



# WESTMINSTER

## Staff Report

TO: The Mayor and Members of the City Council

DATE: December 1, 2010

SUBJECT: Study Session Agenda for December 6, 2010

PREPARED BY: J. Brent McFall, City Manager

*Please Note: Study Sessions and Post City Council meetings are open to the public, and individuals are welcome to attend and observe. However, these meetings are not intended to be interactive with the audience, as this time is set aside for City Council to receive information, make inquiries, and provide Staff with policy direction.*

Looking ahead to next Monday night's Study Session, the following schedule has been prepared:

*A light dinner will be served in the Council Family Room* 6:00 P.M.

### CITY COUNCIL REPORTS

1. Report from Mayor (5 minutes)
2. Reports from City Councillors (10 minutes)

### PRESENTATIONS

6:30 P.M.

1. Proposed Ordinance to Clarify the Applicable Penalties for Various Violations of the Westminster Municipal Code
2. Proposed Amendments to Title V of the Westminster Municipal Code re Licensing and Regulations

### EXECUTIVE SESSION

1. Discuss strategy and progress on potential sale, acquisition, trade or exchange of certain real property for the City's open space program pursuant to WMC 1-11-3 (C)(2), WMC 2-1-6, WMC 2-11-2 and CRS 24-6-402 (4)(a) and (e)
2. Discuss strategy and progress on potential acquisition of certain real property by the Westminster Economic Development Authority for the Westminster Urban Reinvestment Project pursuant to CRS 24-6-402 (4) (a) and (e) (**Verbal**)
3. Consultation with the City Attorney concerning *Herbal Remedies v. Westminster* pursuant to WMC 1-11-3(C)(3) and (8) and CRS 24-6-402(4)(b) and (e) (**Verbal**)

### INFORMATION ONLY ITEMS – Does not require action by City Council

1. 2010 Debt Refinancing Summary
2. Westminster Economic Development Authority 3<sup>rd</sup> Quarter 2010 Financial Update
3. Rental Property Inspection Fees for Affordable Rental Units

Additional items may come up between now and Monday night. City Council will be apprised of any changes to the Study Session meeting schedule.

Respectfully submitted,

J. Brent McFall  
City Manager



WESTMINSTER

## Staff Report

City Council Study Session Meeting  
December 6, 2010



**SUBJECT:** Proposed Ordinance to Clarify the Applicable Penalties for Various Violations of the Westminster Municipal Code

**PREPARED BY:** Martin R. McCullough, City Attorney  
Tami L. Cannon, Legal Administrator

### Recommended City Council Action:

Direct Staff to place on City Council's agenda a proposed ordinance to clarify the applicable penalties for various violations of the Westminster Municipal Code, and to decriminalize a number of regulations related to the use of parks, open spaces, trails and recreation facilities.

### Summary Statement:

- Violations of the Westminster Municipal Code ("City Code" or "Code") are punishable by either a fine or imprisonment, depending on whether the violation has been designated as a criminal offense.
- City Code section 1-8-1 provides that all Code violations are presumptively noncriminal offenses, and are civil matters, punishable by fine only, unless the violation has been expressly designated as a criminal offense.
- The City Attorney's Office was asked to review the fine schedule list maintained by the Municipal Court that is used as a reference for quickly determining whether any given charge is a noncriminal or criminal offense under the City Code.
- The City Attorney's Office determined a relatively small number of provisions of the Code that could be clarified in regard to whether a violation was subject to criminal or noncriminal penalties.
- The attached ordinance has been prepared to clarify that the following are subject to criminal penalties: maintaining a public nuisance, and violating the City's storm water quality ordinance (federally required).
- The ordinance would also decriminalize violations of Title 13 of the City Code concerning parks, open space, and community building regulations. However, conduct that is clearly criminal in other sections of the City Code that may occur in a park, open space, or community building will remain criminal. For example, Title 13 currently prohibits lighting a fire in any park. A citation issued under Title 13 would be a noncriminal violation, however, an act of arson in a City park, open space, or community building would be a criminal violation under other provisions of the City Code or state statute.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue:**

Should City Council adopt an ordinance to clarify the applicable penalties for various violations of the Westminster Municipal Code, and to decriminalize a number of regulations related to the use of parks, open spaces, trails and recreation facilities?

**Alternative:**

Do not adopt the ordinance. This is not recommended, since it would result in unnecessary ambiguity relative to a very significant aspect of the City Code.

**Background Information:**

Municipal Court staff previously requested review by the City Attorney's Office of their proposed fine schedule for various Code violations. This review resulted in the need to amend certain sections of the Code to clarify penalty provisions for criminal versus noncriminal violations.

The proposed ordinance amendment implements the results of this housekeeping effort.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_

COUNCILLOR'S BILL NO. \_\_\_\_\_

SERIES OF 2010

INTRODUCED BY COUNCILLORS  
\_\_\_\_\_

A BILL

FOR AN ORDINANCE AMENDING SECTIONS 1-8-1, 8-4-2, 8-4-6, 8-11-5, 8-11-7, 8-11-8, 8-11-9, 8-11-11, 11-11-9 AND 13-1-4 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING PENALTIES AND CRIMINAL VERSUS NON-CRIMINAL VIOLATIONS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 1-8-1, W.M.C., is hereby AMENDED to read as follows:

**1-8-1: PENALTIES:**

(A) All violations of any provision of this Code are hereinafter deemed noncriminal offenses and are civil matters, except those violations that are expressly designated as criminal offenses or which are punishable by imprisonment under this Code or under any counterpart state statute. Trial of noncriminal offenses shall be to the Court. No defendant found civilly liable for a noncriminal offense shall be punished by imprisonment for said offense. Any person convicted of a non criminal violation of any Section of this Code shall be fined an amount not to exceed one thousand dollars (\$1,000) Any person convicted of a criminal violation of any section of this Code shall be imprisoned for a period not to exceed three hundred sixty-five (365) days or fined an amount not to exceed one thousand dollars (\$1,000) or both; provided, however, that a person under the age of eighteen (18) years as of the date of the offense for which he is convicted shall not be subject to the imposition of a jail sentence of more than ten (10) days, except in the case of a conviction of a criminal traffic offense.

(B) The penalties provided in subsection (A) of this Section shall be applicable to every section of this Code the same as though it were a part of each and every separate section. ~~Any person convicted of a violation of any section of this Code, where any duty is prescribed or obligation imposed, or where any act which is of a continuing nature is forbidden or declared to be unlawful, shall be deemed guilty of a misdemeanor.~~

(C) A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided in this Code.

