

S U M M A R Y

AN ORDINANCE to amend Chapter 28 of the 2019 Detroit City Code, *Licenses*, Article 1, *City Business Licenses*, by amending Sections 28-1-1, 28-1-2, 28-1-5, 28-1-7, 28-1-8, 28-1-13, to make necessary technical corrections; by amending Section 28-1-16, to establish that a licensed business that is owned or operated by a person who has engaged in specified criminal activity on the business premises provides grounds for denial, suspension, revocation of license; by repealing Section 28-1-17, *Procedures for denial, revocation of license*, and replacing it with Sections 28-1-17, *Procedures for denial or non-renewal of license*, 28-1-18, *Suspension or revocation of license*, and 28-1-19, *Emergency suspension of a license*, to establish an appellate procedure for the denial, revocation and suspensions of a city issued license; by adding Section 28-1-20, *Action pending appeal of the denial, non-renewal, revocation, or suspension of a license*, to provide that compliance with an order, decision, license suspension or revocation which is the subject of an appeal is not required except where conditions exist warranting the emergency suspension of a license; by adding Section 28-1-21, *Closure orders on the suspension or revocation of business licenses* and Section 28-1-22, *Emergency business closure orders*, to provide that it shall be unlawful for any person to continue operation of a business, if the business operating license has been suspended or revoked subject to a final judgment of suspension or revocation of a license and/or deface or remove any closing notice from a business without authorization of the Director of Buildings, Safety Engineering, and Environmental Department Business License Center.

1 **BY COUNCIL MEMBER _____ :**

2 **THIS ORDINANCE** amends Chapter 28 of the 1984 Detroit City Code, *Licenses*, Article
3 1, *City Business Licenses*, by amending Sections 28-1-1, 28-1-2, 28-1-5, 28-1-7, 28-1-8, 28-1-13,
4 to make necessary technical corrections; by amending 28-1-16; to establish that a licensed
5 business that is owned or operated by a person who has engaged in specified criminal activity
6 on the business premises provides grounds for denial, suspension, revocation of license; by
7 repealing Section 28-1-17, *Procedures for denial, revocation of license*, and replacing it with
8 Sections 28-1-17, *Denial of License*, 28-1-18, *Suspension or Revocation of License*, 28-1-19,
9 *Emergency Suspension of a License*, to establish an appellate procedure for the denial, revocation
10 and suspension of a city issued license; by adding Section 28-1-20, *Action Pending Appeal of the*
11 *Denial of the Renewal, Revocation, or Suspension of a License*, to provide that compliance with
12 an order, decision, license suspension or revocation which is the subject of an appeal is not required
13 except where conditions exist warranting the emergency suspension of a license; by adding
14 Section 28-1-21, *Closure Orders on the Suspension or Revocation of Business Licenses* and
15 Section 28-1-22, *Emergency Business Closure Orders*, to provide that it shall be unlawful for any
16 person to continue operation of a business, if the business operating license has been suspended or
17 revoked subject to a final judgment of suspension or revocation of a license and/or deface or
18 remove any closing notice from a business without authorization of the Director of Buildings,
19 Safety Engineering, and Environmental Department Business License Center.

20 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT**
21 **THAT:**

1 other items primarily intended for protection against sexually transmitted diseases or for
2 preventing pregnancy.

3 *Adult cabaret* means a nightclub, bar, juice bar, restaurant, bottle club, or similar
4 commercial establishment, regardless of whether alcoholic liquor is served, which regularly
5 features live conduct characterized by semi-nude persons.

6 *Adult motion picture theater* means a commercial establishment where digital recordings,
7 films, motion pictures, slides, videocassettes, or similar photographic reproductions that are
8 characterized by their emphasis upon the display of specified sexual activity, or specified
9 anatomical areas, as defined in this section, are regularly shown to more than five persons for
10 any form of consideration.

11 *Business License Center* means the City of Detroit Buildings, Safety Engineering, and
12 Environmental Department Business License Center.

13 *Completed application* means an application where the business license applicant has
14 provided the City complete and accurate responses to each field on the application form, has
15 signed and dated the application in the presence of a notary public, and has fully paid the
16 requisite application fee.

17 *Drug paraphernalia* means any equipment, product, material, or combination of
18 equipment, products or materials, which are specifically designed for use in planting,
19 propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,
20 producing, processing, preparing, testing, analyzing, packaging, repackaging, storing,
21 containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human
22 body a controlled substance, including, but not limited to:

- 1 (1) An isomerization device specifically designed for use in increasing the potency
2 of any species of plant which is a controlled substance;
- 3 (2) Testing equipment specifically designed for use in identifying, or in analyzing,
4 the strength, effectiveness or purity of a controlled substance;
- 5 (3) A weight scale or balance specifically designed for use in weighing or measuring
6 a controlled substance;
- 7 (4) A dilutant or adulterant including, but not limited to, quinine hydrochloride,
8 mannitol, mannite, dextrose and lactose, specifically designed for use with a
9 controlled substance;
- 10 (5) A separation gin or sifter specifically designed for use in removing twigs and
11 seeds from, or in otherwise cleaning or refining, marijuana;
- 12 (6) An object specifically designed for use in ingesting, inhaling, or otherwise
13 introducing marijuana, cocaine, hashish, or hashish oil into the human body, such
14 as:
- 15 a. A metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or
16 without a screen, a permanent screen, a hashish head, or punctured metal
17 bowl;
- 18 b. A water pipe;
- 19 c. A carburetion tube and device;
- 20 d. A smoking and carburetion mask;
- 21 e. A roach clip, meaning an object used to hold a burning material, such as a
22 marijuana cigarette, that has become too small or too short to be held in
23 the hand;

