

CHAPTER TEN  
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LICENSES

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## Article I. In General.

### 10-1. Issuance of licenses and licensing generally.

Licenses shall be issued and signed by the city clerk, under the seal of the city, pursuant to the order of the council, or in accordance with the provisions made therein, upon the payment to the city clerk of the sum required for such license. No person shall be deemed to be licensed in any case until the license in due form is actually issued and delivered to such person, as hereinabove approved.

Except where otherwise provided under the provisions of the Code and other ordinances of the city, no action by the council shall be necessary in order that licenses provided for under the provisions of this Code or other ordinances of the city shall be issued. All that shall be necessary in such cases to procure the issuance of the license shall be to pay the proper party therefor the required amount of license fee; provided, that the applicant for the license has fully complied with the provisions of this code and other ordinances of the city with reference to such license and fee. In no case shall any license issued under the provisions of the Code and other ordinances of the city be deemed valid unless the license fee provided therefor has been paid. (C.O. 1948, 252, 256.)

### 10-2. Register of licenses.

The city clerk shall keep a license register, in which shall be entered the name of each person licensed pursuant to the provisions of this Code and other ordinances of the city, the date of the license, the purpose for which the license is granted, the amount paid therefor and the time the same will expire or continue in force. (C.O. 1948, 253.)

### 10-3. Limitation on term; term to be stated in license.

No license shall be granted by the city at any one time for a longer period than one year. In all cases, the licenses granted by the city shall state the date of expiration. (C.O. 1948, 255.)

10-4. Special provisions as to issuance of control.

Wherever special provisions are made concerning the issuance of a license under any provision of this Code or other ordinance of the city, such special provisions shall govern, if in conflict with any of the provisions of this article. (C.O. 1948, 257.)

Article II. Building Contractors.

(Article II, composed of sections 10-5 through 10-17 was moved to chapter 5 GCC and renumbered 5-10 through 5-21)

10-17. Penalties.

Any person who shall violate the provisions of this article by doing business within the city as a building contractor, as defined herein, without a license, or after a license shall have been suspended or revoked, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than two hundred dollars (\$200.00). Each day said violation continues shall be considered a separate offense. (Ord. 911, 2, 12-19-77.)

Article III. Circuses and Carnivals.

10-18. Carnival Permit Required.

No person, nor the agent, servant or employee of any person shall conduct or carry on or be engaged in any circus, carnival or other similar show, which may all be referred to by the word carnival, within the City without first having procured a Carnival Permit therefore, unless the carnival is at Camp Complex, in which case no permit is required. To be eligible to receive a carnival permit, an individual must file an application for a carnival permit at the office of the City Clerk not less than 60 days prior to the opening date of the proposed carnival. Carnival permits are issued on a first applied for first issued basis. No permit may be issued for a carnival which would be open at any time within fifteen days of previously permitted carnivals. (C.O. 1948, 270; Ord. 864, §1, 1-3-77; Ord. 1717 3-6-89; Ord. 3822, 6-3-2014)

10-19. Application for Carnival Permit; Inspections.

(A) Any person desiring a carnival permit as required in § 10-18 shall file with the City Clerk a written application to the City Council which contains the following information.

(1) The name and address of the owner of the circus, carnival or other similar show to be exhibited.

(2) The number and character of the exhibitions or rides for which admission shall be charged the public.

(3) The date, or dates, when the show will be held. The location of the proposed carnival must be given by reference to the lot and block description of the property in sufficient detail to permit review by City agencies concerned with the enforcement of other City ordinances concerning the flow of traffic, parking and land use.

(4) The prices to be charged the public for each exhibition or ride given in connection with the circus, carnival or show, and for seats therein (if seats are sold), including all sideshows connected therewith shall be set forth in detail. The prices to be charged for adults and children shall be stated separately.

(5) If the carnival is sponsored by one of the agencies or organizations listed in §10-20, and if it wishes to have its permit fee returned as authorized by that section, then a copy of the contract or other written sponsorship agreement shall be filed with the application for a carnival permit.

(6) A copy of the lease or other agreement between the landowner and the carnival permitting the event shall be filed with the application for a carnival permit.

(7) The application shall also include the address of the last agency which approved a permit for a show or other performance of this carnival which occurred before this permit application was filed and the dates and location of the that performance.

(B) At any time upon request and without advance notice, the applicant or permit holder shall allow a duly authorized and accredited agent of the City of Gillette, designated by the City Clerk, to inspect applicant's facilities, equipment, rides or other structures which are for public use. Public use of any facility, equipment, ride or other structure determined to be unsafe following inspection is prohibited until the unsafe condition is corrected, repaired or otherwise modified. Failure of the applicant or permit holder to make corrections, repairs or modifications upon receipt of a written notice

thereof, pursuant to this section shall suspend his carnival permit, if issued and shall delay the issuance of a permit if one has not been issued until the corrections, repairs or modifications are made. (C.O. 1948, 271; Ord. 864, 2, 1-3-77; Ord. 1717 3-6-89)

10-20. Issuance or denial of Permit; Permit fee; Contents of Permit.

