

S U M M A R Y

AN ORDINANCE to amend Chapter 28 of the 2019 Detroit City Code, *Licenses*, Article I, *City Business Licenses*, by amending Section 28-1-1, *Definitions*, to include a definition for a provisional business license; and Section 28-1-9, *Term*, to extend the term of a business license from one year to two years; by amending and renaming Section 28-1-14, *Issuance of license; payment of assessments, fees, and taxes perquisite to issuance of license; de minimis fees; repayment plans*, to authorize the Director of the Buildings, Safety Engineering, and Environmental Department the discretion to grant or deny an applicant a business license when an applicant enters into a repayment plan for de minimis fees; and Section 28-1-15, *Renewal of license, notification of deficiency or violation to Renewal of license, notification of deficiency or violation, provisional license*, to authorize the Buildings, Safety Engineering, and Environmental Department to grant provisional business licenses for a period of time not to exceed twelve months.

1 BY COUNCIL MEMBER

BENSON

:

2 THIS ORDINANCE amends Chapter 28 of the 2019 Detroit City Code, *Licenses*, Article
3 1, *City Business Licenses*, by amending Section 28-1-1, *Definitions*, to include a definition for a
4 provisional business license; and Section 28-1-9, *Term*, to extend the term of a business license
5 from one year to two years; by amending and renaming Section 28-1-14, *Issuance of license*;
6 *payment of assessments, fees, and taxes prerequisite to issuance of license; de minimis fees*;
7 *repayment plans*, to authorize the Director of the Buildings, Safety Engineering, and
8 Environmental Department the discretion to grant or deny an applicant a business license when an
9 applicant enters into a repayment plan for de minimis fees; Section 28-1-15, *Renewal of license*,
10 *notification of deficiency or violation to Renewal of license, notification of deficiency or violation*,
11 *provisional license*, to authorize the Buildings, Safety Engineering, and Environmental
12 Department to grant provisional business licenses for a period of time not to exceed twelve months.

13 IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT
14 THAT:

15 Section 1. Chapter 28 of the 2019 Detroit City Code, Article I, *City Business Licenses*, be
16 amended by amending Section 28-1-1 and Section 28-1-9, and by renaming and amending Section
17 28-1-14, and Section 28-1-15, to read as follows:

18 CHAPTER 28. LICENSES

19 ARTICLE I. CITY BUSINESS LICENSES

20 Sec. 28-1-1. Definitions

21 For purposes of this article, the following words and phrases shall have the meaning
22 respectively ascribed to them by this section:

1 *Adult arcade* means any place to which the public is permitted or invited wherein coin-
2 operated or slug-operated or electronically, electrically, or mechanically controlled still or
3 motion picture machines, projectors, or other image-producing devices are regularly maintained
4 to show images to five or fewer persons per machine at any one time, and where the images so
5 displayed are characterized by their emphasis upon matter exhibiting any specified sexual
6 activity, or specified anatomical areas, as defined in this section.

7 *Adult bookstore* or *adult video store* means a commercial establishment which, as a
8 principal business activity, offers for sale or rental for any form of consideration any one or more
9 of the following: books, magazines, periodicals or other printed matter, or photographs, films,
10 motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual
11 representations, which are characterized by their emphasis upon the display of specified sexual
12 activities or specified anatomical areas, as defined in this section, or instruments, devices, or
13 paraphernalia which are designed or marketed primarily for stimulation of human genital organs
14 or anus, including, but not limited to dildos, vibrators, penis pumps, cock rings, anal beads, butt
15 plugs, and physical representations of the human genital organs, but not including condoms or
16 other items primarily intended for protection against sexually transmitted diseases or for
17 preventing pregnancy.

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

21 *Adult motion picture theater* means a commercial establishment where digital recordings,
22 films, motion pictures, slides, videocassettes, or similar photographic reproductions that are
23 characterized by their emphasis upon the display of specified sexual activity, or specified

1 anatomical areas, as defined in this section, are regularly shown to more than five persons for
2 any form of consideration.

