

Chapter 10

BUSINESSES*

* **Cross References:** Miscellaneous license fees, § 18-2; maintenance of areas around business premises, § 22-78; maintenance of commercial and industrial buildings, § 26-451 et seq.; junk dealers, ch. 32; laundries and dry cleaning, ch. 34; massage parlors, ch. 38; restrictions on slaughtering cattle or other animals and curing hides, § 40-15; peddlers and hawkers, ch. 46; placing merchandise on street or sidewalk, § 70-8; solicitation on roadway prohibited, § 76-61.

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ARTICLE I.

IN GENERAL

Sec. 10-1. Operation between midnight and 5:00 a.m.--Purpose.

This chapter is enacted for the purpose of providing necessary regulation and control over the hours of

business operation to ensure that the operation of such business does not harm the peace and tranquility of citizens of the city.

(Code 1971, § 4 1/2-1)

Sec. 10-2. Same--License required.

No person, firm, partnership or corporation shall operate a retail business in the city between the hours of midnight and 5:00 a.m. without a license first having been issued for such operation by the board of public safety.

(Code 1971, § 4 1/2-2)

Sec. 10-3. Same--Application for license; issuance.

An application for a license for permission to operate a business between the hours of midnight and 5:00 a.m. shall be in writing, signed by the business owner, and shall be accompanied by a statement describing the business, a description of the size and location of the property and the proposed hours of operation, and such further information required by the board of public safety. Upon receipt of said application, the board of public safety shall make such inspection and investigation as it considers reasonably required to ensure that the health, safety, welfare, peace and tranquility of the public will not be adversely affected and shall docket the application for hearing within 30 days of receipt. At the expense of the applicant, written notice of the date, time and place of the hearing shall be sent by the applicant at least ten days prior to the hearing by certified mail, return receipt to all property owners within a 200 foot radius of the property for which the license is sought. The board of public safety may fix such conditions to the license as it deems reasonably required for the protection of the public. This chapter shall not apply to liquor license applications.

(Code 1971, § 4 1/2-3; Ord. No. O-00-15, § I, 4-18-00)

Sec. 10-4. Same--License fee.

The board of public safety shall require a fee as provided in chapter 18 for the issuance of such license.

(Code 1971, § 4 1/2-4)

Sec. 10-5. Same--Penalty.

Any firm, person, partnership, or corporation, or the owner, operator, or employee thereof, violating any provision of this chapter or any condition or requirement of the license issued by the board of public safety shall be subject to punishment as provided in section 1-4. Each day any violation shall occur shall constitute a separate offense.

(Code 1971, § 4 1/2-6)

Sec. 10-6. Nudity on premises where alcoholic beverages are offered for sale.

(a) It shall be unlawful for any person or entity holding a liquor license in the city to suffer or permit any person, while on the premises of the liquor license holder, to:

- (1) Expose to the public view that area of the human breast at or below the areola thereof.

- (2) Employ any device or covering which is intended to give the appearance of or simulate such portions of the human breast as described in subsection (a)(1) above.
- (3) Expose to public view his or her genitals, pubic area, anus, or anal cleft.
- (4) Employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, anus, or anal cleft.

(b) It shall be unlawful for any person, while on the premises of a liquor license holder, located within the city, at which alcoholic beverages are offered for sale for consumption on the premises, to expose to public view that area of the human breast at or below the areola thereof, or to employ any device or covering which is intended to give the appearance of or simulate such areas of the breast as described herein.

(c) It shall be unlawful for any person, while on the premises of a liquor license holder, located within the city, at which alcoholic beverages are offered for sale for consumption on the premises, to expose to public view his or her genitals, pubic area, anus, or anal cleft, or to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, anus, or anal cleft.

(d) Any person who shall violate any provision of this section shall be guilty of an offense against the city, punishable as provided in section 10-5 of this Code.
(Ord. No. 0-96-9, § I, 2-12-96)

ARTICLE II.

LATE NIGHT DANCES

Sec. 10-11. Purpose.

This article is enacted for the purpose of providing necessary regulations for the holding of late-night dances within a building in the city.
(Ord. No. O-00-1, § I, 1-13-00)

Sec. 10-12. License required.

No person, firm, partnership or corporation shall sponsor, organize or otherwise hold a dance within a building in the city after the hour of 2:00 a.m. without a license first having been granted for such dance by the board of public safety.
(Ord. No. O-00-1, § I, 1-13-00)

Sec. 10-13. Same--Application for license; issuance.