(D) Any person found to have committed a violation of a noncriminal traffic infraction, as designated in Section 10-1-3 of this Code, shall be punished by a fine of not more than five hundred dollars (\$500)

Section 2 Section 8-4-2, subsection (B), W.M.C., is hereby AMENDED to read as follows:

**8-4-2: NUISANCE DEFINED; VIOLATION SUBJECT TO CONTEMPT:**

(A) The following are deemed to be a public nuisance:

1. Any building, land, substance or personal property, the use or condition of which presents a substantial danger or hazard to the physical health or safety of the public, or used for any purpose which is in violation of the provisions of the Official Code of the City of Westminster. (1634 1646 1999)

2. The conducting or maintaining of any business, occupation, operation, or activity in violation of the provisions of the Official Code of the City of Westminster. (1634 1999)

3. Any business, occupation, operation, activity, or any building, land, substance, or personal property the use or condition of which has been identified as a public nuisance in the Official Code of the City of Westminster, the Colorado Revised Statutes, or the common law. (1634 1999)

(B) ~~Any person found guilty of violating~~~~It shall be unlawful for any person to violate~~ any of the provisions of this Chapter. ~~Any person found guilty of violating any of the provisions of this Chapter~~ shall, upon conviction thereof, be punished by a fine or imprisonment or both, pursuant to Section 1-8-1 of this Code. Each day that a violation of any of the provisions of this Chapter continues to exist shall be deemed to be a separate and distinct violation. (2523)

(C) Whenever, in a criminal or non-criminal prosecution under this Code, the Municipal Court finds the existence of a nuisance, the Court is authorized to abate the nuisance and assess costs in the same fashion as if a civil abatement proceeding had been commenced under Title 8, Chapter 4 of this Code. (2523)

(D) Any violation of any injunction or order issued by the Municipal Court in an action to abate a public nuisance may be punished as a contempt of court or by a fine as specified in section 1-8-1 of this Code. Unless the violation by its nature cannot be corrected, each day's failure to comply with an injunction or order to abate shall constitute a separate violation, for which an additional penalty may be imposed. (1634 1646 1999 2523)

Section 3. Section 8-4-6, W.M.C., is hereby AMENDED to read as follows:

**8-4-6: SPECIFIC NUISANCES DECLARED:** It shall be unlawful for any person to cause, maintain or permit a public nuisance. Public nuisance shall include, but shall not be limited to, the following acts or conditions: (1634 1999 3338) [The remainder of this section is unchanged.]

Section 4. Section 8-11-5, W.M.C., is hereby AMENDED to read as follows:

**8-11-5: LAND DISTURBANCE PERMIT REQUIREMENTS:** A Land Disturbance Permit shall be required prior to conducting any land disturbance activity equal to or greater than one (1) acre, earthwork involving more than two hundred (200) cubic yards, or grading on any property that has a slope in excess of eight percent (8%). The Land Disturbance Permit is available from the Engineering Division in the Department of Community Development. See Section 11-7-7 of the Westminster Municipal Code for specific regulations. Surety must also be provided before a Land Disturbance Permit will be issued.

Section 5. Section 8-11-7, subsection (E), W.M.C., is hereby AMENDED to read as follows:

**8-11-7: MAINTENANCE REQUIREMENTS:** (3391) Developers, builders, business owners, homeowners associations and landowners shall be responsible for ensuring that all BMPs identified on the approved construction drawings, Official Development Plan and the Land Disturbance Permit application are properly installed, maintained and are in good working order as hereafter provided.

(E) Should any developer, builder, business owner, homeowners association or landowner fail to adequately maintain the permanent stormwater runoff quality control measures or fail to remove the temporary measures, the City Manager or his representative may summarily cause the necessary work to be performed at the expense of such responsible party, and the cost of such abatement shall be a first and prior lien on the property as provided by Title I, Chapter 31 of this Code, and may be assessed and collected pursuant to Section 8-4-5 of this Code.

Section 6. Section 8-11-8, subsection (C), W.M.C., is hereby AMENDED to read as follows:

**8-11-8: ILLICIT DISCHARGES:**

(C) **Enforcement:** In addition to any other remedies provided in this Chapter, Should any person discharge or cause to be discharged or spilled or maintain a condition upon any property that may result in the discharge of any substance other than naturally occurring stormwater runoff into the City's storm drainage system, except for the exceptions listed in section 8-11-8 (A) above, the City Manager or his representative may summarily cause the necessary work to be performed at the expense of such responsible party, and the cost of such abatement shall be a first and prior lien on the property as provided by Title I, Chapter 31 of this Code, and may be assessed and collected pursuant to Section 8-4-5 of this Code. Alternatively, the City may make a demand on the surety to pay for these expenses.

Section 7. Section 8-11-9, W.M.C., is hereby AMENDED to read as follows:

**8-11-9: LAND DISTURBANCE PERMIT REMEDIATION PROCEDURES: (3391)**

(A) **City Inspector:** If a City inspector, or any other authorized City representative determines that eroded soils are leaving a disturbed area, the City inspector or authorized representative may, in writing, direct the business owner, landowner or such owner's agents or representatives on the site to repair, replace and/or install any sediment and/or erosion controls that were proposed for the site, or require additional sediment and/or erosion controls be installed if deemed necessary by the City inspector or authorized representative to minimize said sediment from migrating off-site, including the issuance of stop work orders and/or suspension or revocation of any permit. It shall be unlawful for any business or landowner or such owner's agents or representatives to fail to take all necessary measures to comply with such written directive and take all measures necessary to prevent soil erosion from migrating off site.

(B) **Right of Entry:**

1. The City inspector, or any other authorized City representative shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any land disturbance permit or order issued hereunder. Users shall allow the City inspector or authorized representative ready access to all parts of the premises for the purposes of inspection, whether announced or unannounced, sampling, records examination and copying, and the performance of any additional duties.

2. If the City inspector or authorized representative has been refused access to the property and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City inspector or authorized representative may seek issuance of a search warrant from the Municipal Court.

(C) **Compliance Orders.** Whenever the City determines that any activity is occurring that is not in compliance with a Land Disturbance Permit and/or the requirements of this Chapter, the City may issue a written compliance order to the construction site operator. The schedule shall contain specific actions the construction site operator must complete, including dates for the completion of the actions. It shall be unlawful for any construction site operator to fail to comply with any compliance order requirement.

(D) **Suspension and Revocation of Permit.** The City may suspend or revoke a construction site Land Disturbance Permit for violation of any provision of this Chapter, violation of the permit, and/or misrepresentations by the permittee or the permittee's agents, employees, or independent contractors.