- 1 f. A miniature cocaine spoon, and a cocaine vial;
- 2 g. A chamber pipe;
- 3 h. A carburetor pipe;
- 4 i. An electric pipe;
- 5 j. An air-driven pipe;
- 6 k. A chillum;
- 7 l. A bong; or
- 8 m. An ice pipe or chiller;
- 9 (7) A kit specifically designed for use in planting, propagating, cultivating, growing,
10 or harvesting any species of plant which is a controlled substance, or from which
11 a controlled substance can be derived;
- 12 (8) A kit specifically designed for use in manufacturing, compounding, converting,
13 producing, processing, or preparing a controlled substance;
- 14 (9) A device, commonly known as a cocaine kit, that is specifically designed for use
15 in ingesting, inhaling, or otherwise introducing a controlled substance into the
16 human body, and which may consist of at least a razor blade or other cutting
17 device and a mirror or other type of reflective or cutting surface;
- 18 (10) A device, commonly known as a bullet, that is specifically designed to deliver a
19 measured amount of a controlled substance to the user;
- 20 (11) A device, commonly known as a snorter, that is specifically designed to carry a
21 small amount of a controlled substance to the user's nose;
- 22 (12) A device, commonly known as an automotive safe, that is specifically designed
23 to carry and conceal a controlled substance in an automobile, including, but not

1 limited to, a can used for brake fluid, oil, or carburetor cleaner which contains a
2 compartment for carrying and concealing a controlled substance; and

3 (13) A spoon, with or without a chain attached, that has a small diameter bowl and that
4 is specifically designed for use in ingesting, inhaling, or otherwise introducing a
5 controlled substance into the human body.

6 *Hearing officer* means an attorney who is licensed to practice law in the State of
7 Michigan, is not otherwise employed by the City, and is hired by the City to function as an
8 independent tribunal to conduct hearings under this article.

9 *Influential interest* means any of the following:

10 (1) The actual power to operate the business, or to control the operation, management
11 or policies of the business or legal entity that operates the business; or

12 (2) Ownership of a financial interest of 30 percent or more of the business or of any
13 class of voting securities of a business; or

14 (3) Holding an office, including, but not limited to, president, vice president,
15 secretary, treasurer, managing member, or managing director, in a legal entity
16 which operates the business.

17 License means a license issued by the Buildings, Safety Engineering, and Environmental
18 Department Business License Center.

19 *Nudity* means the showing of the human male or female genitals, pubic area, vulva, anus,
20 or anal area with less than a fully opaque covering.

21 *Person* means:

22 (1) An individual, owner, operator, partnership, fiduciary, firm, association,
23 company, corporation, joint venture, or other legal entity; or

1 (2) When used in a provision imposing a criminal penalty and applied to an
2 association, the parties or members thereof; or

3 (3) When used in a provision imposing a criminal penalty and applied to a
4 corporation, the officers thereof.

5 *Principal business activity* means activity where the commercial establishment meets one
6 or more of the following criteria:

7 (1) At least 35 percent of the establishment's displayed merchandise consists of
8 books, magazines, periodicals or other printed matter, or photographs, films,
9 motion pictures, video cassettes, compact discs, digital video discs, slides, or
10 other visual representations that are characterized by their emphasis upon the
11 display of any specified sexual activity or specified anatomical areas, or
12 instruments, devices, or paraphernalia, which are designed or marketed primarily
13 for stimulation of human genital organs or anus, including, but not limited to,
14 dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, and physical
15 representations of the human genital organs; or

16 (2) At least 35 percent of the establishment's revenues derive from the sale or rental,
17 for any form of consideration, of books, magazines, periodicals or other printed
18 matter, or photographs, films, motion pictures, video cassettes, compact discs,
19 digital video discs, slides, or other visual representations that are characterized by
20 their emphasis upon the display of any specified sexual activity or specified
21 anatomical areas, or instruments, devices, or paraphernalia, which are designed
22 or marketed primarily for stimulation of human genital organs or anus, including,

1 but not limited to, dildos, vibrators, penis pumps, cock rings, anal beads, butt
2 plugs, and physical representations of the human genital organs; or

3 (3) The establishment maintains at least 35 percent of its floor space for the display,
4 sale, or rental of said items, including aisles and walkways used to access said
5 items maintained for the display, sale, or rental of books, magazines, periodicals
6 or other printed matter, or photographs, films, motion pictures, video cassettes,
7 compact discs, digital video discs, slides, or other visual representations that are
8 characterized by their emphasis upon the display of any specified sexual activity
9 or specified anatomical areas, or instruments, devices, or paraphernalia, which are
10 designed or marketed primarily for stimulation of human genital organs or anus,
11 including, but not limited to, dildos, vibrators, penis pumps, cock rings, anal
12 beads, butt plugs, and physical representations of the human genital organs; or

13 (4) The establishment maintains at least 500 square feet of its floor space for the
14 display, sale or rental of said items, including aisles and walkways used to access
15 said items maintained for the display, sale, or rental of said items and regularly
16 advertises itself or holds itself out, by using "adult," "adults-only," "XXX," "sex,"
17 "erotic," "novelties," or substantially similar language, as an establishment that
18 caters to adult sexual interests; or

19 (5) The establishment maintains an adult arcade.

