

##### (1) Permitted locations

- (a) An Attached WTF may be placed on a Monopole, building or structure in MF, C-1, C-2, OF, BP, LI, I, PF-1, PF-2, PF-3, SR, MI and OS zoning districts, subject to the conditions of this Section.
- (b) An Attached WTF may be attached to the following nonresidential buildings and structure that are permitted or accessory uses in SF-R, SF-1, SF-2, TF, TH, MH and SR residential zoning districts: schools, churches, municipal or governmental buildings or facilities or buildings or structures owned by a utility, subject to the conditions of this Section.

##### (2) Mounting and setbacks

The support structure or equipment for an Attached WTF shall be mounted flush with the vertical exterior of the building or structure to which it is attached or shall project no more than twenty-four (24) inches from the surface of the building or structure to which it is attached and shall not violate the building setback requirements of the zoning district in which the building or structure is located.

##### (3) Maximum Height

- (a) An Attached WTF shall not extend more than ten (10) feet above the building or structure to which it is attached and shall not violate the maximum height restriction of the zoning district in which the building or structure is located. The foregoing restriction shall not apply to WTFs attached to state, county and municipal structures.
- (b) An existing WTF may be extended in order to accommodate an Attached WTF. Under no circumstances shall the height of the WTF exceed one hundred and fifty (150) feet (including antenna) in LI and I zoning districts and eighty (80) feet (including antenna) in SF-R, SF-1, SF-2, C-1, BP, PF-3 and OS zoning districts.

##### (4) Visibility

- (a) Equipment associated with roof-mounted WTFs shall be screened

from public view. Screening shall utilize the same or similar materials as the principal structure. If roof decks with mechanical equipment are visible from any level of adjacent buildings, the mechanical equipment must be painted to match the finished roof material.

- (b) Attached WTFs that are side-mounted shall blend with the existing building's architecture and shall be painted or shielded with material that is consistent with the design features and materials of the building.

- (c) All cabinets, boxes and WTF associated equipment that is not roof-mounted or side-mounted shall be located underground, unless it is so designed and located that it is not visible from a street.

(5) Application requirements for site plan review and building permit

The following steps must be taken for the application of a new Attached WTF to be considered for review:

- (a) Applications and all associated plans and documentation shall be submitted to the Planning and Community Development Department.
- (b) The applicant shall provide an inventory of all existing WTFs used by the applicant within the City limits or its ETJ, including, but not limited to, the location, height and design of each existing WTF.
- (c) The applicant shall demonstrate in writing that the Attached WTF must be located where it is proposed in order to service the applicant's service area and shall address the location prioritization criteria listed above. If the applicant is applying for a permit in a residential district, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate nonresidential zoning district.
- (d) If the applicant is proposing to attach the WTF to any building or structure other than an existing WTF, the applicant shall provide evidence of written contact with all wireless service providers who supply service within a quarter mile of the proposed facility. The applicant shall inquire about potential collocation opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within thirty (30) days. The applicant's letter(s) as well as response(s) shall be included in the application as a means of explaining why the proposed Attached WTF cannot be located on an existing WTF.
- (e) The applicant shall present documentation that the owner of the building or structure to which the WTF will be attached has granted permission for the proposed facility to be attached and maintained.
- (f) If the Attached WTF includes associated equipment that is ground-mounted, the applicant shall provide a site plan for the proposed WTF in accordance with the requirements of Section 11.306 of this Code, as applicable.
- (g) If the applicant is proposing to install a roof-mounted WTF, the Planning and Community Development Department shall be

provided with an engineer's certification that the roof will support the proposed WTF and associated roof-mounted equipment.

- (h) The applicant shall provide detailed construction plans showing the design and installation of the WTF. These plans shall be sealed by a Professional Engineer and/or Licensed Architect, as applicable, and shall be in compliance with the National Electric Code.
- (i) After the WTF has been constructed, the project engineer or architect shall provide a letter certifying that the WTF was constructed in accordance with the approved plans.