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

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

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

- 15 (1) An isomerization device specifically designed for use in increasing the potency
16 of any species of plant which is a controlled substance;
- 17 (2) Testing equipment specifically designed for use in identifying, or in analyzing,
18 the strength, effectiveness or purity of a controlled substance;
- 19 (3) A weight scale or balance specifically designed for use in weighing or measuring
20 a controlled substance;
- 21 (4) A dilutant or adulterant including, but not limited to, quinine hydrochloride,
22 mannitol, mannite, dextrose and lactose, specifically designed for use with a
23 controlled substance;

- 1 (5) A separation gin or sifter specifically designed for use in removing twigs and
2 seeds from, or in otherwise cleaning or refining, marijuana;
- 3 (6) An object specifically designed for use in ingesting, inhaling, or otherwise
4 introducing marijuana, cocaine, hashish, or hashish oil into the human body, such
5 as:
- 6 a. A metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or
7 without a screen, a permanent screen, a hashish head, or punctured metal
8 bowl;
 - 9 b. A water pipe;
 - 10 c. A carburetion tube and device;
 - 11 d. A smoking and carburetion mask;
 - 12 e. A roach clip, meaning an object used to hold a burning material, such as a
13 marijuana cigarette, that has become too small or too short to be held in
14 the hand;
 - 15 f. A miniature cocaine spoon, and a cocaine vial;
 - 16 g. A chamber pipe;
 - 17 h. A carburetor pipe;
 - 18 i. An electric pipe;
 - 19 j. An air-driven pipe;
 - 20 k. A chillum;
 - 21 l. A bong; or
 - 22 m. An ice pipe or chiller;

- 1 (7) A kit specifically designed for use in planting, propagating, cultivating, growing,
2 or harvesting any species of plant which is a controlled substance, or from which
3 a controlled substance can be derived;
- 4 (8) A kit specifically designed for use in manufacturing, compounding, converting,
5 producing, processing, or preparing a controlled substance;
- 6 (9) A device, commonly known as a cocaine kit, that is specifically designed for use
7 in ingesting, inhaling, or otherwise introducing a controlled substance into the
8 human body, and which may consist of at least a razor blade or other cutting
9 device and a mirror or other type of reflective or cutting surface;
- 10 (10) A device, commonly known as a bullet, that is specifically designed to deliver a
11 measured amount of a controlled substance to the user;
- 12 (11) A device, commonly known as a snorter, that is specifically designed to carry a
13 small amount of a controlled substance to the user's nose;
- 14 (12) A device, commonly known as an automotive safe, that is specifically designed
15 to carry and conceal a controlled substance in an automobile, including, but not
16 limited to, a can used for brake fluid, oil, or carburetor cleaner which contains a
17 compartment for carrying and concealing a controlled substance; and
- 18 (13) A spoon, with or without a chain attached, that has a small diameter bowl and that
19 is specifically designed for use in ingesting, inhaling, or otherwise introducing a
20 controlled substance into the human body.

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

1 *Influential interest* means any of the following:

- 2 (1) The actual power to operate the business, or to control the operation, management
3 or policies of the business or legal entity that operates the business; or
4 (2) Ownership of a financial interest of 30 percent or more of the business or of any
5 class of voting securities of a business; or
6 (3) Holding an office, including, but not limited to, president, vice president,
7 secretary, treasurer, managing member, or managing director, in a legal entity
8 which operates the business.

9 *License* means a license issued by the Buildings, Safety Engineering, and Environmental
10 Department Business License Center.

11 *Licensee* means any person licensed under this Code by the Buildings, Safety
12 Engineering, and Environmental Department Business License Center.

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

15 *Person* means:

- 16 (1) An individual, owner, operator, partnership, fiduciary, firm, association,
17 company, corporation, joint venture, or other legal entity; or
18 (2) When used in a provision imposing a criminal penalty and applied to an
19 association, the parties or members thereof; or
20 (3) When used in a provision imposing a criminal penalty and applied to a
21 corporation, the officers thereof.

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

- (1) At least 35 percent of the establishment's displayed merchandise consists of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations that are characterized by their emphasis upon the display of any specified sexual activity or specified anatomical areas, or instruments, devices, or paraphernalia, which are designed or marketed primarily for stimulation of human genital organs or anus, including, but not limited to, dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, and physical representations of the human genital organs; or
- (2) At least 35 percent of the establishment's revenues derive from the sale or rental, for any form of consideration, of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations that are characterized by their emphasis upon the display of any specified sexual activity or specified anatomical areas, or instruments, devices, or paraphernalia, which are designed or marketed primarily for stimulation of human genital organs or anus, including, but not limited to, dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, and physical representations of the human genital organs; or
- (3) The establishment maintains at least 35 percent of its floor space for the display, sale, or rental of said items, including aisles and walkways used to access said items maintained for the display, sale, or rental of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations that are

1 characterized by their emphasis upon the display of any specified sexual activity
2 or specified anatomical areas, or instruments, devices, or paraphernalia, which are
3 designed or marketed primarily for stimulation of human genital organs or anus,
4 including, but not limited to, dildos, vibrators, penis pumps, cock rings, anal
5 beads, butt plugs, and physical representations of the human genital organs; or

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

- 12 (5) The establishment maintains an adult arcade.