Upon the filing of an application, as provided for in §10-19, the clerk shall circulate copies of the application to the City departments including Police, Community Development and Engineering to evaluate the site of the proposed carnival and its proposed dates of operation and shall prepare a report which shall be returned to the City Clerk and forwarded to the Council for their review with the application. If the council approves and allows the same, the clerk shall issue to the applicant a permit to hold such circus, carnival or other similar show on receipt of a copy of the insurance policy required by §10-21 G.C.C. and upon the payment of the following license fees to the clerk: For charging for admission or for its most costly ride or performance the amount of fifty cents or less, the permit fee shall be one hundred dollars per day; where such amount is over fifty cents but does not exceed seventy-five cents, the permit fee shall be one hundred and fifty dollars per day; where such amount is over seventy-five cents, the permit fee shall be two hundred dollars per day. If the proposed date of a circus, carnival or other similar show is within fifteen days of that of another such show; or if the circus carnival or other similar show will conflict with a gathering of public interest, or if other good reason exists, the council may deny such application.

The permit fee shall be returned to the applicant if all the profits from the permitted activity go to the support of charitable, humanitarian, religious, educational, or scientific activities and if the facility or grounds used for the circus, carnival or other similar show are thoroughly cleaned.

The permit provided for in this article shall distinctly show the number and character of the exhibitions, rides, or sideshows permitted and also the maximum prices authorized to be charged the public for admission into each. (C.O. 1948, 272; Ord. 864, 3, 1-3-77; Ord. 1717 3-6-89)

10-21. Insurance.

Every individual seeking the issuance of a carnival permit shall submit with the application a copy of a liability insurance policy in favor of the applicant in the minimum amount of five hundred thousand dollars (\$500,000) to cover claims of individuals injured

as a result of the carnival. Any permit issued pursuant to this ordinance shall immediately terminate and be of no force and effect if the insurance policy described herein is not in effect, for any reason during the entire period for which the carnival is authorized. (C.O. 1948, 273; Ord. 864, 4, 1-3-77; Ord. 1717 3-6-89)

10-22. Overcharging for admission.

It shall be unlawful for any person having a license, as required in 10-19, or for the agent of such person, to charge anyone for admission into such circus, carnival, or other similar show or into any sideshow, exhibition, or ride connected therewith a sum in excess of the amount specified in the application for license filed with the city clerk. Each charge for admission made in violation of this section shall constitute a distinct and separate offense. (C.O. 1948, 274; Ord. 864, 6, 1-3-77.)

Article IV. Pawnbrokers.

10-23. Pawnbrokers.

(a) DEFINITIONS. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) PAWNSHOP DETAIL: Any officer of the City Police Department who is assigned to work in connection with pawnshops.

(2) MONTH: Means that period of time from one date in a calendar month and, if computations are made for a fraction of a month, a day shall be one-thirtieth (1/30) of one (1) month.

(3) PAWNBROKER: Means a person licensed pursuant to W.S. 40-14-634 to engage in the business of making pawn transactions.

(4) PAWN FINANCE CHARGE: Means the sum of all charges, payable directly or indirectly by the customer and imposed directly or indirectly by the pawnbroker as an incident to the pawn transaction.

(5) PAWNSHOP: Means the location at which or premises in which a pawnbroker regularly conducts business.

(6) PAWN TRANSACTION: Means the act of lending money on the security of pledged tangible personal property or the act of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

(7) PLEDGED GOODS: Means tangible personal property other than choses in action, securities or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his business in connection with a pawn transaction.

(8) REDEMPTION PERIOD: Means that period of time from transaction date to maturity date of a pawn transaction.

(b) RECORD OF PROPERTY RECEIVED -- REQUIRED:  
CONTENT OF RECORDS AND NOTIFICATION.

(1) Every person licensed as a pawn broker shall keep at their place of business a substantial and well-bound book in which he shall enter in writing a minute description of all tangible personal property received on deposit or purchase, the time when they were deposited or purchased and particularly mentioning any identifying marks that may be on such tangible property together with the name and residence of the person or persons by whom they were left. Such entry shall be made on the day such property is taken in. Before noon of each working day, each pawn broker shall make and deliver to the Chief of Police, a substantiated copy of the entries made on the previous day as herein provided and shall use forms for that purpose provided through the Gillette Police Department; which forms shall be kept clean and legible and no entry therein shall be erased, obliterated or defaced and all entries therein made shall be made either in ink or with an indelible pen or pencil. The City of Gillette Police Department shall cause a number of blank forms to be printed as required and may from time to time cause additional forms to be printed as may be required and shall deliver these forms at a reasonable cost to any licensed pawn shop or pawn broker. (Ord. 1413, 1, 1-3-83).