20 *Semi-nude* means the showing of the male or female buttocks, or the showing of the
21 female breast below a horizontal line across the top of the areola and extending across the width
22 of the breast at that point, but does not mean the showing of any portion of the cleavage of female
23 breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel.

1 *Semi-nude model studio* means a place where persons regularly appear semi-nude for the
2 payment of money or any form of fee or compensation in order to be observed, sketched, drawn,
3 painted, sculptured, photographed, or similarly depicted by other persons, but does not mean any
4 place where persons appear in a state of nudity or semi-nude in a class operated:

5 (1) By a junior college, a college, or a university supported entirely or partly by
6 taxation;

7 (2) By a private college or university which maintains and operates educational
8 programs in which credits are transferable to a junior college, a college, or a
9 university supported entirely or partly by taxation; or

10 (3) In a structure:

- 11 a. Which has no sign visible from the exterior of the structure and no other
12 advertising that indicates a semi-nude person is available for viewing; and
13 b. Where, in order to participate in a class, a student must enroll at least three
14 days in advance of the class.

15 *Sexually-oriented business* means:

16 (1) An adult arcade;

17 (2) An adult bookstore or adult video store;

18 (3) An adult cabaret;

19 (4) An adult motion picture theater; or

20 (5) A semi-nude model studio.

21 *Specified anatomical areas* means less than completely and opaquely covered:

22 (1) Female breast below a point immediately above the top of the areola;

23 (2) Male or female buttocks;

1 (3) Male or female genitals and pubic area; and

2 (4) A penis in a discernibly erect state.

3 *Specified criminal activity* means any of the following specified crimes for which less
4 than five years has elapsed since the date of conviction or the date of release from confinement
5 for the conviction, whichever is the later date:

6 (1) Criminal sexual conduct under MCL 750.520b through 750.520e;

7 (2) Sex offenses concerning a minor under MCL 750.142 through 750.145c; or

8 (3) Indecent exposure under MCL 750.335a; or

9 (4) Gross indecency under MCL 750.338 through 750.338b; or

10 (5) Soliciting and accosting, pandering, prostitution, and related offenses under MCL
11 750.448 through 750.462; or

12 (6) Obscenity under MCL 752.365; or

13 (7) Controlled substance offenses under MCL 333.7401 through 333.7455; or

14 (8) Assault and related offenses under MCL 750.81 through 750.90c; or

15 (9) Stalking and related offenses under MCL 750.411h through 750.411i; or

16 (10) Fraud and related offenses under the Michigan Penal Code Act 328 of 1931;
17 including but not limited to: MCL 750.157u through MCL 750.157w, MCL
18 750.218, MCL 750.174 through MCL750.182a, MCL 750.294 through 750.300,
19 and 750.356c through 750.356d.

20 (11) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses;

21 or

1 (12) Any offense in another jurisdiction that, had the predicate acts been committed in
2 the State of Michigan, would have constituted any of the offenses that are
3 delineated in Subsections (1) through (10) of this definition.

4 *Specified sexual activity* means:

5 (1) Intercourse, oral copulation, masturbation or sodomy; or

6 (2) Excretory functions as a part of or in connection with intercourse, oral copulation,
7 masturbation or sodomy.

8 *Transfer of ownership or control of a business* means any of the following:

9 (1) The sale, lease, or sublease of the business; or

10 (2) The transfer of securities which constitute an influential interest in the business,
11 whether by sale, exchange, or similar means; or

12 (3) The establishment of a trust, gift, or other similar legal device that transfers the
13 ownership or control of the business, except for transfer by bequest or other
14 operation of law upon the death of the person possessing the ownership or control.

15 **Sec. 28-1-2. Application of article; exception for sexually-oriented businesses and their**
16 **employees.**

17 (a) ~~Notwithstanding any other provisions of this Code, This article shall be applicable~~
18 to and controlling of the issuance, denial, suspension, and revocation of all licenses for any
19 business that is regulated by this Code, ~~except~~ with the exception of licenses for sexually-
20 oriented businesses which are regulated under Chapter 5, Article XII, of this Code ~~shall govern~~
21 ~~the issuance, denial, suspension, revocation, and all other matters relating to licenses for~~
22 ~~sexually-oriented businesses and the employees of sexually-oriented businesses.~~

1 (b) Where any other provision of this Code is, or appears to be, in conflict with or
2 contradictory to the provisions of this article, the provisions of this article shall be controlling.