(E) **Stop Work Orders.** Whenever the City determines that any activity is occurring which is not in compliance with an approved permit and/or the requirements of this ordinance, the City can order such activity stopped upon service of written notice upon the person responsible for or conducting such activity. Such person shall immediately stop all activity until authorized in writing by the City to proceed. If the appropriate person cannot be located, the notice to stop work shall be posted in a conspicuous place upon the area where the activity is occurring. The notice shall state the nature of the violation. The notice shall not be removed until the violation has been cured or authorization to remove the notice has been issued by the City. It shall be unlawful for any person to fail to comply with a stop work order.

~~(F) **Violations and Penalties.** It shall be unlawful for any person to violate any provision of a construction site Land Disturbance Permit and/or the requirements of this Chapter, as adopted and modified by the City. Any person violating any provision of the construction site Land Disturbance Permit and/or the requirements of this Chapter, as adopted and modified by the City, shall be deemed guilty of a misdemeanor, and subject to the penalties as set forth in Chapter 8 of Title I of this Code.~~

~~(G)~~(F) **Remedies Not Exclusive.** The remedies provided by this Section are in addition to any other remedies set out in this Chapter. Exercise of any such this remedy shall not be a bar against, nor a prerequisite for, taking any other action against a violator.

Section 8. Section 8-11-11, subsections (C) and (D), W.M.C., are hereby AMENDED to read as follows:

**8-11-11: JUDICIAL ENFORCEMENT REMEDIES: (3391)**

**(C) Criminal Prosecution:**

~~1.— A user who willfully or negligently violates any provision of this ordinance, a land disturbance permit, or order issued hereunder, or any other stormwater quality standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1000.00 per violation, per day, or imprisonment for not more than one (1) year, or both.~~

~~2.— A user who willfully or negligently introduces any substance into the MS4 which causes personal injury or property damage shall be subject to the penalty provisions of State law. This penalty shall be in addition to any other civil cause of action for personal injury or property damage available under State law.~~

~~3.— A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, land disturbance permit, or order issued hereunder shall, upon conviction, be punished by~~

~~a fine of not more than \$1000.00 per violation, per day, or imprisonment for not more than one (1) year, or both.~~

~~(1) It shall be unlawful for any person to violate any provision of this Chapter, a Land Disturbance Permit, or order issued hereunder.~~

~~(2) It shall be unlawful for any person to introduce any substance into the MSA that causes personal injury or damage.~~

~~(3) It shall be unlawful to make any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Chapter, land disturbance permit, or order issued hereunder.~~

~~(4) Any violation of any provision of this Chapter is hereby declared to be a criminal violation, which shall be punishable by fine, imprisonment, or both, pursuant to the provisions of W.M.C. section 1-8-1, as the same may from time to time be amended.~~

(D) **Remedies Nonexclusive:** The remedies provided for in this ~~ordinance-Chapter~~ are not exclusive. The City Manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of stormwater quality violations will generally be in accordance with the City's enforcement response plan. However, the City Manager may take other action against any user when the circumstances warrant. Further, the City Manager is empowered to take more than one enforcement action against any noncompliant user.

Section 9. Section 11-11-9, W.M.C., is hereby AMENDED to read as follows:

#### **11-11-9: ENFORCEMENT:**

(A) Public nuisance: any violation of the provisions of this Chapter is hereby declared to be a public nuisance.

~~1.(1)~~ Abatement of public nuisances shall be according to the provisions of Title 8, Chapter 4 of this Code.

~~2.(2)~~ Summary abatement procedures (section 8-4-4(a)) may be followed for the following reasons:

(a) Any sign whose condition or placement is found by the code enforcement officer to constitute an imminent danger of serious injury to persons or property, including but not limited to danger of collapse or blocking views of streets, alleys, driveways, or other entrances and exits from public ways.

(b) Any sign placed unlawfully in the public right-of-way. Such signs may be immediately removed and destroyed without notice or liability.

(B) ~~Criminal violations: i~~It shall be unlawful for any person to violate any of the provisions of this Chapter. Any person found guilty of violating any of the provisions of this Chapter shall, upon conviction thereof, be punished by a fine ~~or imprisonment, or both~~, pursuant to Section 1-8-1 of this Code. Each day that a violation of any of the provisions of this Chapter continues to exist shall be deemed to be a separate and distinct violation. ~~The provisions of this Subsection shall not be applicable for violations of Section 11-11-6(C).~~



Section 10. Section 13-1-4, subsection (C), W.M.C., is hereby DELETED:

**13-1-4: ENFORCEMENT OF RULES: (3455)**

~~(C) Any violation of this Chapter is a criminal offense, punishable by a fine of no less than one hundred dollars (\$100) or imprisonment, or both, as provided in Section 1-8-1 of this Code. Violation of any provision shall be a separate violation and each day of a continuing violation shall be a separate offense.~~

Section 11. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 13th day of December, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27th day of December, 2010.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney's Office



WESTMINSTER

## Staff Report

City Council Study Session Meeting  
December 6, 2010



**SUBJECT:** Proposed Amendments to Title V of the Westminster Municipal Code re Licensing and Regulations

**PREPARED BY:** Marty McCullough, City Attorney  
Leslie Annand, Assistant City Attorney  
Jane Greenfield, Assistant City Attorney  
Hilary Graham, Assistant City Attorney

### **Recommended City Council Action:**

Direct Staff to prepare an ordinance amending Title V of the Westminster Municipal Code concerning Licensing and Regulations.

### **Summary Statement:**

- Title V of the Westminster Municipal Code sets forth the process and criteria for issuing and administering business licenses, sales and use tax licenses, and other licenses involving businesses that have been deemed appropriate for regulation to protect the health, safety and welfare of the City and its citizens, such as home occupations, contractors, pawn brokers, security guards, and dance halls and cabarets.
- Staff considers the proposed amendments to be primarily housekeeping in nature. A summary of the proposed changes to each Chapter is included below.
- Staff believes that these amendments will improve the overall administration of the Code.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue:**

Should the City amend Title V of the Westminster Municipal Code (“Code”) regarding licensing and regulations and make general housekeeping and administrative amendments?

**Alternatives:**

1. Council could direct Staff to leave the current Code provisions in place and not make the recommended changes. Staff does not recommend this alternative. The proposed amendments result in better organization of Title V, a clarified appeal process and numerous clarifications and improvements to the various Chapters.

2. Council could direct Staff to make only certain changes to the Code while excluding others. Although this approach would help address some of the issues, it may not address all of the concerns with the current version of Title V. Staff does not recommend this alternative.

**Background Information:**

The amendments identified indirectly support two components of the City of Westminster Strategic Plan: Safe and Secure Community and Strong, Balanced Local Economy. The City’s licensing and regulation provisions are intended to protect the public health, safety and welfare interests of the City and its citizens and provide specific licensing and regulation for activities and businesses that may pose a significant risk of harm to such interests if unlicensed and unregulated. These proposed amendments will improve the administration of the City’s Licensing and Regulations, and in turn, will promote a balanced local economy. A summary of the proposed amendments by chapter is as follows.