(2) Persons subject to this ordinance shall file notification with the Administrator of the Wyoming Uniform Consumer Credit Code and pay fees, pursuant to the provisions of W.S. 40-14-634, et sec.

(3) All books and records shall be preserved or made available in this state for a period of four (4) years from date of the transaction, or two (2) years from final entry made thereon, whichever is later.

(4) Every person licensed as a pawnbroker shall during the ordinary business hours submit for inspection the book mentioned above when requested so to do by a police officer or other officer of the city and permit any officers to make a copy thereof, and shall also exhibit any, tangible personal property that may be left with such licensed person for the inspection of any of the above-named officers when requested to do so.

(5) Any person licensed as a pawnbroker who shall purchase any second-hand goods or new goods of any individual not engaged in trade shall keep the same for inspection for ten days before the same are sold and shall keep a record of the same as provided in subsection (2) of this section. The pawnbroker shall also keep a description of the person from whom such goods were bought.

(6) Any person who shall willfully and knowingly make any false statements, misrepresentations, or in any way falsify and pawn shop receipt shall be guilty of a misdemeanor. (Ord. 1413, 2, 1/3/83).

(c) RATES REGULATED.

(1) No pawnbroker may contract for, charge or receive any amount as a charge in connection with a pawn transaction other than a pawn finance charge. No pawn finance charge shall exceed twenty percent (20%) per month on the unpaid principal balance of the pawn transaction.

(2) The amount financed in any one (1) pawn transaction to any one (1) customer shall not exceed three thousand dollars (\$3,000.00).

(3) The maturity date of a pawn transaction shall be one (1) calendar month. The period shall expire on the same date in the succeeding month if there is such a date,

otherwise on the last day of the succeeding month. If the expiration date is not a business day, the period expires on the next business day.

(4) Pawn finance charges are fully earned on the day the loan is made.

(5) Pawn transactions may be renewed from month to month without additional disclosures provided:

(a) There is no change in the original terms; and

(b) Pawn finance charges are not compounded.

(6) Notwithstanding subsection (a) of this section, the lender may contract for and receive a minimum pawn finance charge of not more than five dollars (\$5.00).

(d) DISCLOSURE AND ADVERTISING.

(1) Information to be disclosed shall be made pursuant to applicable provisions of Federal Reserve Regulation Z of the Truth In Lending Act and the Wyoming Uniform Consumer Credit Code.

(2) A pawnbroker shall not engage in false or misleading advertising concerning the terms or conditions of credit with respect to a pawn transaction. Advertising which complies with the Federal Consumer Credit Protection Act does not violate this sub-section.

(3) Pawnbrokers shall post in a conspicuous place on their premises a schedule of business days and hours during which pawn transactions may be redeemed.

(e) LIMITATION ON AGREEMENTS AND PRACTICES.

(1) Even though a pawn transaction subject to this ordinance creates a debtor-creditor relationship, no pawnbroker shall make any agreement requiring personal liability to a customer in connection with a pawn transaction and no customer has an obligation to redeem pledged goods or make any payment on the pawn transaction. The sole remedy of a pawnbroker for nonpayment of a loan by a customer or failure to redeem or repurchase

tangible personal property by a customer in a pawn transaction is the right to title of the pledged tangible personal property.

(f) PROHIBITED PRACTICES. No Pawnbroker shall:

(1) Divide or separate a pawn transaction into two (2) or more transactions for the purpose or with the effect of obtaining a total pawn finance charge exceeding that authorized by this ordinance.

(2) Accept a pledge from any person under the age of eighteen (18) years.

(3) Accept any waiver, in writing or otherwise, or any right or protection accorded a customer under this ordinance or under applicable state law.

(4) Fail to exercise reasonable care to protect pledged goods from loss or damage.

(5) Fail to return goods to a customer upon payment in full amount due the pawnbroker on the pawn transaction, or

(6) Make any charge for insurance in connection with a pawn transaction.

(g) PENALTIES.

(1) Any person who engages in the business of operating a pawn shop without first securing a license prescribed under Section (h) of this ordinance is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$750.00. Any person who violates any portion of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$750.00. (Ord. 1413, 3, 1/3/83).

(2) In addition to the penalties prescribed herein, if any person engages in the business of operating a pawnshop without first securing the licenses prescribed in section h of this ordinance or if any pawnbroker contracts for, a pawn finance charge in excess of that authorized by this ordinance, the pawn transaction shall be void and customer is not obligated to pay the pawn finance charge in connection with the transaction. In that case,

upon the customer's demand, and after the customer pays the amount financed to the pawnbroker, the pawnbroker is obligated to return the pawned property to the customer, providing the complaint is made within the time limits of the contract.

(h) REQUIRED.