3 **Sec. 28-1-5. Separate license required for each place of business; change of business**
4 **location.**

5 (a) A business license required under this Code and issued pursuant to this article
6 shall be obtained for each location where the person does business, except for any business,
7 which by its very nature, does not have a fixed location. Where the license is for a specific
8 location, a license issued under this article shall authorize the licensee to do business only from
9 the location designated on the license.

10 (b) Pursuant to this section, the licensee shall give written notice of any change of
11 business location to ~~the licensing department, whether the Buildings, Safety Engineering, and~~
12 ~~Environmental Department Business License Center, the Health Department, or the Police~~
13 ~~Department.~~ Where the license is for a new fixed location, the licensee shall apply for a business
14 license for the location in accordance with the requirements of this Code, provided, that any
15 change in location of the business shall be consistent with Chapter 50 of this Code, *Zoning* , and
16 all other conditions or requirements of this Code for the new location. Where by its nature, the
17 business does not have a fixed location, the Buildings, Safety Engineering, and Environmental
18 Department Business License Center shall approve the new location for the business.

19 (c) The failure of the licensee to notify ~~the licensing department, whether the~~
20 ~~Buildings, Safety Engineering, and Environmental Department Business License Center, the~~
21 ~~Health Department, or the Police Department,~~ of a change in the location of the ~~any~~ business,
22 with or without a fixed location, shall be deemed abandonment of the business license issued to
23 the licensee. A determination by the Buildings, Safety Engineering, and Environmental

1 Department Business License Center, ~~the Health Department, or the Police Department,~~ as the
2 ~~case may be,~~ of the abandonment of the business license shall be deemed a final decision.

3 **Sec. 28-1-7. Completed application required; false, misleading or fraudulent statements on**
4 **application prohibited; fees, license application and renewal; proration of fees; schedule to**
5 **be posted; effect of failure to submit completed application.**

6 (a) It is the responsibility of each applicant for a business license to make a completed
7 application as defined in Section 28-1-1 of this Code and to ensure that the application does not
8 contain any false, misleading, or fraudulent statements.

9 (b) Upon application, a non-refundable license fee for application or renewal shall be
10 paid by any business that is required to be licensed under this Code. Except as otherwise provided
11 for by this Code, the amount required to be paid for any license shall be paid to ~~the licensing~~
12 ~~department, whether~~ the Buildings, Safety Engineering, and Environmental Department
13 Business License Center, ~~the Health Department, or the Police Department~~ and a receipt for
14 payment of the license fee shall be given to the applicant or licensee. Subject to Section 28-1-
15 15 of this Code, which governs the renewal of a license, a receipt for payment of a license fee
16 shall not be deemed a license to operate a business.

17 (c) The Director of the Buildings, Safety Engineering, and Environmental
18 Department, shall establish fee schedules, which shall be updated as fees are established and
19 approved under Section 6-503(13) of the Charter. ~~The Chief of Police and the Public Health~~
20 ~~Director shall establish fee schedules, which shall be updated as fees are established and~~
21 ~~approved under Section 9-507 of the Charter.~~ Each fee schedule shall include the license period
22 for the license and appropriate charges for duplicates or other issuance of a license as necessary
23 for the business.

1 (d) Where the period for which a license may be issued is less than six months and
2 the fee for the license exceeds \$25.00, the Buildings, Safety Engineering, and Environmental
3 Department Business License Center may, upon a determination that an economic hardship
4 exists, issue a license upon payment of one-half of the fee.

5 (e) Within five business days of the filing of an application for a license or the
6 renewal of an existing license under this article, ~~the licensing department, whether the Buildings,~~
7 ~~Safety Engineering, and Environmental Department Business License Center, the Health~~
8 ~~Department, or the Police Department,~~ shall determine whether the application is a completed
9 application as defined by Section 28-1-1 of this Code.

10 (f) ~~Where the licensing department, whether the Buildings, Safety Engineering, and~~
11 ~~Environmental Department Business License Center, the Health Department, or the Police~~
12 ~~Department determines that there is a~~ completed application, ~~the application~~ shall be reviewed
13 and processed in accordance with any time limits applicable under this article or other provisions
14 of this Code.

15 (g) Where a new or renewal application for a license is not complete, ~~the licensing~~
16 ~~department, whether the Buildings, Safety Engineering, and Environmental Department~~
17 ~~Business License Center, the Health Department, or the Police Department,~~ shall return the
18 application to the applicant within ten business days after receipt, together with a notice
19 specifying what information is necessary for the application to be complete, with the incomplete
20 application not processed further, provided, that upon the written request of the applicant, the
21 Buildings, Safety Engineering, and Environmental Department Business License Center, ~~the~~
22 ~~Health Department, or the Police Department~~ may process an incomplete application after notice
23 has been given of the omissions upon a showing by the applicant that the omitted information is

1 not necessary for the application or the failure to provide the information is due to circumstances
2 beyond the control of the applicant.

3 **Sec. 28-1-8. Form for license application; facsimile signatures; maintenance of records.**

4 (a) The license application form shall be determined by ~~the licensing department,~~
5 ~~whether the Buildings, Safety Engineering, and Environmental Department Business License~~
6 ~~Center, the Health Department, or the Police Department,~~ and shall be approval by the
7 Corporation Counsel.