**Chapter 1- Procedures:** Chapter 1 includes a provision expressing City Council’s intent in enacting the licensing requirements contained in Title V of the City Code. Amendments to Chapter 1 include the consolidation of the procedural provisions into this chapter. The other chapters of Title V now refer to this chapter for the procedures to be followed for denying, canceling, suspending and revoking business licenses. The procedures themselves have not substantially changed from those that currently exist in the City Code. These include the giving of notice by the City of a proposed adverse decision to the applicant or licensee, the right to request a hearing before the Special Permits and License Board, a stay of the adverse action until the requested hearing is completed, and the grounds upon which any license may be denied, canceled, suspended or revoked. In addition, the penalty for violating any chapter of Title V has been moved to Chapter 1. The other chapters of Title V now refer to Chapter 1 for this provision, but may include any additional or unique penalties, if applicable.

**Chapter 2- Business Licenses:** Chapter 2 addresses general business licenses issued within the City. Amendments to Chapter 2 clarify that businesses with a home occupation license do not have to obtain a separate business license. January 1 has been established as the deadline each year to submit an application for renewal of a business license. A provision has been added providing that the City Clerk may request the City Manager to investigate an application for renewal in order to determine whether grounds exist for denial. Currently, this authority only applies to applications for new licenses and Staff believes this authority should apply also to applications for renewals since a business may not be discovered to be in violation of the City Code until after they have commenced their business operations.

**Chapter 3- Home Occupation Licenses:** Chapter 3 addresses licensing requirements for home occupations. Amendments to Chapter 3 clarify that “home occupation” does not include any hobby or leisure activity that is not engaged in for profit. The existing requirement that home occupations obtain licenses on an annual basis is deleted. The amendments incorporate by reference the various zoning regulations applicable to home occupations under title 11 of the City Code (e.g., no outside employees; no more than 20% of the floor area; no separate entrances; only one sign not to exceed 1 square foot).

**Chapter 4 – Sales and Use Tax License.** Chapter 4 requires a sales and use tax license for anyone engaged in business within the City. The amendments recommended for Chapter 4 add a definition for “Engaged in Business in the City,” clarifies the obligation to collect and pay tax pursuant to Title IV of the Code, and clarifies the obligation to exhibit the license upon request of any City official.

**Chapter 5- Contractor’s License.** Chapter 5 regulates construction contractors who do business within the City. Proposed changes to Chapter 5 include a change in the terminology to require a “Contractor’s License” rather than “Contractor’s Registration” to provide conformity with other Chapters of Title V that require licenses. Additional amendments include the elimination of the exemption for occupants of a single-family or duplex residential property and thereby limit the exemption to owners of single-family or duplex residential property. In addition, a twelve-month expiration on the license is added, thus requiring annual renewal. This last change will allow the City to confirm that a contractor is current on use tax obligations before renewing the license.

**Chapter 6 – Peddlers and Solicitors.** Chapter 6 was originally enacted primarily to enhance the privacy of persons in their homes by preventing solicitors from soliciting in residential areas where a “No soliciting” or “No trespassing” sign has been posted. Staff is recommending that Chapter 6 be repealed and moved, in parts, to other sections of the Code as follows: 1) the prohibition against contacting, or attempting to contact, an owner or occupant of a private residence that has been posted with a “No Solicitations” or “No Trespassing” sign has been added to Title 6, Chapter 3, concerning trespassing; 2) the regulations on sound trucks have been moved to Title 9, Chapter 4, which regulates “Solicitation on or Near Street or Highway;” and 3) the section on temporary use permits has been moved to Title XI, Chapter 4, Section 4. The new Title XI regulations on temporary use permits are now more detailed to address previously omitted issues, such as allowed signage, waste disposal, and restroom facilities. Further, the proposed changes to this section clarify that temporary uses are intended to be limited to those that are special events, or seasonal in nature. The regulations further define a temporary use as a use that involves being in one place on private property for two hours or longer. Community Development and the City Attorney’s Office have attempted to ensure that the proposed clarifications reflect the City’s intentions and past practices relative to the approval of temporary uses.

**Chapter 8 – Pawnbrokers.** Chapter 8 requires a license for anyone who acts as a pawnbroker within the City. Proposed amendments to Chapter 8 include updating the application fee and annual renewal provisions to be consistent with the stepped increases previously provided for in the Chapter. The term “contract for purchase” is changed to “contract for pawn” in order to distinguish between items held for pawn and items purchased outright by a pawnbroker. In addition, changes are proposed to make the Chapter’s requirements conform to the state statutes regulating pawn shops.

**Chapter 9 – Amusement Centers.** Chapter 9 regulates the operation of any place of amusement or recreation offering to the public, for a fee, the use of any pool or billiard table or any other amusement game. Proposed amendments to Chapter 9 conform the Code to the current practice of not requiring

an amusement center license for businesses such as grocery stores that may contain a few amusement games or devices as an ancillary service (the Code retains the annual excise tax on those games or devices, however). The bases for denial or revocation of a license are clarified and, finally, grammatical errors are corrected.

**Chapter 13-Security Guards.** Chapter 13 of the Code regulates Security Guard businesses. The title of Chapter 13 is changed from “Security Guards” to “Security Guard Businesses” to clarify that it is the business that requires a license and not an individual security guard. The section on “Prohibited Acts” is amended to remove the prohibition against drawing a firearm in the performance of duties. (Firing the firearm is still prohibited.) In addition, “Prohibited Acts” is expanded to prohibit interference with the performance of any police officer or City official in the performance of their official duties.

**Chapter 16- Dance Halls and Cabarets.** Chapter 16 regulates the operation of dance halls and cabarets. Amendments include a change to the definition of dance halls and cabarets by changing the focus from whether the establishment is open for public dancing on a regular basis “for gain,” to establishments that are designed for public dancing and which contain a designated dance floor. Whether an establishment was allowing public dancing “for gain” was considered ambiguous, and had the effect of businesses applying for cabaret licenses “just in case” someone stood up and danced. Examples include “Joe’s Crab Shack” and the recently licensed “Quaker Steak and Lube.” An additional amendment continues the exception for dance studios.

Chapters 11 and 22 on Mobile Home Parks and Mini-Warehouses, respectively, are being repealed as they are misplaced and no longer needed in the licensing chapter. Neither use required a license initially and, now, both uses are adequately covered in the land use sections of Title XI and the City’s adopted building codes and regulations.

Several Chapters of Title V are omitted from these amendments because they have recently undergone revision or adoption. Chapters omitted on this basis include: Chapter 10 Medical Marijuana; Chapter 12 Rental Property, and Chapter 15 Massage Parlors.