(1) No person shall at any time carry on the business of a pawnbroker without obtaining a City Pawnbroker license. Pawnbroker licenses may be issued by the City Clerk for \$100.00 per annum, upon presentation of evidence that the applicant has first obtained a license from the Administrator of the Wyoming Uniform Consumer Credit Code, authorizing him to engage in business of making supervised loans (Section 40-14-341 (a) W.S., 1977). The term of the license is for one year from the date of issuance provided the state license remains in good standing and is not revoked or otherwise cancelled before the end of the term. (Ord. 3050, 8-3-98)

Article V. Poolrooms.

10-24. License required.

No person shall operate a billiard hall or poolroom in the city without first having obtained a license therefore; provided, that this provision shall not apply to tables kept in private houses for private use. (C.O. 1948, 266, Ord. 846, 11, 1-3-77.)

10-25. Application for license.

Any person desiring a license as required in Section 10-25 shall make application therefor to the city clerk stating location of the places of business together with the number of billiard and pool tables operated therein. (C.O. 1948, 268; Ord. 864 12, 1-3-77.)

10-26. License fees.

License fees required for the license required under 10-25 shall be three dollars per table, payable quarterly in advance. (C.O. 1948, 267; Ord. 864, 13, 1-3-77.)

Article VI. RESERVED

10-27. RESERVED. (C.O. 1948, 278; Ord. 782, 5-5-75; Ord. 798, 1, 2, 9-2-75; Ord. 864, 15, 1-3-77, Ord. 1336, 5-3-82; Ord. 3942, 2-20-18.)

Article VIII. Itinerant Vendors and Photographers.

10-28.

(a) License required.

(1) It shall be unlawful for a transient merchant, itinerant merchant or itinerant vendor as defined herein to engage in such business within the City of Gillette without first obtaining a license therefor. It shall be unlawful for any transient merchant, itinerant merchant or itinerant vendor as defined in this ordinance to sell goods door to door within the City without wearing the identification badge prepared by the City Clerk and described in §10-28 (g). (Ord. 3774, 11-5-2012)

(2) A license shall not be required for non-profit charitable, humanitarian, religious, educational, scientific or other non-profit organizations or community groups, including local farmer markets. (Ord. 1525, 5-7-84)

(b) Definitions.

For the purpose of this ordinance, a transient merchant, itinerant vendor is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad box car, or boat, public room in hotels, lodging houses, apartments, shops, or any street, alley, or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction provided that such definition shall not be construed to include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person, firm, or corporation so engaged shall not be

relieved from complying with the provisions of this ordinance merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(c) Particular Businesses

(1) Flea Markets, Art and Craft Fairs and Bazaars.

Flea Markets, Art and Craft Fairs and Bazaars, in which multiple individuals are offering items for sale at one location, may be operated for \$25 per day, per individual merchant.

(2) Seasonal Plant and Produce Sales.

A. Temporary and seasonal sales of produce may be conducted in private parking lots with the written permission of the owner, which shall be displayed at all times with a copy of the license issued by the City Clerk.

B. If temporary structures are to be erected such as produce stands or temporary greenhouses, a temporary use permit pursuant to § 7.c.(4) of the City Zoning ordinance must be obtained in addition to an itinerant merchant permit.

C. A merchant under this category may purchase a seasonal license for 90 consecutive days. The license may be extended for an additional 30 consecutive days for an additional fee of \$75, provided the fee is paid before the end of the first 90 days.

(d) Application.

Applicants for a license under this ordinance shall file a written application with the City Clerk, showing:

(1) The place or places in the City of Gillette where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;

(2) The place or places, other than the permanent place of business of the applicant where applicant within the six months next preceding the date of said application

conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;

(3) A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant in the City of Gillette, the invoice value and quality of such goods, wares and merchandise; where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed.

(4) That the applicant has obtained a State of Wyoming Sales and Use Tax License and a Temporary Use Permit from the City of Gillette Planning Division for the location described in § 10-28(d)(1); (Ord. 3774, 11-5-2012) and

(5) A statement under oath that neither this applicant nor any of it's employees who will work within Gillette has ever been convicted of a violation of this ordinance or any other ordinance governing selling as a transient merchant or door-to-door. A license shall not be issued to any applicant who has been convicted of a violation of this ordinance or any other ordinance governing selling as a transient merchant or door-to-door or has had a previous license revoked by the City of Gillette. (Ord. 3774, 11-5-2012)

(e) Bond.

Before any license, as provided by this Chapter, shall be issued for engaging in a transient or itinerant business as defined in Section 10-28 of the Gillette City Code , other than a Seasonal Plant and Produce Sales license such applicant shall file with the City Clerk a bond running to the City of Gillette in the sum of \$1,000.00, executed by the applicant, as principal, and two sureties upon which service of process may be made in the State of Wyoming; conditioned that the said applicant shall comply fully with all the provisions of the ordinances of the City of Gillette and the statutes of the State of Wyoming, regulating and concerning the sale of goods, wares and merchandise, and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes, together with all judgments and costs that may be recovered against him by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant.

