

## CHAPTER 6.01

### GENERAL PROVISIONS

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**6.01.010: License Code Established:** There is hereby established a code for the enforcement of licensing provisions of the City. The procedural aspects of this title apply to all licenses which lack procedural provisions. (Ord. 2542 Sec. 7 (part), 1980)

**6.01.020: Scope:**

(1) This Title in no way impairs existing provisions of other laws or ordinances. Where this Title imposes greater restrictions or obligations than are imposed by existing provisions of law, ordinance, contract or deed, the provisions of this Title shall control.

(2) The requirements and provisions of this Chapter apply to all licenses issued under this Title unless otherwise specified. Unless otherwise indicated, the requirements for licensing are cumulative. (Ord. 2542 Sec. 7 (part), 1980)

**6.01.030: Definitions:** Words are to be given their usual meaning. The following terms and their derivations shall have the meaning given when used in this Title. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural.

(1) "Business" includes all kinds of activities and matters, together with the devices, machines, vehicles and appurtenances used therein, which are conducted in this City or anywhere else within its jurisdiction.

(2) "City" is the City of Kennewick.

(3) "City Council" is the City Council of the City of Kennewick.

(4) "License Officer" is, unless otherwise designated,

(a) in the case of Class I licenses, the Treasurer of the City or his designee;

(b) in the case of Class II & III licenses, the Chief of Police or his designee;

(5) "Insignia," or its singular number "insigne", is any tag, plate, badge, emblem, sticker, or any other kind of device required for use in connection with any license.

(6) "License" or "licensee" includes the words "permit" or "permittee" and means the privilege or the holder of any privilege, respectively, under this Title or other law or ordinance.

(7) "Person" is meant to include individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations.

(8) "Premises" is meant to include all lands, structures, places, the equipment and appurtenances connected or used in any business, and any personal property or fixture used in connection with any business. (Ord. 3533 Sec. 1 (part), 1994; Ord. 2542 Sec. 7 (part), 1980)

#### **6.01.040: Application of Regulations:**

(1) Compliance Required. It shall be unlawful for any person, either directly or indirectly, to conduct any business, non-profit enterprise, or do any act for which a license or permit is required, without a license or permit therefor being first procured and kept in effect.

(2) Agents Responsible. Agents or other representatives who are doing business in this City are responsible for the compliance of their principals and of the businesses they represent.

(3) Exemptions.

(a) The provisions of this Title apply to all persons whether acting for profit, charitable purpose or otherwise, unless expressly exempted.

(b) Whenever a person is exempt from the provisions of the Title, it shall be his duty, if requested to comply, to demonstrate that he is entitled to the exemption claimed.

(c) In a criminal proceedings for violation of this Title, the person charged shall have the burden of coming forth with sufficient evidence to show that he is exempt. So much evidence as will raise a reasonable doubt is sufficient for a finding of not guilty. (Ord. 2542 Sec. 7 (part), 1980)

#### **6.01.050: City License Officer:**

(1) Administration. Unless otherwise provided, the Treasurer shall issue all licenses under this Title upon proper application and receipt of the required fee. In all cases the License Officer may:

(a) Make Rules. Promulgate and enforce all reasonable rules and regulations for the operation and enforcement of this Title;

(b) Adopt Forms. Adopt all forms and prescribe the information to be given;

(c) Require Affidavits. Require applicants to submit affidavits and oaths;

(d) Obtain Endorsement. Submit all applications, in a proper case, to interested City officials for their endorsements or inspection;

(e) Investigate. Investigate the eligibility of any applicant for a license; and the business of any licensee to determine compliance; and

(f) Examine Records. Examine the books and records of any applicant or licensee when reasonably necessary.

(2) Public Disclosure.

(a) Information Confidential. The License Officer shall keep all information furnished or secured under the authority of this Title in strict confidence. The information shall not be subject to public inspection and shall be kept so that the contents do not become known except to persons charged with the administration of this Title or other public officers and agencies in the course of their official business.