Several Chapters of Title V have been omitted from these amendments and will be reviewed by Staff at a later date. The Chapters for which no amendments are currently recommended include: Chapter 7 Solid Waste Collection; Chapter 17 Adult Businesses and Chapter 19 Escort Services.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment – Proposed Amendments to Title V

**CHAPTER 1  
PROCEDURES**

- 5-1-1: LEGISLATIVE INTENT AND APPLICATION OF TITLE**
- 5-1-2: DEFINITIONS**
- 5-1-3: ADVERSE ACTIONS**
- 5-1-4: NOTICE OF ADVERSE ACTION**
- 5-1-5: APPEALS**
- 5-1-6: LICENSE DENIAL**
- 5-1-7: LICENSE CANCELLATION**
- 5-1-8: LICENSE SUSPENSION**
- 5-1-9: LICENSE REVOCATION**
- 5-1-10: HEARING PROCEDURES**
- 5-1-11: PENALTY; NUISANCE DECLARED**

**5-1-1: LEGISLATIVE INTENT AND APPLICATION OF TITLE: (1956)**

(A) City Council finds that:

(1) Licenses issued pursuant to this Title should be granted and held subject to compliance with the terms and conditions imposed by this Title and any other applicable laws;

(2) The granting and retention of any such license shall be deemed a privilege, and not a right;

(3) No license shall be issued or held contrary to the public health, safety, and welfare interests of the City and its citizens;

(4) It is in the public interest to provide for the denial, cancellation, suspension, and revocation of licenses issued pursuant to this Title in order to protect the health, safety, and welfare of the City and its citizens;

(5) This Title is enacted pursuant to the City's home-rule authority granted by Article XX, Section 6, of the Colorado Constitution; and

(6) The intent of the City Council in enacting this Title is to protect and promote the health, safety, and welfare interests of the City and its citizens through the licensing and regulation of those activities and businesses determined to pose a significant risk of harm to said interests if unlicensed and unregulated.

(B) The rules of procedure set forth in this Chapter are intended to provide a uniform, consistent, and expeditious method for conducting quasi-judicial hearings held pursuant to this Title and to afford persons due process of law. The Special Permit and License Board may supplement the provisions of this Chapter by adopting further rules of procedure not inconsistent herewith. The rules of procedure set forth in this Chapter apply whenever a hearing is required by any provision of this Title, unless another procedure is specifically required by written agreement, state statute, or other provisions of this Code.

**5-1-2: DEFINITIONS: (1956)** The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(A) "Adverse action" means the ~~denial, cancellation,~~ suspension, or revocation of an existing license ~~or permit~~ authorized by this Title or the initial denial of an application for a license authorized by this Title.

(B) "Cancellation" means the City's administrative action of invalidating an issued license for the limited reasons set forth in this Section, which action is not considered to be an adverse action.

~~(C)~~ "Interested person" means any person having a legally protected interest under law that is subject to potential injury in fact due to proposed final action pursuant to this Title, or any person defined as "interested" by law, or any person having a right of appeal pursuant to law or this Title. "Interested person" ~~also~~ includes any employee or official charged with the responsibility to issue and enforce the provisions of this Title.

(D) "Revocation" means the City's action to recall, withdraw or rescind an existing license according to the process afforded by this Title, and it excludes the administrative act of cancellation.

### **5-1-3: ADVERSE ACTIONS:**

(A) An adverse action may be initiated by any of the following persons or entities:

(1) Any department head of the City;

(2) Any employee or official charged with the responsibility to issue and enforce the provisions of this Title.

(B) An adverse action shall be initiated by filing with the City Manager or the City Manager's designee a written request that the adverse action be taken, which shall include the facts and grounds of the proposed adverse action.

(C) An adverse action may also be taken by the City Manager on his or her own volition.

### **5-1-4: NOTICE OF ADVERSE ACTION: (1956)**

(A) An applicant shall be notified of a denial and a licensee shall be notified of a ~~cancellation,~~ suspension or revocation of a license ~~or permit~~ and of the grounds for the proposed adverse action in writing.

(B) The notice of the proposed adverse action shall include:

(1) The grounds for the proposed adverse action

(2) A statement that the applicant or licensee, as applicable, may request a hearing before the Special Permit and License Board by filing a request for the same not later than thirty (30) days following the date of service of the notice of the proposed adverse action.

(3) A statement that the proposed adverse action described in the notice will be stayed during the thirty (30) days in which a hearing may be requested or until a hearing has been held and a decision rendered, whichever is later; provided, however, that a finding of immediate undue risk as permitted in Section 5-1-5(C) may result in no stay.

(C) The notice of proposed adverse action may be served on the applicant or licensee, as applicable by:

(1) Personal service by hand delivery, in which case service shall be deemed complete on the date such service occurs, or

(2) By mailing a copy of the notice of proposed adverse action by first class mail to the last known address of the applicant or licensee, as applicable, or to the street address of the licensed premises, in which case service shall be deemed complete on the date of mailing. The holder of any license issued pursuant to this Title shall notify the City Clerk of any change of the holder's address for purposes of notification and service pursuant to this Chapter.

#### **5-1-5: APPEALS:**

(A) The applicant or licensee may appeal the notice of proposed adverse action by filing with the City Clerk in writing a request for a hearing before the Special Permit and License Board, within thirty (30) days after the applicant or licensee is notified of the proposed adverse action. The request for hearing shall specify any reasons the requesting party believes the proposed adverse action was not justified. A hearing, when requested, shall be scheduled and held within a reasonable time, and reasonable notice of the hearing shall be given to the licensee or applicant.

(B) For any applicant or licensee who fails to appeal a proposed adverse action by failing to timely file a request for a hearing in the manner provided for in this Section, the proposed adverse action shall immediately take effect, and the applicant or licensee shall thereafter be barred from appealing the adverse ~~decision-action~~ before the Special Permit and License Board. Further, the failure to file a timely appeal of a proposed adverse action pursuant to this Section shall be deemed a failure to exhaust administrative remedies and a bar to judicial review.

(C) Any adverse action pursuant to this Title shall be automatically stayed upon the filing of a timely appeal pursuant to this Section; provided, however, upon a determination in writing by the City Manager that a stay of the adverse action pending the appeal would pose an immediate undue risk to the public health, safety, or welfare, the adverse action shall not be stayed and the licensee shall cease operations pursuant to the license until the appeal is finally resolved. Notice of any such determination shall be given in a manner specified in Section 5-1-4(C) above.

(D) In computing any period of time prescribed by this Section, Saturdays, Sundays, and legal holidays shall be counted as any other day.