(f) Service of Process.

Before any license shall be issued for engaging in business as an itinerant merchant, as herein defined, in the City of Gillette, such applicant shall file with the City Clerk an instrument nominating and appointing the City Clerk his true and lawful agent with full power and authority to acknowledge service of notice of process for and on behalf of said applicant in respect to any matters connected with or arising out of the business transacted under said license and the bond given as required by Section 10-28-(e) of this ordinance, or for the performance of the conditions of said bond or for any breach thereof. Immediately upon service of process upon the City Clerk, as herein provided, the City Clerk shall send to the licensee at the address given by the applicant in the instrument appointing the Clerk, by registered mail, a copy of said process.

(g) Exhibition of License.

(1) The license issued under this ordinance shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for said license shall desire to do business in more than one place within the City, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business.

(h) Fees.

(1) Licensees under this ordinance shall pay to the City Clerk a fee based upon the number of days such persons intend to do business in the City of Gillette.

(2) The license fee shall be twenty five dollars (\$25.00) per day, Licenses may be issued for up to 45 successive days upon the advance payment of the appropriate fee unless the Clerk has received a notice of Revocation. (Ord. 3774, 11-5-2012).

(3) A Seasonal Plant and Produce Sales license may be issued for a fee of \$200 which will authorize sales in compliance with the terms of this ordinance for 90 consecutive days. The license may be extended for an additional 30 consecutive days for an additional fee of \$75, provided the fee is paid before the end of the first 90 days.

(4) Each license and identification badge shall clearly state the number of days for which it will be valid and each license shall expire at 8:00 P.M. on the last day for which it is issued.

(i) Rules of Operation. .



(1) No license under this ordinance shall establish a business location with twenty feet (20') of the curb or shoulder of any street, alley or highway nor within two hundred feet (200') of any intersection regulated by a traffic control device.

(2) The license granted shall be effective only between the hours of 8:00 AM and 8:00 P.M. on the days specified.

(j) Revocation of License.

(1) The permits and licenses issued pursuant to §10-28 and §10-29 may be revoked by the City Administrator of the City of Gillette, after notice and hearing, for any of the following causes (Ord. 3774, 11-5-2012):

(A) Any fraud, misrepresentation or false statement contained in the application for license;

(B) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;

(C) Any violation of §10-28 or §10-29(Ord. 3774, 11-5-2012);

(D) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or

(E) Conducting the business licensed under §10-28 or §10-29 in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare or the public. (Ord. 3774, 11-5-2012)

(2) Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be delivered by the City Clerk and mailed, postage prepaid, to the licensee, at his address supplied in the license application, at least five (5) days prior to the date set for the hearing. Notice may also be made by delivery to any employee of the licensee within Gillette. (Ord. 3774, 11-5-2012)

(3) Upon receipt of a Notice of Revocation, a licensee shall immediately stop work until the cause(s) listed in the Notice of Revocation are corrected or until a decision in its favor following a hearing. A Licensee shall receive a credit for permitted days that were covered by the stop work provisions of this section if the conditions are corrected to

the reasonable satisfaction of the City Clerk or when the license is reinstated following the hearing.

(4) If the licensee does not appear at the hearing for revocation then the license will be revoked and the revocation will be final and not subject to the appeal provisions of the following section (k). (Ord. 3774, 11-5-2012) (k) Appeal.

(k) Appeal.

Any person aggrieved by the decision of the City Administrator and Clerk in regard to the denial of application for license or in connection with the revocation of a license as provided for in Section 10-28-(j) of this ordinance, shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the Council within fourteen (14) days after notice of the decision by the City Clerk has been mailed to such person's address supplied in the license application, a written statement setting forth the grounds for the appeal. The Council shall set the time and place for a hearing on such appeal and notice of such hearing shall be given to such person in the same manner as provided in Section 10-28-(j) of this ordinance for notice of hearing on revocation. The order of this council on such appeal shall be final. (Ord. 3774, 11-5-2012)

(l) Penalty.

Any person, firm or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be punished as provided in Section 16-1 as amended, of the Code of the City of Gillette, Wyoming.(Ord. 1328, 4/19/82 ; Ord. 1941, 7/5/94 ; Ord. 3291, 10-6-2003)

§10-29 . Solicitors, peddlers, hawkers, etc.--Going in or on private residences.