8 (b) All licenses issued under this Code article shall have the signature, or the
9 facsimile of the signature, of the Director of the Buildings, Safety Engineering, and
10 Environmental Department, ~~the Public Health Director, or the Chief of Police,~~ as applicable, and
11 countersignature, or facsimile of the countersignature, of the Mayor.

12 (c) ~~The licensing department, whether the Buildings, Safety Engineering, and~~
13 ~~Environmental Department Business License Center, the Health Department, or the Police~~
14 ~~Department,~~ shall maintain records of license issuance consistent with practices and procedures
15 concerning public record retention.

16 **Sec. 28-1-13. License not transferable; unlawful use of license; sale or transfer of stock or**
17 **assets of business.**

18 (a) A business license issued under this article is not transferable to another person.

19 (b) It shall be unlawful for any licensee under this Code to allow another person to
20 use a license issued under this article to conduct business at the same or at another location
21 within the City. This prohibition shall not be construed to preclude the use of the licensee's
22 premises or location by an unlicensed person, where such use is permitted by state law or is
23 ancillary to the licensee's business, and is subject to the supervision and control of the licensee.

1 ~~provided, that such use is for the conduct of the same business at the same location, is in~~
2 ~~accordance with any law or regulation, and subject to the supervision and control of the business~~
3 ~~licensee.~~

4 (c) Where the licensee is a corporation or other legal entity, any sale or transfer of
5 stock or assets in the entity that would result in the transfer of ownership and control of the
6 business by persons other than those designated on the current business license application shall
7 require any new stockholder or owner controlling the operation of the business to apply for a
8 new business license for the entity. The new stockholder or owner shall provide the name,
9 address, percentage of ownership, and any other required information on the business license
10 application form.

11 **Sec. 28-1-16. Grounds for denial, suspension, revocation of license.**

12 (a) Pursuant to Section 28-1-2 of this Code, ~~the licensing department, whether the~~
13 ~~Buildings, Safety Engineering, and Environmental Department, the Health Department, or the~~
14 ~~Police Department~~ may deny a new or renewal application, revoke, or suspend a license for any
15 of the following reasons:

16 (1) Upon proof submitted to the Buildings, Safety Engineering, and Environmental
17 Department Business License Center, ~~the Health Department, or the Police~~
18 ~~Department~~ of any of the following acts committed by an applicant or licensee or,
19 where the applicant or licensee is a corporation or partnership, by the entity itself
20 or by any of the persons in a position of control or management of the business,
21 including, but not limited to, the officers, directors, controlling stock-holders or
22 managing employees or by a corporation or partnership of which the applicant or
23 licensee was in a position of control or management or by any agent or employee

1 of the applicant or licensee, who is in a position of management or control of the
2 business to be licensed:

- 3 a. The violation of any state statute or this Code relating, controlling, or in
4 any way relating to the location, construction, maintenance, use,
5 qualification for or operation of a business similar to or the same as that
6 for which a license is being considered, or engaging in an illegal, unfair,
7 dishonest, deceitful or fraudulent business practice, which evidences a
8 willful and deliberate disregard for the health, safety or welfare of either
9 the patrons, employees or persons residing or doing business nearby, or
10 competing businesses;
- 11 b. Engaging in the same or similar business for which a license is required
12 without first having obtained such license or, having obtained a license,
13 engaging in the same or similar business during the period of suspension
14 or after revocation;
- 15 c. Allowing another person to use one's license;
- 16 d. Making any false, misleading or fraudulent statement of fact in the license
17 application or in any document required by the City in conjunction
18 therewith; or
- 19 e. Failure to provide the City with a completed application, as defined
20 in Section 28-1-1 of this Code.

21 (2) Upon proof submitted to the Buildings, Safety Engineering, and Environmental
22 Department Business License Center, ~~the Health Department, or the Police~~

1 ~~Department~~ that the business for which an application for a license is pending, or
2 for which a license has been issued:

- 3 a. Constitutes a public nuisance;
- 4 b. Creates traffic or parking problems, which adversely affect the rights of
5 the neighboring community to the peaceful enjoyment and use of its
6 property;
- 7 c. Is used for or admits persons who use the business as their base of
8 operations for:
 - 9 1. Engaging in, to permitting, or to allowing gambling or the use,
10 possession or presence of gambling apparatus or paraphernalia;
 - 11 2. Prostitution, as defined by state law;
 - 12 3. The unlawful sale or use of drugs or drug paraphernalia, as defined
13 in Section 28-1-1 of this Code;
 - 14 4. The dissemination of illegal pornographic material or the
15 presentation of specified sexual activity with the actual or
16 constructive knowledge of the applicant or licensee; or
 - 17 5. Specified criminal activity;
- 18 d. The business premises, location, or operation has not been made available
19 for inspections during the City's regular business hours in accordance with
20 this article;
- 21 e. A Certificate of Maintenance of Zoning Grant Conditions as required
22 by Section 50-4-47 of this Code has not been provided for the subject
23 premises; or

1 f. Constitutes a specific hazard or threat to the peace, health, safety, or
2 welfare of the public.