An application for a license for permission to sponsor, organize or otherwise hold a dance within a building in the city that will run past 2:00 a.m. shall be in writing signed by the sponsor or organizer, and shall be accompanied by a statement describing the nature of said dance, estimated number of attendees, whether there will be live or recorded music, and such further information as may be required by the board of public safety. The board of public safety may fix such conditions to the license as it deems reasonably required for the

protection of the public.
(Ord. No. O-00-1, § I, 1-13-00)

Sec. 10-14. Same--Police detail.

The board of public safety shall have discretion to require that any applicant for a license under the provisions of this article must employ uniform members of the city police department for special detail at said dance. The board of public safety may direct the applicant to hire additional police officers as the board may deem necessary for the protection of the public.
(Ord. No. O-00-1, § I, 1-13-00; Ord. No. O-00-27, § I, 8-8-00)

Sec. 10-15. Same--License fee.

The board of public safety shall require a fee as provided in chapter 18 for the issuance of such license.
(Ord. No. O-00-1, § I, 1-13-00)

Sec. 10-16. Same--Penalty.

Any firm, person or partnership or corporation, or the owner, operator, or employee thereof violating any provision of this chapter or any condition or requirement of the license issued by the board of public safety shall be subject to punishment as provided by section 1-4. Each day any violation shall occur shall constitute a separate offense.
(Ord. No. O-00-1, § I, 1-13-00)

Secs. 10-17--10-20. Reserved.

ARTICLE III.

TOBACCO DEALER'S LICENSE

Sec. 10-21. Findings.

- (a) Cigarette smoking is dangerous to human health.
- (b) There exists scientific evidence that the use of tobacco products causes cancer, heart disease, and other medical disorders.
- (c) The surgeon general of the United States of America has declared that nicotine addiction from tobacco is the most widespread example of drug addiction in this country.
- (d) The National Institute on Drug Abuse concluded that the majority of the three hundred and twenty thousand Americans who die each year from cigarette smoking became addicted to nicotine as adolescents.
- (e) The National Institute on Drug Abuse found that cigarette smoking precedes and may be predictive of adolescent drug use.

(f) The Rhode Island General Assembly in 1996 declared that the use of tobacco by state children is a health and substance abuse problem of the utmost severity.

(g) State tobacco retailers illegally sell over 900,000 packs and over \$2.5 million in tobacco sales to children annually, which equals 2,500 packs a day.

(h) According to the Federal Centers for Disease Control and Prevention (CDC), smoking-related direct medical cost in the state in 1990 climbed to \$186,000,000.00. This is a health and economic drain created by each new generation of children who begin using tobacco products and become addicted to nicotine.

(i) The state department of health reports that the city was found to have a violation rate of 39 percent of all compliance checks of tobacco sales to minors. This rate being 70 percent higher than the state rate of 23 percent.

(j) To improve the compliance rate among retailers in the city and inform unsuspecting parents of minor children who smoke, a program monitored by the city is required.
(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, 7-11-00)

Sec. 10-22. Definitions.

Advertising violation means any advertising of tobacco products which is on the outside of a place of business within one-half mile of any high school, junior high school, elementary school, nursery school, playground, or other youth recreational area located within the city.

Compliance check violation means any sale of tobacco products to and/or by a person who is less than 18 years of age.

Licensing offense means each and every time a *compliance check violation* or an *advertising violation* occurs.

Tobacco products means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

Vending machine means any mechanical, electric or electronic self service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products.
(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, § I, 7-11-00)

Sec. 10-23. License required.

It shall be unlawful to sell or offer for sale at retail, to give away, deliver or to keep with the intention of selling at retail, giving away or delivering tobacco products within the city without having first obtained a tobacco dealer's license pursuant to this article. Such license shall be in addition to any other license required by state and/or federal law. Failure to obtain a license shall result in a fine of \$250.00.
(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, § I, 7-11-00)

Sec. 10-24. License application.

Application for a license hereunder shall be made in writing to the board of public safety of the city.

Application for a license hereunder shall be granted for a term of three years. Licenses shall expire in the month of February and shall not be issued for a term longer than 36 months. All retailers holding a valid state license shall receive approval from the board for this license and no fee shall be required. Any individual, corporation, partnership, or other organization which had a previous license suspended or revoked by the city shall only be issued a new license after a full hearing and a majority vote in the affirmative of the board of public safety.