(a) The practice of going in and upon private residences in the city, not having been requested or invited to do so by the owner or owners, occupant or occupants of such private residence to sell goods or services, except to solicit applications for insurance or for the sale of insurance policies, is a misdemeanor, punishable under § 16-1 of the Gillette City Code if, (Ord. 3774, 11-5-2012)

(1.) the residence has posted a sign that complies with § 14-41 of the Gillette City Code prohibiting door to door solicitation; or

(2.) if the seller of goods or services, or solicitors, agents or representatives, peddlers, hawkers, itinerant merchants and transient vendors of merchandise do not possess a current Transient Vendors License and/or a Door to Door Sales License, described in section § 10-29(c) and/or fail to exhibit an identification badge issued pursuant to § 10-28 of the Gillette City Code. (Ord. 3774, 11-5-2012)

(b). In addition to satisfying the requirements of § 10-28, Transient Vendors seeking to go door to door must also obtain a Door to Door Sales License pursuant to § 10-29(c). (C.O. 1948, § 328; Ord. 420, §1, 2, 9-2-58; Ord. 449, § 2, 1-7-63. ; Ord. 3084, 8-2-99; Ord. 3291, 10-6-2003)

(c) Door to Door Sales License.

A Door to Door Sales License may be issued by the City Clerk to any applicant who satisfies the terms of this ordinance, and need not be an Itinerant Merchant. (Ord. 3774, 11-5-2012)

(1) Application.

Applicants for a license under this ordinance shall file a written application with the City Clerk, showing:

i. The place or places in the City of Gillette where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;

ii. The place or places, other than the permanent place of business of the applicant where applicant within the six months next preceding the date of said application conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;

iii. A description of the type of the goods, wares or merchandise to be sold or offered for sale or the service to be performed by applicant in the City of Gillette. (Ord. 3774, 11-5-2012)

iv. That the applicant has obtained a State of Wyoming Sales and Use Tax License; and

v. A statement under oath that neither this applicant nor any of its employees who will work within Gillette has ever been convicted of a violation of this ordinance or any other ordinance governing selling door-to-door. A license shall not be issued to any applicant who has been convicted of a violation of this ordinance or any other ordinance governing selling as a transient merchant or door-to-door or has had a previous license revoked by the City of Gillette. (Ord. 3774, 11-5-2012)

vi. A list of the names of each door to door vendor, their home address, date of birth and social security number to permit a criminal record background check of each individual.

(2) Exhibition of License.

The City Clerk shall prepare an identification badge for each merchant who receives a Door to Door Sales License, with the name and address of each licensed merchant as well as the name and a photograph of each employee of the licensee who will be working within Gillette. The badge shall also contain a prominent disclaimer that the City of Gillette does not endorse any vendor or the practice of selling door-to-door by issuing a permit. Every employee of a licensed Door to Door Sales License merchant shall appear before the clerk and present a current photo ID such as a driver's license or other similar personnel identification furnished by a governmental organization. The Clerk shall take the employee's identification picture and shall prepare the identification badge. Each employee shall prominently display their particular badge without any changes or alterations at all times while working within Gillette. (Ord. 3774, 11-5-2012)

(3) Fees.

i. Licensees under this ordinance shall pay to the City Clerk a fee based upon the number of days such persons intend to do business in the City of Gillette.

ii. The license fee shall be thirty dollars (\$30.00) per day, (\$5 per day if the merchant also is issued a transient merchant license for the same time period).

Licenses may be issued for up to 45 successive days upon the advance payment of the appropriate fee unless the Clerk has received a notice of Revocation. (Ord. 3774, 11-5-2012)

iii. Each license and identification badge shall clearly state the number of days for which it will be valid and each license shall expire at 8:00 P.M. on the last day for which it is issued. The license granted shall be effective only between the hours of 8:00 AM and 8:00 P.M. on the days specified.

(4) Revocation of License

A Door to Door Sales License may be revoked according to the procedure in §10-28 (j). (Ord. 3774, 11-5-2012)

Article VIII. Parades.

10-30. Parade-permit-required;-exceptions.

No procession or parade containing fifty or more persons, ten or more vehicles, excepting the armed forces of the United States, funeral processions, military forces of the state, and the forces of the police and fire department shall occupy, march or proceed along any street; except, in accordance with a permit issued by the City Clerk and such other regulations as are set forth in this chapter which may apply. (Ord. 711 1, 9-4-73; Ord. 2060, 6-17-96)

10-31 Adult Sexually Oriented Businesses

**A. Purpose And Intent.**

It is the purpose and intent of this Ordinance to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the City, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent, nor effect of the Ordinance to condone or legitimize the distribution of obscene material.

**B. Findings.**

Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the governing body of the City of Gillette, and on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 426 U.S. 50 (1976), and *Barnes v. Glen Theater, Inc.*, 501 U.S. 560 (1991), and on studies and summary of studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; New York, New York; and also on findings from the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); and also on the reports, memos, affidavits and other documents originally provided to the City of Evanston Wyoming, by Detective Dan Kimett of the Denver, Colorado Police Department on July 27, 1997, and the testimony of Sergeant Pete Carey

of Colorado Springs, Colorado Police Department originally provided to the City of Evanston Wyoming, at a public meeting held on July 28, 1997, the governing body of the City of Gillette finds:

(1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are often uncontrolled by no other mechanism in the City of Gillette to make the owners of these establishments responsible for the activities that may occur on their premises.