3 g. The licensed business is owned or operated by a person who has engaged
4 in specified criminal activity as defined in Section 28-1-1 of this Code,
5 while operating the business.

6 (b) Except as otherwise provided for in this Code, a license shall be denied, not
7 renewed, suspended, or revoked in accordance with Section 28-1-17 of this Code.

8 **~~Sec. 28-1-17. Procedures for denial, suspension, revocation of license.~~**

9 ~~(a) The licensing department, whether the Buildings, Safety Engineering, and~~
10 ~~Environmental Department Business License Center, the Health Department, or the Police~~
11 ~~Department, shall deny an application for a license, including the renewal of an existing license,~~
12 ~~by mailing a written notice to the applicant that states the basis for the denial. Any applicant~~
13 ~~aggrieved by the denial of a license shall be entitled to a hearing, as the case may be, before the~~
14 ~~Director of the Buildings, Safety Engineering, and Environmental Department or a designated~~
15 ~~hearing officer, before the Public Health Director or a designated hearing officer, or before the~~
16 ~~Chief of Police or a designated hearings officer. A request for a hearing on the license denial~~
17 ~~shall be in writing and addressed to the Director of the Buildings, Safety Engineering, and~~
18 ~~Environmental Department, to the Public Health Director, or to the Chief of Police, as the case~~
19 ~~may be, and must be made within 30 days of the mailing of the notice of denial to the applicant.~~
20 ~~A hearing pursuant to a timely request shall be scheduled at the earliest possible date, but not~~
21 ~~later than 30 days after the receipt of the request for a hearing. The applicant and the appropriate~~
22 ~~City departments shall be notified of the hearing by the Buildings, Safety Engineering, and~~
23 ~~Environmental Department Business License Center, the Health Department, or the Police~~

1 ~~Department, as the case may be, at least seven days prior to the hearing. The hearing may be~~
2 ~~adjourned only by agreement of the parties or, upon cause shown, by order of the Director, Chief,~~
3 ~~or hearings officer. In the absence of a request for a hearing on the denial of the license, the~~
4 ~~denial shall be deemed final.~~

5 ~~(b) Where the Buildings, Safety Engineering, and Environmental Department~~
6 ~~Business License Center, the Health Department, or the Police Department, as the licensing~~
7 ~~department, is presented with evidence which shows that cause exists to suspend or revoke a~~
8 ~~license pursuant to this article, the Buildings, Safety Engineering, and Environmental~~
9 ~~Department Business License Center, the Health Department, or the Police Department shall~~
10 ~~notify the licensee, in writing, of its intent to suspend or revoke the license with the basis therefor~~
11 ~~and directing the licensee to show cause at a hearing before the Director of the Buildings, Safety~~
12 ~~Engineering, and Environmental Department or a designated hearing officer, before the Public~~
13 ~~Health Director or a designated hearing officer, or before the Chief of Police or a designated~~
14 ~~hearing officer why the license should not be suspended or revoked. The notice shall include the~~
15 ~~date, time and place for the show cause hearing, which shall be scheduled not less than seven~~
16 ~~days from the date of the mailing of the notice.~~

17 ~~(c) Where the Director of the Buildings, Safety Engineering, and Environmental~~
18 ~~Department, the Public Health Director, or the Chief of Police, as the case may be, makes a~~
19 ~~determination that there is an immediate threat to the public health or safety and welfare as a~~
20 ~~result of the continued operation of a business or occupation, the Director, or the Chief, as the~~
21 ~~case may be, is authorized to immediately suspend a license. The licensee shall be notified of~~
22 ~~the suspension by the Buildings, Safety Engineering, and Environmental Department Business~~
23 ~~License Center, the Health Department, or the Police Department, as the case may be, by mail,~~

1 and in person, if possible, with the notice specifying the basis for the emergency suspension of
2 the license. The Buildings, Safety Engineering, and Environmental Department Business
3 License Center, the Health Department, or the Police Department shall schedule a show cause
4 hearing within seven days, provided, that upon a written request to the Buildings, Safety
5 Engineering, and Environmental Department Business License Center, to the Health
6 Department, or to the Police Department, as the case may be, the licensee shall be entitled to a
7 hearing within 48 hours of the receipt of the written notice in order to ascertain whether the
8 emergency suspension of the license shall continue.

9 (d) — At a hearing pursuant to this section, the Buildings, Safety Engineering, and
10 Environmental Department Business License Center, the Health Department, or the Police
11 Department, as the case may be, shall present relevant evidence in support of the denial,
12 revocation, or suspension of the license. The licensee shall be given an opportunity at the hearing
13 to present relevant evidence in support of the issuance or continuation of the license. Where
14 applicable, the department having jurisdiction over the occupation or business of such licensee
15 shall be given an opportunity to present the basis for the suspension or revocation of the license.

16 (e) — Where the licensee fails to appear and show cause why the license should not be
17 suspended or revoked in accordance with this article, the license shall be revoked effective at
18 the end of the business day on which the show cause hearing was regularly scheduled.