- (b) Public Records. So much of the information as appears on the face of the license, or as required by the "Public Records Act" or similar legislation, is a public record and subject to disclosure. The License Officer will index every license according to the items of information appearing on the face of the license. (Ord. 3533 Sec. 1 (part), 1994; Ord. 2542 Sec. 7 (part), 1980)

**6.01.060: Classes of Licenses:**

- (1) Class I Licenses. Ordinary vocations and businesses pursued on private property by private means.
  - (a) The License Officer shall require information necessary to determine the fee imposed, to complete the face of the license as required by Section 6.01.090, and to comply with any other requirement or bond imposed by a particular Chapter.
  - (b) The License Officer may refuse to grant or renew a Class I license only when:
    - (i) The information supplied by the applicant is false;
    - (ii) The applicant has not paid the required license fee;
    - (iii) The applicant has failed to comply with some term or condition of this Title.
    - (iv) The applicant has been convicted of any felony or any offense not constituting a felony but which because of its nature would render the licensee a risk to the public health, safety, and welfare, or any offense involving moral turpitude as determined by the Police Chief.
- (2) Class II Licenses. Social and economic evils, such as gambling or liquor traffic, together with such useful occupations as may, under certain circumstances, become a public or private nuisance because offensive or dangerous to safety, health, etc.
  - (a) The License Officer may require, in addition to that information required for a Class I license:
    - (i) Evidence of compliance with other applicable laws or ordinances, as well as the provisions of this Chapter relating to the particular license;
    - (ii) Evidence of any required bond or certificate of insurance;
    - (iii) Information regarding the past criminal record of the applicant and those officers and agents who will be engaged in the performance of the licensed conduct.
  - (b) The License Officer will make a reasonable investigation to determine if the license should be issued or renewed.
  - (c) The License Officer may refuse to grant a license for any reason that he would refuse to grant a Class I License, or whenever:
    - (i) He has a reasonable belief that the applicant is not entitled to the license because of failure to comply with some term or condition thereof; or
    - (ii) A written affidavit is filed with the License Officer under the provisions of 6.01.120 and the proceedings have not been resolved in favor of the applicant; or
    - (iii) The applicant has failed to supply all information lawfully required by the License Officer; or
    - (iv) If an applicant has been convicted of any felony or any offense not constituting a felony, but which because of its nature would render the licensee a risk to the public health, safety and welfare, or any offense involving moral turpitude as determined by the Police Chief.

- (3) Class III Licenses. Claims of a private right in, or the extraordinary use of, public property such as streets and parks.
  - (a) The License Officer shall require, in addition to that information required for a Class I License:
    - (i) Evidence of compliance with other applicable laws or ordinances as well as the provisions of the Chapter relating to the particular license;
    - (ii) Evidence of any required bond or certificate of insurance;
    - (iii) Information regarding the past criminal record of the applicant and those officers and agents who will be engaged in the performance of the licensed conduct.
  - (b) The License Officer shall make a reasonable investigation to determine if the license should be issued or renewed.
  - (c) The License Officer shall refuse to grant a license for any reason that he could refuse to grant a Class II License. (Ord. 5008 Sec. 1, 2003; Ord. 2542 Sec. 7 (part), 1980)

**6.01.070: Procedure For Issuance of License:**

- (1) Formal Application Required. Every person required to procure a license shall submit his application to the License Officer unless otherwise provided. The application shall:
  - (a) Form of Application. Be a written statement upon forms provided by the License Officer;
  - (b) Contents of Application. Require the disclosure of all information necessary for compliance with 6.01.060; and
  - (c) Processing. Unless otherwise provided, be approved or disapproved within fifteen (15) days.
  - (d) Expedited Review. Review of business licenses required in less than fifteen (15) days are by definition expedited license reviews and shall be approved or disapproved within three (3) business days.
- (2) Payment of Fees. Prior to issuance of a license, the applicant shall pay the required fee to the License Officer.
- (3) Renewal License Procedure. The applicant for the renewal of a license shall submit an application to the License Officer. The application shall:
  - (a) Form of Application. Be a written statement upon forms provided by the City License Officer; and
  - (b) Contents. Require information concerning the applicant's business during the preceding licensing period reasonably necessary to determine his eligibility for a renewal license and the computation of license fees.
- (4) Duplicate License Procedure. A duplicate license shall be issued for \$1.00 to replace any license which has been lost, stolen, defaced, or destroyed.
- (5) Supplemental License Procedure. When a licensee places himself in a new status under this title or moves to a new or temporary location, the License Officer shall issue a supplemental license. The License Officer shall collect any fee adjustment as the result of the change.
- (6) Disapproval of License. When the issuance of a license is denied and any action is instituted to compel its issuance, the applicant shall not engage in the activity for which the license was refused until a license is issued to him. Reapplications may not be made within six (6) months unless a deficiency is corrected sooner. (Ord. 5008 Sec. 2, 2003; Ord. 3051 Sec. 1, 1987; Ord. 2542 Sec. 7 (part), 1980)