(E) Upon completion of a hearing, the Special Permit and License Board shall issue a decision within a reasonable time and according to Section 5-1-10(J) and (K).

#### **5-1-6: LICENSE DENIAL: (1959)**

Unless otherwise limited by state law, a license application may be denied by the City Manager or the City Manager's designee based on the following grounds:

- (1) All applicable provisions of the City Code and state law have not been met;
- (2) The required fees have not been paid;
- (3) The application is incomplete or contains false, misleading or fraudulent statements;



(4) Character of the applicant, based on his/her criminal history, to the extent such character and criminal history is within five (5) years of the date of application and is relevant to the license ~~or permit~~ requested by the applicant;

(5) Nonconformance of the business, premises, building or land use with this Code;

(6) Demand of the business for excessive City services;

(7) Discharge, intent or proposal to discharge wastes to the sanitary sewerage system which will exceed any of the limits set forth in Title VIII, Chapter 10 of this Code;

(8) Prior or ongoing violations of law in connection with the business;

(9) Previous revocation or suspension of a similar license held by the applicant;

(10) Any reason that would justify cancellation, suspension or revocation of a license; or

(11) Any ground provided by ordinance or state statute.

#### **5-1-7: LICENSE CANCELLATION: (1959)**

(A) Unless otherwise limited by state law, a license may be administratively cancelled by the City Manager or the City Manager's designee on the following limited grounds:

(1) The license was issued in error;

~~—(2) The license was mistakenly issued to the wrong person or premises or the wrong license was issued;~~

~~(3) Any fee or penalty is unpaid; or Upon written request of the licensee;~~

~~(3) Upon a determination by the City, confirmed by a site visit to the business address, that the licensee has permanently ceased operating;~~

(4) Upon grounds provided by ordinance or statute.

(B) Any administratively cancelled license may be administratively reinstated when the facts or circumstances demonstrate that the cancellation was done in error.

#### **5-1-8: LICENSE SUSPENSION: (1959)**

Unless otherwise limited by state law, a license may be suspended ~~by the City Manager~~ on the following grounds:

(1) Upon any grounds which would authorize revocation of a license except grounds which make revocation mandatory;

(2) When any activity conducted pursuant to such license violates an ordinance or statute;

(3) Upon grounds of repeated violations of this Code by the licensee; or

(4) Upon grounds provided by ordinance or statute.

**5-1-9: LICENSE REVOCATION: (1959)**

Unless otherwise limited by state law, a license may be revoked ~~by the City Manager~~ on the following grounds:

(1) Fraud or misrepresentation or false statements in the application for the license;

~~(2) Failure to make timely payment of any fees, charges or penalties imposed pursuant to this Title;~~

(3) Fraud or misrepresentation in the course of conducting the business;

(4) Conducting the business contrary to the conditions of the license;

(5) Conducting the business in such a manner as to create a public nuisance as defined by ordinance or by statute or in a manner as to constitute a danger to the public health, safety or welfare;

(6) Conviction of any violation of federal, state or municipal law related to the operation of the licensed business;

(7) Repeated violations of one or more City ordinances at the licensee's place of business, by the licensee or patrons of the business;

(8) Commission of an act or grounds that would have justified denial of the original application for a license;

(9) The conduct of the licensee's business consistently creates excessive need for City services and causes the City to expend public funds beyond normal requirements to protect the public health, welfare and safety;

(10) The business is of such a nature, or is operated in such a manner, that it is frequented by individuals (a) who consistently disrupt the normal and reasonable peace and tranquility of the neighborhood, or (b) who by intimidation, threat, harassment or other hostile conduct seriously disrupt any other business in the immediate neighborhood of the licensee, thereby causing such business unreasonable economic loss;

(11) The licensee fails to keep and maintain permanent records which, in accordance with accepted accounting practices as determined by the City Finance Director, are necessary for establishing the licensee's tax liability;

(12) Any violation of Title IV concerning taxes;

~~(12) Failure to make timely payment of any fees or charges required by this Title;~~

(13) Upon any grounds provided by ordinance or state statute.

**5-1-10: HEARING PROCEDURES: (1959 2275)**

(A) This Section shall apply to any hearing conducted pursuant to this Title.

(B) Any interested person who wishes to be heard at a hearing pursuant to this Title may appear personally or be represented by legal counsel at the hearing.

(C) The hearing shall be conducted by the Special Permit and License Board. In the case of an appeal of an adverse action, the hearing shall be *de novo*, and the proponent of the adverse action shall have the burden to show, by a preponderance of evidence, that the grounds for the adverse action existed at the time the adverse action was taken. The adverse action may be defended by the City Manager, or the Department Head, employee, or official who initiated the adverse action, who may be represented by the City Attorney.

(D) The Special Permit and License Board may:

- (1) Establish by rule a fee for a hearing;
- (2) Waive or refund hearing fees upon a showing of undue hardship;
- (3) Administer oaths and affirmations;
- (4) Issue subpoenas requiring the presence of persons and the production of documents reasonably necessary to the determination of any issue relevant to the hearing. The Chairperson shall sign and issue any such subpoenas. Subpoenas shall be enforced as provided in Section 1-22-5.
- (5) Rule upon offers of proof;
- (6) Compel testimony;
- (7) Receive evidence;
- (8) Determine all relevant issues of material fact and whether the proposed adverse action comports with the requirements of the applicable laws;
- (9) Dispose of motions relating to the discovery and production of relevant documents and things for inspection, copying, or photographing;
- (10) Regulate the course of the hearing, including setting reasonable time limits on testimony or argument and restricting duplicative or irrelevant evidence or testimony;
- (11) Set the time and place for continued hearings;
- (12) Fix the time for filing of briefs and other documents;
- (13) Direct the parties to appear and confer to consider simplification of issues, admissions of facts or documents to avoid unnecessary proof, and limitation of the number of witnesses;
- (14) Issue appropriate orders that control the subsequent course of the proceeding;
- (15) Dispose of motions and procedural matters;
- (16) Control the decorum and conduct of the proceeding, including the reprimanding and exclusion from the hearing of any person engaging in improper or indecorous conduct; and

(17) Issues general or specific regulations in furtherance of its powers enumerated in this Section and take any other action authorized by ordinance or by rule consistent with law.

(E) All testimony shall be taken under oath or by affirmation.

(F) It shall be unlawful for any person to fail to comply with the orders of the Special Permit and License Board, including the failure to obey any subpoena issued pursuant to this Section.

(G) The proceedings of the hearing shall be recorded through tape recording, stenographic, or other verbatim reproduction, and copies of the transcriptions of the proceedings shall be available, upon payment of the reasonable costs thereof, to the parties to the hearing or any interested person.