19 (f) — A hearing that is held pursuant to this section shall be conducted in accordance
20 with the rules for conducting administrative hearings adopted in accordance with Section 2-
21 111 of the Charter.

22 (g) — Notice provided for in this article shall be sent by both certified mail, return
23 receipt requested, and regular mail to the applicant or licensee at the address on record with the

1 ~~Buildings, Safety Engineering, and Environmental Department Business License Center, the~~
2 ~~Health Department, or with the Police Department.~~ REPEALED.

3 **28-1-17. Procedures for the denial or non-renewal of a license.**

4 (a) The Buildings, Safety Engineering, and Environmental Department Business
5 License Center, shall deny an application for a license, including the renewal of an existing license,
6 by mailing a written notice to the applicant that states the basis for the denial or non-renewal.

7 (b) Notice provided for this article shall be sent by both certified mail, return receipt
8 requested, and regular mail to the applicant at the address on record with the Buildings, Safety
9 Engineering, and Environmental Department Business License Center.

10 (c) Any applicant aggrieved by the denial of a license or the renewal of an existing
11 license, shall have the right to appeal such a decision with the Administrative Appeals Bureau in
12 accordance with Chapter 3 *Administrative Hearings and Enforcement and Administrative Appeals.*
13 An appeal of the decision must be made within 21 days of the mailing of the notice of denial to
14 the applicant. A hearing pursuant to a timely request for an appeal shall be scheduled at the earliest
15 possible date, but not later than 14 days after the receipt of the request for an appeal. Only one
16 adjournment of the hearing may be granted by agreement of the parties, or upon cause shown, by
17 order of the Administrative Appeals Bureau.

18 (d) In the absence of a request for an appeal on the denial of a license or the renewal
19 of an existing license, the denial shall be deemed final. If the applicant fails to appear for the
20 scheduled hearing in accordance with this article, the denial shall be deemed effective at the end
21 of the business day on which the hearing was regularly scheduled.

1 (f) Upon issuance of the final decision of the Administrative Appeals Bureau, the
2 issuing department, agency or licensee shall be considered to have exhausted the administrative
3 remedies with regard to that particular matter.

4 **Sec. 28-1-18. Suspension or revocation of a license.**

5 (a) The Buildings Safety Engineering, and Environmental Department Business License
6 Center shall suspend or revoke a license by mailing a written notice to the licensee that states the
7 basis for the suspension or revocation.

8 (b) Notice provided for this article shall be sent by both certified mail, return receipt
9 requested, and regular mail to the applicant at the address on record with the Buildings, Safety
10 Engineering, and Environmental Department Business License Center.

11 (c) Any licensee aggrieved by the suspension or the revocation of a license, shall have
12 the right to appeal such a decision with the Administrative Appeals Bureau in accordance with
13 Chapter 3, *Administrative Hearings and Enforcement and Administrative Appeals*. An appeal of
14 the decision must be made within 21 days of the mailing of the notice of suspension or revocation
15 to the licensee. A hearing pursuant to a timely request for an appeal shall be scheduled at the
16 earliest possible date, but not later than 14 days after the receipt of the request for an appeal. Only
17 one adjournment of the hearing may be granted by agreement of the parties, or upon cause shown,
18 by order of the Administrative Appeals Bureau.

19 (d) In the absence of a request for an appeal on a decision to revoke or suspend a
20 license, the suspension or revocation shall be deemed final. If the licensee fails to appear for the
21 scheduled hearing in accordance with this article, the suspension or revocation shall be deemed
22 effective at the end of the business day on which the hearing was regularly scheduled.

1 (e) Upon issuance of the final decision of the Administrative Appeals Bureau, the
2 issuing department or agency or licensee shall be considered to have exhausted the administrative
3 remedies with regard to that particular matter.

4 **Sec. 28-1-19. Emergency suspension of a license and closure order; temporary suspension**
5 **of operation of license by Chief of Police.**

6 (a) Where the Director of the Buildings, Safety Engineering, and Environmental
7 Department or the Chief of Police, as the case may be, makes a determination that there is an
8 immediate threat to the public health or safety and welfare as a result of the continued operation
9 of the license, the Director or Chief of Police, as the case may be, is authorized to immediately
10 suspend a license. The licensee shall be notified of the suspension by mail, and in person, if
11 possible, with the notice specifying the basis for the emergency suspension of the license and an
12 order to close or cease and desist operation of the business or service within a specified period of
13 time.

14 (b) Notice provided for this article shall be sent by both certified mail, return receipt
15 requested, and regular mail to the licensee at the address on record with the Buildings, Safety and
16 Engineering, and Environmental Department Business License Center.

17 (c) The Administrative Appeals Bureau shall schedule a show cause hearing before a
18 designated hearing officer within seven days, unless the licensee provides a written request for a
19 hearing within 48 hours of the receipt of the written notice in order to ascertain whether the
20 emergency suspension of the license shall continue.

21 (d) A hearing that is held pursuant to this section shall be conducted in accordance with
22 the rules for conducting administrative hearings adopted in accordance with Section 2-111 of the
23 Charter.