(2) The evidence shows that sexually oriented businesses are frequently used for unlawful sexual activities including prostitution. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

(3) The documented evidence and testimony of Officer Pete Carey shows that sexually oriented businesses, because of their very nature, have a deleterious effect on both existing businesses around them and the surrounding residential areas adjacent to them, causing among other adverse secondary effects, increased crime and downgrading of property values.

(4) The evidence shows that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are operating in close proximity to each other, thereby contributing to crime, lower property values, urban blight and downgrading of the quality of life in the adjacent area.

(5) The studies referred to in the beginning of this section show that real estate professionals are of the opinion that a concentration of adult businesses can be expected to have an adverse economic effect on the value of nearby commercial and residential property.

(6) The evidence shows increased crime and unhealthful conduct tend to accompany, concentrate around and be aggravated by sexually oriented businesses including, but not limited to, prostitution, pandering, public indecency, public disturbances and exposing minors to harmful materials.

(7) Sexually transmitted diseases, including Aids, are a legitimate health concern of the City, which requires reasonable regulations of sexually oriented businesses in order to protect the health and well being of the citizens.

(8) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(9) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult video arcades and also promotes the safety of law enforcement personnel.

(10) The general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this ordinance.

**C. DEFINITIONS.**

(1) “ADULT ARCADE” means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

(2) “ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE” means a commercial establishment which, devotes more than thirty percent (30%) of its stock-in-trade or of its interior floor space to; or more than thirty percent (30%) of its advertising expenditures to the promotion of: the sale, rental or viewing, for any form of consideration any one or more of the following:

(a) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other



visual representations which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or

(b) instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities”.

(c) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental or material depicting or describing “specified sexual activities or “specified anatomical areas” and still be categorized as ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE so long as the provisions of Subsection (2) are otherwise met.

(3) “ADULT CABARET” means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(a) persons who appear in a state of nudity or semi-nude; or

(b) live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or

(c) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities: or “specified anatomical areas.”

(4) “Adult Motel” means a hotel, motel or similar commercial establishment which:

(a) offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”;

and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or

(b) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

(5) “ADULT MOTION PICTURE THEATER” means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction of “specified sexual activities” or “specified sexual activities.”

(6) “ADULT THEATER” means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

(7) “EMPLOYEE” means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises.

(8) “ESCORT” means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(9) “ESCORT AGENCY” means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, or other consideration.

(10) “ESTABLISHMENT” means and includes any of the following:

(a) the opening or commencement of any sexually oriented business as a new business;

(b) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(c) the additions of any sexually oriented business to any other existing sexually oriented business; or

(d) the relocation of any sexually oriented business.

(11) “MASSAGE PARLOR” means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentation or any other treatment manipulation of the human body which occurs as a part of or in connection with “specified sexual activities”, or where any person providing such treatment, manipulation, or service related thereto, exposes their “specified anatomical areas”.

(12) “NUDE MODEL STUDIO” means any place where a person who appears semi-nude, in a state of nudity, or who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Wyoming or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation, or in a structure:

(a) that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(b) where in order to participate in a class a student must enroll at least three days in advance of the class; and

(c) where no more than one nude or semi-nude model is on the premises at any one time.

(13) “NUDITY” or a “STATE OF NUDITY” means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully

opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernable turgid state.

(14) “PERSON” means an individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

(15) “SEMI-NUDE” or in a “SEMI-NUDE CONDITION” means a state of dress in which clothing covers no more than the genitals, pubic region and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

(16) “SEXUAL ENCOUNTER CENTER” means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(17) “SEXUALLY ORIENTED BUSINESS” means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(18) “SPECIFIED ANATOMICAL AREAS” means

(a) the human male genitals in a discernable turgid state, even if completely and opaquely covered; or

(b) less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

(19) “SPECIFIED SEXUAL ACTIVITIES” means any of the following:

(a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or

(c) excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

**D. Classification.** Sexually Oriented Businesses are classified as follows:

- (1) adult arcade;
- (2) adult bookstore, adult novelty store or adult video store;
- (3) adult cabaret;
- (4) adult motel;
- (5) adult motion picture theater;
- (6) adult theater;
- (7) massage parlor;
- (8) sexual encounter establishment;
- (9) escort agency, or
- (10) nude model studio.

**E. Location Of Sexually Oriented Businesses.**

(1) A person commits a misdemeanor, if that person operates or causes to be operated a sexually oriented business in any zoning district other than the I-2 Heavy Industrial District, as defined in Chapter 6.0 of the City of Gillette Zoning Code.

(2) A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business within 500 feet of:

- (a) any religious institution;
- (b) any school;
- (c) the boundary of any residential district;
- (d) a public park adjacent to any residential district;
- (e) a property line of a lot devoted to residential use; or
- (f) a boys' club, girls' club, or similar existing youth organization.