(H) At the hearing, each side may present oral evidence, documentary evidence, and rebuttal evidence, and conduct such cross examination as the Board may reasonably determine necessary for a full and true disclosure of the facts. The Board may receive all or part of the evidence in written form if the interests of the parties will not be substantially prejudiced and if the hearing will be expedited thereby. The Board may receive and consider evidence not admissible under the civil rules of evidence if such evidence possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. The Board may exclude incompetent and unduly repetitious evidence, and may receive documentary evidence in the form of a copy or excerpt if the copy is deemed reliable.

(I) No ex parte material or representation of any kind or any other communication outside the hearing shall be considered by the Board unless it is fully disclosed on the hearing record and an opportunity is given for comment thereon at the hearing.

(J) The Board may affirm, reverse, or modify, with or without conditions, any adverse action. The Board shall issue, within a reasonable time, a final, written decision with findings of fact and conclusions of law, setting forth the grounds of the decision, based on the evidence presented at the hearing. The Board shall serve the decision on each party to the hearing by mailing it first-class mail to the last address furnished to the City Clerk pursuant to Section 5-1-4 by the party. The decision shall be deemed final and effective as to such party on the date mailed.

(K) The Board's final decision shall be subject to judicial review pursuant to Colorado Rule of Civil Procedure 106(a)(4). No ground may be presented for judicial review unless it was first presented to the Special Permit and License Board, prior to the decision thereof.

**5-1-11: PENALTY; NUISANCE DECLARED:**

(A) It is unlawful for any person to violate any of the provisions of this Title. Except as otherwise provided in this Title, any person found guilty of violating any of the provisions of this Title shall, upon conviction thereof, be punished by a fine pursuant to Section 1-8-1 of this Code. Each day that a violation of any of the provisions of this Title continues to exist shall be deemed a separate and distinct violation.

(B) The conduct of any activity or business in violation of this Title is hereby declared to be a public nuisance, which may be abated pursuant to the provisions for the abatement of nuisance provided for in Chapter 4 of Title VIII of this Code.

CHAPTER 2  
BUSINESS LICENSES

5-2-1: DEFINITIONS

5-2-2: LICENSE REQUIRED

5-2-3: LICENSE APPLICATION AND ADMINISTRATION

5-2-4: TRANSFER

5-2-5: LICENSE DENIAL, CANCELLATION, ~~NON-RENEWAL~~, SUSPENSION, REVOCATION

~~5-2-6: PENALTY~~

~~5-2-1: DEFINITIONS: "Business" includes all kinds of trades, vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, for profit or nonprofit, together with all devices, machines, vehicles and appurtenances on any premises in this City or anywhere else within its jurisdiction. (1959)~~

5-2-1: DEFINITIONS: The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise: "Business" means any trade, vocation, occupation, profession, enterprise, service, or commercial activity conducted within the City for profit or not-for-profit, except a home occupation licensed as such pursuant to Chapter 3 of this Title. The term "business" shall not include any hobby or leisure activity not engaged in for profit.

5-2-2: LICENSE REQUIRED: (1959)

(A) It shall be unlawful for any person to ~~establish~~conduct any ~~place of~~ business in the City without first obtaining a license ~~to conduct such business~~ pursuant to this Chapter, ~~unless otherwise provided by this Code.~~ A separate ~~general~~ business ~~licenses~~license shall be required for each location of a business operating within the City limits. ~~Specialty licenses shall be required in addition to general business licenses when applicable.~~A business shall obtain such additional licenses, including a sales tax license, as may be required by federal or state law or this Code and the failure to do so shall be considered a violation of this Chapter.

(B) In the event that any business is being conducted in an unincorporated area at the time of the annexation of such area to the City ~~and the person carrying on or engaging in the business is doing so lawfully and in conformance with all laws applicable to the territory, the conduct of such business may be continued upon and subsequent to the annexation of the area to the City, providing any applicable license fee is paid within ten (10) days of annexation. In subsequent calendar years, the business must conform to all licensing requirements contained in this Chapter and all other applicable licensing requirements contained in this Code.~~

5-2-3: LICENSE APPLICATION AND ADMINISTRATION: (1959)

(A) ~~The An~~ applicant for a business license shall submit an application to the City Clerk on forms provided by the City Clerk. ~~All original applications~~The application shall be investigated by the City Manager in order to determine whether grounds exist for denial. If approval of the application is recommended as a result of the investigation, the City Clerk shall issue the license for a period of one (1) year. The City Manager may approve the application with ~~reasonable~~ conditions reasonably deemed by the City Manager as necessary to protect the public health, welfare and safety.

(B) An application for renewal of the business license shall be filed with the City Clerk. The City Clerk, in his or her reasonable discretion, may request the City Manager to investigate the application in order to determine whether grounds exist for denial. In the event a cancellation, suspension, or revocation proceeding is pending when a license renewal is filed, the application for a license renewal shall not be acted upon until the suspension or revocation proceeding has been completed.

(C) All licenses shall specify the name of the licensee, the business address, the nature of the business, and the term of the license, and the date upon which it expires. Every license granted under the provisions of this Chapter shall be posted in a conspicuous place at the place of business for the full term of the license. Licenses shall be removed upon expiration, cancellation, suspension, or revocation. It shall be the duty of each licensee to show the license at any reasonable time when requested to do so by any City official.

**5-2-4: TRANSFER:** Any transfer of a business to a new owner, whether by sale, gift or operation of law, shall cause a cancellation of the prior business license. The new owner shall not conduct business until a new business license has been obtained pursuant to this Chapter. (1959)

**5-2-5: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION:** (1959 2574)

~~(A) A business license may be denied, cancelled, denied renewal, suspended, or revoked for any violation of the provisions of this Chapter, or for any reason set forth in Chapter 1 of this Title.~~

~~(B) A license shall be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall be given by personal delivery to the licensee or mailed to the address contained on the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(C) Any of the following circumstances may be considered cause for denial of a license:~~

~~— (1) The required fees have not been paid.~~

~~— (2) The application is incomplete or contains false, misleading or fraudulent statements.~~

~~— (3) Nonconformance of the business, premises, building or land use with this Code.~~

~~— (4) Any reason stated in Section 5-1-5 of this Code.~~

~~(D) An application for a new license may be denied by the City Manager for the reasons listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(E) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(F) The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(G) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

~~**5-2-6: PENALTY:** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959)~~

**CHAPTER 3  
HOME OCCUPATION LICENSE**

**5-3-1:— DEFINITIONS**

**5-3-2:— LICENSE REQUIRED**

**5-3-3:— LICENSE APPLICATION AND ADMINISTRATION**

**5-3-4:— TRANSFER**

**5-3-5:— LICENSE DENIAL, CANCELLATION, SUSPENSION-OR, REVOCATION**

**5-3-6:— PENALTY**

~~**5-3-1: DEFINITIONS:** For purposes of this Chapter, "home occupation" shall be as defined in section 11-4-10 of this Code and shall also include any business located or based within the City that does not have a general business license, and is operated from a residential address or post office box address. (1959)~~

**5-3-1: DEFINITIONS:** The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise: "Home occupation" means any trade, vocation, occupation, profession, enterprise, service, or any commercial activity, for profit or not-for-profit, which is conducted in connection with the occupation of a dwelling unit meeting all of the zoning regulations set forth in Section 11-4-10, W.M.C, and which does not have a business license pursuant to Chapter 2 of this Title. The term "home occupation" shall not include any hobby or leisure activity not engaged in for profit.