1 (e) Any person whose license is suspended under this section, may file a request for
2 reconsideration of the decision with the Administrative Appeals Bureau, in accordance with
3 Chapter 3 (I) Administrative Hearings and Enforcement and Administrative Appeals. The request
4 for reconsideration must be filed within 21 days of entry of the decision at the show cause hearing.

5 (f) In the absence of a properly filed request for reconsideration on a decision to revoke
6 or suspend a license, the suspension or revocation shall be deemed final. If the licensee fails to
7 appear for the scheduled hearing in accordance with this article, the suspension or revocation shall
8 be deemed effective at the end of the business day on which the hearing was regularly scheduled.

9 (g) Upon issuance of the final decision of the Administrative Appeals Bureau, the
10 issuing department or agency or licensee shall be considered to have exhausted the administrative
11 remedies with regard to that particular matter.

12 (h) Where the Chief of Police makes a determination that conditions for the continued
13 operation of a business referenced under Chapter 47, *Transportation for Hire* of this Code is
14 unsuitable or unsafe, the Chief of Police may temporarily suspend the applicable license, in
15 accordance with the provisions set forth in Section 28-1-19 (a) through (g) above.

16 **Sec. 28-1-20. Action pending appeal of the denial, non-renewal, revocation or suspension of**
17 **a license.**

18 Whenever an appeal is filed pursuant to this Chapter or is pending, compliance with the
19 order, decision, notice of violation, or license suspension or revocation which is the subject of the
20 appeal shall not be required except where there exists a condition of immediate danger or hazard
21 to health, safety or welfare warranting an emergency suspension of a license under Section 28-1-
22 19 of the Code.

1 **Section 28-1-21. Closure orders on the suspension or revocation of a business license;**
2 **violations.**

3 (a) Upon entry of a final judgment of suspension or revocation of a license under this
4 article, the Director of the Buildings, Safety Engineering, and Environmental Department, or their
5 authorized local officials or designees, shall post a notice on the business which is visible to the
6 public bearing the words, “Closed by Authority of the City of Detroit Director of the Buildings,
7 Safety Engineering, and Environmental Department Business License Center” and a statement of
8 the penalties for the continued operation of the business subject to the notice, or removing the
9 notice posted pursuant to this article.

10 (b) It shall be unlawful for any person to continue operation of a business if the
11 business operating license has been suspended or revoked subject to a final judgment of suspension
12 or revocation of a license issued pursuant to this section. The Director of the Buildings, Safety
13 Engineering, and Environmental Department Business License Center, or their authorized local
14 officials or designees are authorized to remove the notice closing the business whenever the defect
15 or defects upon which the action of posting the closing notice were based upon has or have been
16 eliminated and the license has been restored.

17 (c) It shall be unlawful for any person to deface or remove any closing notice from any
18 business without the authorization of the Director Buildings, Safety Engineering, and
19 Environmental Department Business License Center or their authorized local officials or
20 designees.

21 **Section 28-1-22. Emergency business closure orders; violations.**

22 (a) Upon failure of the City licensee, or the person responsible, to comply with the
23 notice or order issued by the Director of Buildings, Safety Engineering, and Environmental

1 Department, or the Chief of Police, within the time given by the notice or order to close, the
2 Director or Chief, as the case may be, or their authorized local officials or designees are authorized
3 to post a public notice of closure on the business to prevent entry by any person which is visible
4 to the public bearing the words, “Closed by Authority of the City of Detroit Director of the
5 Buildings, Safety Engineering, and Environmental Business License Center” or Closed by the City
6 of Detroit Chief of Police” with a statement of the penalties for the continued operation of the
7 business subject to the notice, or removing the notice posted pursuant to this article.

8 (b) It shall be unlawful for any person to continue operation of the subject business if
9 the business operating license has been suspended on an emergency basis under this article. The
10 Director of the Buildings, Safety Engineering, and Environmental Department Business License
11 Center, or their authorized local officials or designees are authorized to remove the notice closing
12 the business whenever the defect or defects upon which the action of posting the closing notice
13 were based upon has or have been eliminated and the license has been restored.

14 (c) It shall be unlawful for any person to deface or remove any closing notice from any
15 building, premises, or structure without the authorization of the Director Buildings, Safety
16 Engineering, and Environmental Department Business License Center or their authorized local
17 officials or designees

18 **Secs. 28-1-23—28-1-40. Reserved.**

19 **Section 2.** This ordinance is hereby declared necessary to preserve the public peace,
20 health, safety and welfare of the People of the City of Detroit.

21 **Section 3.** All ordinances, or parts of ordinances, that conflict with this ordinance are
22 repealed.

1 **Section 4.** In the event this ordinance is passed by two-thirds (2/3) majority of City
2 Council Members serving, it shall be given immediate effect and become effective upon
3 publication in accordance with Section 4-118(1) of the 2012 Detroit City Charter. Where this
4 ordinance is passed by less than a two-thirds (2/3) majority of City Council Members serving, it
5 shall become effective on the thirtieth (30) day after publication, in accordance with Section 4-
6 118(2) of the 2012 Detroit City Charter.

Approved as to form:


Conrad E. Mallett
Corporation Counsel