**6.01.090: Contents of License:** Each license shall state upon its face:

- (1) The name of the licensee or other name under which the activity is to be conducted;
- (2) The kind and address of the activity licensed;
- (3) The date of expiration; and
- (4) Any other information required by a particular Chapter. (Ord. 2542 Sec. 7 (part), 1980)

**6.01.100: Investigations:** Investigation of Class I licensees is limited to the examination of required books and records and violation of this Title. Investigation of Class II and III licensees is limited to examination of required books and records, inspection of the premises to ensure compliance with this Title and compliance with public safety requirements, and investigation of complaints alleging violations of municipal ordinance or state law. All investigations shall be during business hours, except when after-hours operations are suspected, in which case the investigation shall be limited to that subject and shall be conducted so as not to unreasonably interfere with business or intrude upon unlicensed activity. All other investigations shall be by consent or warrant. Failure of a licensee to allow an inspection when authorized is grounds for suspending or revoking any license. (Ord. 2542 Sec. 7 (part), 1980)

**6.01.110: Duties of Licensee:**

- (1) General Standards of Conduct. Every licensee shall:
  - (a) Nuisance. Not permit his activity to become a nuisance;
  - (b) Comply with Governing Law. Ascertain and comply with all laws and regulations applicable to his licensed activity;
  - (c) Operate Properly. Avoid all forbidden, improper or unnecessary practices or conditions which do or may affect the public health, morals or welfare; and
  - (d) Penalties. Not conduct the licensed activity after expiration of his license and during any period his license is revoked or suspended, and pay all penalty assessments within ten (10) days.
- (2) Display of License and Insignia. Every licensee shall:
  - (a) Premises.
    - (i) Licenses. Post and maintain his license upon the licensed premises in a place where it may be seen at all times.
    - (ii) Insignia. Affix any insignia on the inside glass part of the window of his premises, facing the public way, or on the inside glass part of the door opening on the public way. When the licensed premises does not have a window facing a public way at street level or a glass door opening upon the public way, the insignia shall be affixed to the glass in the door, window, or other prominent place nearest to the principal public entrance to the premises.
  - (b) Vehicles.
    - (i) Motor vehicles. Affix any insignia on the inside of the windshield of the vehicle or as required by the License Officer.
    - (ii) Motor-less vehicles. Affix any insignia securely on the outside of the vehicle.
  - (c) Persons. Carry his license on his person when he has no licensed business premises, and display it, upon demand, to any police officer.

- (d) Machines. Affix any insignia on the outside of any machine or device so that it may be seen at all times.
  - (e) Animals. Attach the insignia to a collar which shall be worn around the animal's neck.
  - (f) Inoperative Licenses and Insignia. Not allow any license or insignia to remain posted, displayed, or used after the period for which it was issued has expired or when it has been suspended or revoked or for any other reason become ineffective. The licensee shall promptly return any inoperative license, special permit or insignia to the License Officer.
  - (g) Unlawful Possession. Not loan, sell, give or assign, except as authorized, any license or insignia which has been issued to him.
- (3) Service of Process. The conducting of any business regulated by this Title, by any person not a resident of Benton County, or who ceases to be a resident of Benton County, or who maintains no resident agent in Benton County, shall be deemed equivalent to and construed to be an appointment by such person of the Clerk of the City of Kennewick to be his true and lawful attorney upon whom may be served all lawful process growing out of any act regulated, licensed, or which should have been licensed under the provisions of this Title. Upon receipt of process under this subsection and a service fee of \$10.00, the City Clerk shall mail a copy of the process to the last known address of such person and admit service to the other parties in the action. (Ord. 2975 Sec. 1 (part), 1985; Ord. 2542 Sec. 7 (part), 1980)