(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, § I, 7-11-00)

Sec. 10-25. Prohibitions applicable to license holders and their employees and agents.

(a) A person that holds a license issued under this article, or an employee or agent of that person, is prohibited from selling, distributing or delivering any tobacco product to any individual that is under 18 years of age whether said tobacco product is sold to the individual in person or via a vending machine.

(b) A person that holds a license issued under this article, or an employee or agent of that person, is prohibited from posting or displaying any means of advertising of tobacco products as defined in subsection 10-22 of this article.

(Ord. No. O-00-25, § I, 7-11-00)

Sec. 10-26. Suspension or revocation of license; fines and costs.

The city police department shall enforce this article. All holders of a tobacco dealer's license shall be subject to a compliance check at least twice a year, with violators being checked more frequently until two checks are completed without a violation.

If an alleged violation occurs, the city police department shall issue a citation that will require the holder of the tobacco dealer's license to appear in the city municipal court. If after a hearing, it has been proven by a preponderance of the evidence that a violation is found to have occurred, the city municipal court will impose a fine of \$300.00 for the first licensing offense, \$300.00 for the second licensing offense, \$300.00 for the third licensing offense together with a 15 day suspension of the tobacco dealer's license, \$300.00 together with a minimum 30 days, not to exceed 90 days, suspension of the tobacco dealer's license for the fourth licensing offense, and \$300.00 together with a minimum 60 days, not to exceed 120 days, suspension of the tobacco dealer's license for the fifth licensing offense. For the sixth licensing offense, the tobacco dealer's license shall be revoked. If a holder of a tobacco dealer's license maintains the tobacco dealer's license for 48 consecutive months without a violation, any new violation will be treated as the first offense. In addition to all fines, the city municipal court will impose court costs.

(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, § I, 7-11-00)

Sec. 10-27. Use of premise during license suspension.

During the period of any suspension of tobacco dealer's license, the holder of the suspended license shall remove all tobacco products from the shelves and secure them in a locked area for the duration of the

suspension. If at any time during the suspension period, the license holder is found to be selling tobacco products, the license shall be revoked.

(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, § I, 7-11-00)

Sec. 10-28. Vending machines.

Businesses which have vending machines shall be subject to the same fines and penalties as described in section 10-26 of this article. Suspension of a tobacco dealer's license shall result in the vending machine being removed from the licensed location for the suspension period. Revocation will result in the permanent removal of the vending machine from the licensed location.

(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, § I, 7-11-00)

Secs. 10-29, 10-30. Reserved.

ARTICLE IV.

PERMANENT MAKE-UP LICENSE

Sec. 10-31. Purpose.

This article is enacted for the purpose of providing necessary regulations for a license by a hair salon to apply permanent make-up.

(Ord. No. O-03-24, § I, 11-12-03)

Sec. 10-32. License required.

No person, firm, partnership, corporation or other entity shall provide or offer to people the service of permanent make-up, as such is defined by the Rhode Island Department of Health Regulations, without a license first having been granted for such service by the board of public safety.

(Ord. No. O-03-24, § I, 11-12-03)

Sec. 10-33. Same--Application for license; issuance.

An application for a license to apply permanent make-up shall be in writing signed by the business owner of the hair salon on a form prescribed by the board of public safety. Pursuant to Rhode Island Department of Health Regulations, as a condition of obtaining and maintaining such a license, the applicant must have on staff a person or persons licensed as a tattoo artist by the Rhode Island Department of Health who will be the only person(s) authorized to apply the permanent make-up. The board of public safety may fix such conditions to the license as it deems reasonably required for the protection of the public.

(Ord. No. O-03-24, § I, 11-12-03)

Sec. 10-34. Same--License fee.

The board of public safety shall require a fee as provided in chapter 18 for the issuance of such license.

(Ord. No. O-03-24, § I, 11-12-03)

Sec. 10-35. Same--Penalty.

Any firm, person or partnership, corporation or other entity, or the owner, operator, or employee thereof violating any provision of this chapter or any condition or requirement of the license issued by the board of public safety shall be subject to punishment as provided by section 1-4. Each day any violation shall occur shall constitute a separate offense.

(Ord. No. O-03-24, § I, 11-12-03)