13 Provisional business license means a temporary license issued by the Buildings, Safety
14 Engineering, and Environmental Department Business License Center that authorizes a business
15 to operate for a period not to exceed 12 months while it completes the requirements for a regular
16 business license.

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

21 *Semi-nude model studio* means a place where persons regularly appear semi-nude for the
22 payment of money or any form of fee or compensation in order to be observed, sketched, drawn,

1 painted, sculptured, photographed, or similarly depicted by other persons, but does not mean any
2 place where persons appear in a state of nudity or semi-nude in a class operated:

- 3 (1) By a junior college, a college, or a university supported entirely or partly by
4 taxation;
- 5 (2) By a private college or university which maintains and operates educational
6 programs in which credits are transferable to a junior college, a college, or a
7 university supported entirely or partly by taxation; or
- 8 (3) In a structure:
 - 9 a. Which has no sign visible from the exterior of the structure and no other
10 advertising that indicates a semi-nude person is available for viewing; and
 - 11 b. Where, in order to participate in a class, a student must enroll at least three
12 days in advance of the class.

13 *Sexually-oriented business* means:

- 14 (1) An adult arcade;
- 15 (2) An adult bookstore or adult video store;
- 16 (3) An adult cabaret;
- 17 (4) An adult motion picture theater; or
- 18 (5) A semi-nude model studio.

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

- 20 (1) Female breast below a point immediately above the top of the areola;
- 21 (2) Male or female buttocks;
- 22 (3) Male or female genitals and pubic area; and
- 23 (4) A penis in a discernibly erect state.

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

- 4 (1) Criminal sexual conduct under MCL 750.520b through 750.520e;
- 5 (2) Sex offenses concerning a minor under MCL 750.142 through 750.145c; or
- 6 (3) Indecent exposure under MCL 750.335a; or
- 7 (4) Gross indecency under MCL 750.338 through 750.338b; or
- 8 (5) Soliciting and accosting, pandering, prostitution, and related offenses under MCL
9 750.448 through 750.462; or
- 10 (6) Obscenity under MCL 752.365; or
- 11 (7) Controlled substance offenses under MCL 333.7401 through 333.7455; or
- 12 (8) Assault and related offenses under MCL 750.81 through 750.90c; or
- 13 (9) Stalking and related offenses under MCL 750.411h through 750.411i; or
- 14 (10) Fraud and related offenses under the Michigan Penal Code Act 328 of 1931;
15 including but not limited to: MCL 750.157u through MCL 750.157w, MCL
16 750.218, MCL 750.174 through MCL 750.182a, MCL 750.294 through 750.300,
17 and 750.356c through 750.356d.
- 18 (11) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses;
19 or
- 20 (12) Any offense in another jurisdiction that, had the predicate acts been committed in
21 the State of Michigan, would have constituted any of the offenses that are
22 delineated in Subsections (1) through (10) of this definition.

23 *Specified sexual activity* means:

- (1) Intercourse, oral copulation, masturbation or sodomy; or
- (2) Excretory functions as a part of or in connection with intercourse, oral copulation, masturbation or sodomy.

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

- (1) The sale, lease, or sublease of the business; or
- (2) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Sec. 28-1-9. Term.

~~Except as otherwise provided for in this Code or by resolution of the City Council,~~
Notwithstanding any other provisions of this Code, and where not contrary to state law, where a sum of money is fixed for the payment of a business license, the term of the license shall be for one two years , except as otherwise provided for rental halls licensed under Chapter 38, *Rental Halls and Banquet Facilities*, Article II, *Rental Hall License*. and sexually-oriented businesses licensed under Chapter 5, *Amusements and Entertainments*, Article XII, *Sexually-oriented businesses*, which shall be for a term of one year.