**6.01.120: Enforcement:**

- (1) Inspectors.
  - (a) Persons Authorized. The following persons are authorized inspectors:
    - (i) License Officer. The License Officer shall make all investigations reasonably necessary for the enforcement of this Title;
    - (ii) Police Officers. All police officers may investigate activities to enforce compliance with this Title.
  - (b) Authority of Inspectors. Inspectors shall have the authority to take all reasonable measures for the enforcement of this Title, and they shall be entitled to the assistance of all other City agencies in that enforcement. The License Officer may seek the assistance of any governmental agency or the process of any court to enforce this Title.
  - (c) Reports by Inspectors. Inspectors will report all violations of this Title or of other laws or ordinances to the License Officer.
  - (d) Duty of City Agencies. When any agency of city government discovers that a licensee is creating a nuisance or is in continuing violation of a municipal ordinance, or that the premises upon which any licensee conducts any activity for which the license was issued is in violation of municipal ordinance, that agency will notify the License Officer of the violation by affidavit, and the affidavit shall be sufficient cause for a penalty assessment, suspension of the license, or refusal to renew the same.
- (2) Provisional Order. When an inspector has reported the violation of this Title or of any law or ordinance, the License Officer will issue to the affected person a provisional order to comply or a notice of violation.
  - (a) Nature of Notice. The provisional order, and all other notices issued under this ordinance, shall be in writing and shall be served either personally or by certified mail. In the absence of the licensee, a copy of the notice shall be

affixed to some structure on the premises, and a copy mailed to the last known address of the licensee.

- (b) **Period for Compliance.** The provisional order or notice shall require compliance within 10 days of service.
- (c) **Application for Hearing.** Upon written application by the person affected before the expiration of the period for compliance, the License Officer shall order a hearing. Notice of hearing shall be given the affected person in the manner prescribed above.
- (3) **Demand Hearing.** Any licensee or applicant aggrieved by any determination, ruling, assessment, etc. may, within ten (10) days after the action, petition for and receive a hearing. The decision after hearing shall have the effect of a final order.
- (4) **Final Order.** A provisional order or decision made upon a hearing shall be a final order ten days after service.
  - (a) **Authority of License Officer.** The License Officer shall have the authority to suspend, revoke or refuse to issue any license and otherwise enforce this Title upon a final order.
  - (b) **Effect of Revocation or Suspension.** Upon revocation or suspension, no refund of any portion of the license fee shall be made, and the licensee shall immediately cease all licensed activity.
- (5) **Summary Order.** When the conduct of any licensee, agent or employee is so inimicable to the public health, safety and general welfare as to constitute a nuisance and give rise to an emergency, the License Officer shall have the authority to summarily order the cessation of business and the closure of the premises, or to suspend or revoke the license.
  - (a) **Special Hearing.** Unless waived in writing within 7 days after he has acted summarily, the License Officer shall conduct a special hearing. Notice shall be given in the manner prescribed for a provisional order.
  - (b) **Effect.** A decision upon a special hearing has the same effect as a final order.
  - (6) **Right of Appeal.** Any person aggrieved by a decision of the License Officer, after hearing, may appeal to the Appeals Commission in accord with Chapter 4.04.
- (7) **Record of Proceedings.** A record shall be made of all proceedings including any finding of facts and decision. The record shall be retained for at least one year after the matter is final. (Ord. 3589 Sec. 2 (part), 1996: Ord. 3429 Sec. 2, 1992: Ord. 2542 Sec. 7 (part), 1980)

**6.01.130: Expiration:** All licenses shall be for the year ending January 31 unless otherwise stated. (Ord. 2542 Sec. 7 (part), 1980)

**6.01.140: Existing Licenses:** Every present licensee and any other person whose activities will be licensed under this Title shall be treated as licensed hereunder. Renewal licenses shall be required on or before the expiration date as established by this Title, but otherwise the term of this Title and regulations adopted by the License Officer shall be in force on the effective date or when adopted. (Ord. 2542 Sec. 7 (part), 1980)

**6.01.150: Penalties:** Any person who violates any provision of this Title relating to a Class I license shall be guilty of a misdemeanor and upon conviction shall be fined in an amount not exceeding \$1,000.00 or be imprisoned for a period not exceeding ninety (90) days or both such fine and imprisonment. Any person who violates a provision of this Title relating to a Class II or Class III license or gives false information to the License Officer shall be guilty of a gross misdemeanor and upon conviction shall be fined in an amount not exceeding

\$5,000.00 or be imprisoned for a period not exceeding one year or both such fine and imprisonment. Each violation committed or each day a violation is permitted to continue constitutes a separate offense. (Ord. 5008 Sec. 3, 2003: Ord. 2542 Sec. 7 (part), 1980)