#### 4.705 STEALTH WTF

##### (1) Permitted locations

- (a) A Stealth WTF may be located in MF, C-1, C-2, OF, BP, LI, I, PF-1, PF-2, PF-3, SR, MI and OS zoning districts, subject to the conditions of this Section.
- (b) A Stealth WTF may be attached to a nonresidential building or structure that is a permitted or accessory use in SF-R, SF-1, SF-2, TF, TH, MH and SR residential zoning districts, including, but not limited to, a homeowners' association amenity center, a school, a church, a municipal or governmental building or facility, an agricultural building or a building or structure owned by a utility, subject to the conditions of this Section.

##### (2) Setbacks

The standard setbacks for each zoning district shall apply to all Stealth WTFs. To protect citizens in their homes, free-standing Stealth WTFs shall be placed a minimum distance equal to the height of the free-standing Stealth WTF away from any residential structure. No guy wires may be used.

##### (3) Maximum Height

The maximum height of a Stealth WTF shall be determined by the height limitations stated in Chapter 11 of this Code for the type of structure the WTF resembles.

##### (4) Visibility

The antenna and associated equipment of a Stealth WTF shall be screened, disguised, concealed or otherwise camouflaged as part of a structure such that the antenna and associated equipment of the WTF are indistinguishable from the structure that it is attached to or within. If the Zoning Administrator determines that the associated equipment cannot be feasibly or adequately camouflaged due to the unique circumstances of the proposed location, it shall be placed underground; or it may be

screened from view from the public right-of-way and adjacent properties by an unpainted decorative masonry wall with a minimum height of one (1) foot greater than the height of the equipment shelter. In zoning districts other than LI, I and PF-3, the required masonry wall shall be screened

by planting one (1) five (5) gallon or larger size shrub for every three (3) linear feet around the boundary of the wall. Shrubs shall be a minimum height of two and one-half (2 ½) feet at installation.

(5) Application requirements for site plan review and building permit

The following steps must be taken for the application of a new free-standing or attached Stealth WTF to be considered for review:

- (a) Applications and all associated plans and documentation shall be submitted to the Planning and Community Development Department.
- (b) The applicant shall provide an inventory of all existing WTFs used by the applicant within the City limits or its ETJ, including, but not limited to, the location, height and design of each existing WTF.
- (c) The applicant shall demonstrate in writing that the Stealth WTF must be located where it is proposed in order to service the applicant's service area and shall address the location prioritization criteria listed above. If the applicant is applying for a permit in a residential district, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate nonresidential zoning district.
- (d) The applicant shall provide evidence of written contact with all wireless service providers who supply service within a quarter mile of the proposed facility. The applicant shall inquire about potential collocation opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within thirty (30) days. The applicant's letter(s) as well as response(s) shall be included in the application as a means of explaining why the proposed Stealth WTF cannot be located on an existing WTF and as a means of demonstrating the need for a new Stealth WTF.
- (e) If a Stealth WTF is to be located on a lot with another principal use, the applicant shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that vehicular access is provided to the facility.
- (f) The applicant shall provide an artist's rendering of the proposed Stealth WTF, along with images of comparable structures, both of similar Stealth WTFs and of the actual structures that the WTF will be mimicking.
- (g) The applicant shall provide detailed construction plans showing the design and installation of the WTF. These plans shall be

sealed by a Professional Engineer and/or Licensed Architect, as applicable, and shall be in compliance with the National Electric Code.

- (h) Applications for attached Stealth WTFs with ground-mounted associated equipment and applications for free-standing Stealth WTFs shall also include a site plan for the proposed WTF in accordance with the requirements of Section 11.306 of this Code, as applicable.
  - (i) After the Stealth WTF has been constructed, the project engineer or architect shall provide a letter certifying that the Stealth WTF was constructed in accordance with the approved plans.
- (6) Criteria for approval

The Zoning Administrator shall determine whether or not a proposed Stealth WTF is sufficiently camouflaged based on the type, size, scale and appropriateness of the structure that the Stealth WTF will resemble in relation to the architectural and land use context in which the Stealth WTF is located.

(Ordinance No. G-05-06-23-13C4 of June 23, 2005)