Sec. 28-1-14. Issuance of license; payment of assessments, fees and taxes prerequisite to issuances of license; de minimis fees; repayment plans.

(a) Subject to any requirements of state law and the provisions of this Code concerning the issuance and renewal of licenses to operate within the City, upon receipt of the

1 requisite departmental approvals and proof of any insurance coverage or surety bond that may
2 be required by this Code for the particular business, a license shall be issued to the applicant.

3 (b) In accordance with Section 2-113 of the Charter a license issued under this article
4 shall not be issued to, or renewed for, any applicant owing any assessments, fees, or taxes to the
5 City.

6 (c) The Director of the Buildings, Safety Engineering, and Environmental
7 Department, may grant or deny the issuance or renewal of a regular business license to an
8 applicant that enters into a repayment plan with the City for de minimis fees not exceeding
9 \$350.00.

10 **Sec. 28-1-15. Renewal of license; notification of deficiency violation; provisional license.**

11 (a) Except as otherwise provided for in this Code, for purposes of the renewal of
12 business licenses, the Buildings, Safety Engineering, and Environmental Department Business
13 License Center shall send a list of all current licenses to the appropriate City departments four
14 months prior to the expiration date of the license.

15 (b) Unless one or more of the appropriate City departments notify the Buildings,
16 Safety Engineering, and Environmental Department Business License center of an existing
17 deficiency or violation concerning the premises, location, or licensee at least 14 days prior to the
18 expiration of the license, the license shall be deemed renewed for the specified term of the
19 license, provided, that the licensee has paid the license renewal fee.

20 (c) Where a City department notifies the Buildings, Safety Engineering, and
21 Environmental Department Business License Center of an existing deficiency concerning a
22 requirement under this Code or violation concerning the premises, location, or licensee under
23 this section, the City may take action in accordance with Section 28-1-16 of this Code.

1 (d) Nothing in this chapter shall prevent the approval of a provisional business license
2 for a period of time not to exceed 12 months provided that the Buildings, Safety Engineering,
3 and Environmental Department finds that the grant of such a provisional license furthers the
4 intent and purposes of this article and does not lessen safety requirements, provided that:

5 (1) An applicant may apply for a provisional license by applying to the Buildings,
6 Safety Engineering, and Environmental Department in a manner and form as
7 prescribed by the Department.

8 (2) The Buildings, Safety Engineering, and Environmental Department may grant a
9 provisional license for a regular business license application when the applicant
10 does not meet the criteria for issuance of a regular business license but the
11 Department finds that the business can operate in a safe, healthful, and sanitary
12 manner that does not pose risk to the well-being of the surrounding community.

13 (3) A provisional business license may not be renewed. Only one provisional
14 business license for a period not to exceed 12 months shall be issued to an
15 applicant.

16 (4) The Buildings, Safety Engineering, and Environmental Department may deny,
17 suspend, or revoke a provisional business license according to the standards
18 specified in Section 28-1-16 of this Code. To deny an application for a provisional
19 license, the Department must provide written notice to the applicant stating the
20 basis for the denial; the applicant shall not have the right to an appeal. To suspend
21 or revoke a provisional business license, the Department shall follow the
22 procedures prescribed in Section 28-1-18 through 28-1-22 of this Code.

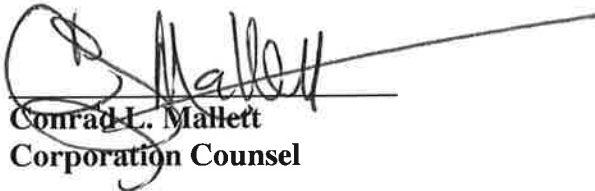
1 (5) An applicant that owes outstanding taxes or fees and has not entered into a
2 payment plan with the City shall not be granted a provisional business license.

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

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

7 **Section 4.** In the event this ordinance is passed by two-thirds (2/3) majority of City
8 Council Members serving, it shall be given immediate effect and become effective upon
9 publication in accordance with Section 4-118(1) of the 2012 Detroit City Charter. Where this
10 ordinance is passed by less than a two-thirds (2/3) majority of City Council Members serving, it
11 shall become effective on the thirtieth (30) day after publication, in accordance with Section 4-
12 118(2) of the 2012 Detroit City Charter.

Approved as to form:


Conrad L. Mallett
Corporation Counsel