(3) A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business within 500 feet of another such business, which will include, any adult arcade, adult book store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor or any sexual encounter establishment.

(4) A person commits a misdemeanor if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business within the same building, structure, or portion thereof, or causes the substantial enlargement of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.

(5) For the purposes of subsection (2) of this Section, measurement shall be made in a straight line, without regard to intervening structures, or objects from the property line of the lot or parcel containing the premises where a sexually oriented business is conducted, to the nearest property line of the lot or parcel of the premises of a use listed in subsection (2). Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying this distance requirements of this Section.

(6) For the purposes of subsection (3) of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, or objects from the property line of the lot or parcel containing the premises where a sexually oriented business is located.

(7) For sexually oriented businesses lawfully operating on the effective date of this ordinance, shall not be required to comply with subsection (1) through (6) of this Section.

#### **F. Exhibition Of Sexually Explicit Films Or Video In Video Booths.**

(1) A misdemeanor is committed by a person who operates or causes to be operated a sexually oriented business, other than an adult motel, 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 specified sexual activities or specified anatomical areas, if the person fails to comply with the following requirements:

(a) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager or employee'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 have 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.

(b) All viewing rooms and booths shall remain unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times no patron is permitted access to any area of the premises which had been designated as an area in which patrons will not be permitted.

(c) No viewing room may be occupied by more than one person at any one time.

(d) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and an illumination of not less than five (5.0) foot candle as measured at the floor level.

(e) The illumination described above shall be maintained at all times that any patron is present on the premises.

(f) No openings of any kind shall be allowed to exist between viewing rooms or booths.

(g) No employee shall knowingly or with reasonable cause to know, permit or allow a patron to commit on the premises an act of “public indecency” as set forth in Wyoming Statutes 6-4-201.

#### **G. Nude Model Studios.**

(1) A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or visible to any other person.

(2) A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

(3) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

#### **H. Public Nudity.**

Public nudity is prohibited with the City of Gillette including any sexually oriented business.

#### **I. Regulations Pertaining To Adult Theaters, And Cabarets.**



(1) It shall be a misdemeanor for a person who knowingly or intentionally appears, entertains or performs in a semi-nude condition in an adult theater or adult cabaret unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage elevated at least two (2) feet from the floor.

(2) It shall be a misdemeanor for a patron or customer to pay or give directly any gratuity to any employee, before, during or after an employees has performed or entertained in a adult theater or cabaret. A patron who wishes to pay or give a gratuity to a performer shall place the gratuity in a container that is at all times located separately from the performer.

(3) It shall be a misdemeanor for an employee, while semi-nude, to have physical contact with a customer or patron while on the premises. It shall be a misdemeanor for a customer to have physical contact with any employee while said employee is semi-nude in a sexually oriented business.

(4) Subsection (1) of this section shall not apply to an employee of a sexually oriented business, who, while acting in the scope of their employment as a waiter, waitress, host, hostess or bartender comes within ten feet of a patron.

#### **J. Prohibition Against Minor in a Sexually Oriented Business.**

(1) A person commits a misdemeanor if the person knowingly or with reasonable cause to know, permits or allows.

(a) A person under the age of 18 years to be admitted or remain on the premises of a sexually oriented business unless accompanied by a parent or guardian.

(b) A person under the age of 18 years to purchase goods or services at the business premises without the specific consent of a parent or guardian.

(c) A person under the age of 18 years to work at the business as an employee.

#### **K. Hours of Operation.**

A person commits a misdemeanor if the person operates or causes to be operated a sexually oriented business, except for an adult motel, and allows such business to remain open for business at any time between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. of any particular day.

**L. Exemptions.**

(1) It is a defense to prosecution under Section 11-50 that a person appearing in a state of nudity did so in a modeling class operated:

(a) by a proprietary school, licensed by the State of Wyoming; a college, junior college, or university supported entirely or partly by taxation;

(b) by a private college or university which maintains and operates educational program in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) in a structure:

(i) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(ii) where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(iii) where no more than one nude model is on the premises at any one time.

**M. Advertising.**

(1) A person commits a misdemeanor if the person operates or causes to be operated a sexually oriented business, and advertises the presentation of or depicts or exhibits any activity prohibited by any applicable state statute or local ordinance.

(2) A person commits a misdemeanor if the person operates or causes to be operated a sexually oriented business, and displays or otherwise exhibits the materials or

goods of such sexually oriented business in advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of sexually oriented business.

(3) Nothing contained in this Section shall relieve a sexually oriented business from complying with any other relevant requirements of the Gillette City Code.

**N. Injunction.**

A person who operates or causes to be operated a sexually oriented business in violation of any section of this chapter of the City Code is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation. (ord. 3077, 6-7-99).