**5-3-2: LICENSE REQUIRED:** It shall be unlawful for any person to operate a home occupation without first obtaining a home occupation license. (1959)

**5-3-3: LICENSE APPLICATION AND ADMINISTRATION:** (1959 2574 3443)

~~(A)–~~ The applicant for a home occupation license shall submit an application to the City Clerk on forms provided by the City Clerk. The application shall be investigated by the City Manager in order to determine whether grounds exist for denial. If approval of the application is recommended as a result of the investigation, the City Clerk shall issue the license. The City Manager may approve the application with ~~reasonable~~ conditions reasonably deemed by the City Manager as necessary to protect the public health, welfare and safety.

~~(B)–~~ All licenses shall specify the name of the licensee, the business address, and the nature of the business. Every license granted under the provisions of this Chapter shall be posted in a conspicuous place at the place of business. It shall be the duty of each licensee to show the license at any reasonable time when requested to do so by any City official.

**5-3-4: TRANSFER:** Home occupation licenses are not transferrable. Any transfer of a ~~home occupation dwelling unit~~ to a new owner, whether by sale, gift or operation of law, shall cause a cancellation of ~~the prior~~any underlying home occupation license. The new owner shall not conduct ~~business a home occupation~~ until a new license has been obtained pursuant to this Chapter. (1959)

**5-3-5: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION:** (1959 2574 3443)



~~(A) A home occupation license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, or for any reason set forth in Chapter 1 of this Title. Grounds for such action may also include:~~

- ~~(1) Nonconformance of the premises to the requirements of this Code;~~
- ~~(2) Nonconformance of the occupation or of the applicant or licensee with the limitations specified in Section 11-4-10 of this Code.~~

~~(B) Any of the following circumstances may be considered cause for denial of a license:~~

- ~~(1) The application is incomplete or contains false, misleading or fraudulent statements.~~
- ~~(2) Nonconformance of the business, premises, building or land use with this Code.~~

~~The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this Code such as zoning or the building code. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(C) A license may be denied, cancelled, suspended or revoked for any violation of the provisions of this Chapter for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(D) A license may be cancelled, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(E) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(F) The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(G) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

~~**5-3-6: PENALTY:** (3443) It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title VIII of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.~~

**CHAPTER 4  
SALES AND USE TAX LICENSE**

**5-4-1: DEFINITIONS:**

**5-4-2: LICENSE REQUIRED**

**5-4-3: EXEMPTIONS**

**5-4-4: LICENSE APPLICATION, TERM OF LICENSE AND ADMINISTRATION/RENEWAL**

**5-4-5: LICENSE DENIAL, CANCELLATION OR REVOCATION**

~~**5-4-6: PENALTY**~~

**5-4-1: DEFINITIONS:** The following words, terms and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(A) "License" shall mean means a Westminster sales and use tax license. (1959)

(B) "Engaged in Business in the City" means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the City. Engaged in business in the City includes, but is not limited to, any one of the following activities by a person:

1. Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;

2. Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;

3. Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;

4. Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or

5. Makes more than one delivery into the taxing jurisdiction within a twelve-month period.

**5-4-2: LICENSE REQUIRED:** (1959)

(A) It shall be unlawful for any person to ~~engage~~be Engaged in ~~business~~Business in the City without first obtaining a license pursuant to this Chapter.

(B) Any person reporting use tax on an actual cost basis for one or more construction projects inside the City shall obtain a separate license for each project; except that persons who sell tangible personal property, together with the installation of such property, which installation requires a building permit, including but not limited to satellite dishes, hot tubs, decks, patios, and signs, may report tax on an actual cost basis for all projects inside the City under one license.

(C) A temporary license may be issued for temporary locations and/or special events for periods of seven (7) consecutive days or less, not to exceed a total of twenty-one (21) days per calendar year. ~~The reporting period for temporary licenses shall end on the day the temporary location closes or special event concludes.~~

(D) Nothing in this Chapter shall be deemed or construed to relieve any person who is engaged in business in the City from the obligation to collect and pay tax under Title IV of this Code.

**5-4-3: EXEMPTIONS:** No license shall be required for any governmental agency or exempt organization which is exempt from the taxes imposed by Title IV of this Code. (1959)

**5-4-4: LICENSE APPLICATION AND ADMINISTRATION:** (1959 2574 3371)

(A) An applicant for a license shall submit an application to the City Clerk on forms provided by the City, stating the ~~business name and address, mailing address, type of business, and such other~~ information as may be required by the Finance Director. ~~A separate application need not be filed if the applicant has applied for a business or home occupation license.~~

(B) Each license shall be ~~numbered and shall show the name, location, mailing address and character of business of the licensee and shall be~~ posted in a conspicuous place at the business location for which it is issued. ~~It shall be the duty of every person to whom a license has been issued, or any agent, servant, or employee utilized in the conduct of the business of the person licensed, to exhibit the license upon the request of a City official.~~

(C) No license shall be transferable. ~~After any sale of a business, the new owner shall apply for a new license.~~

**5-4-5: LICENSE DENIAL, CANCELLATION OR REVOCATION:** (1959 2574)

~~(A) A license may be denied, cancelled, suspended, or revoked for any reason stated in Chapter 1 of this Title, or for any violation of the provisions of this Chapter, or as listed below. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~1. The required fees have not been paid~~

~~2. The application is incomplete or contains false, misleading or fraudulent statements.~~

~~3. Nonconformance of the business, premises, building or land use with this Code.~~

~~(B) The Finance Director may cancel any. In addition, a license:~~

~~1. Upon receipt of a written notice that the taxpayer is no longer engaged in business in the City;~~

~~2. Upon the taxpayer's may be administratively cancelled upon the licensee's failure to respond to three consecutive notices of delinquency. The Finance Director shall give notice to the taxpayer that the license has been cancelled.~~

~~(C) A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(D) A license may be denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(E) — An application for a new license may be denied by the Finance Director, upon the grounds listed in Chapter 1 of this Title or as stated above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this Code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(F) — A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(G) — The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(H) — No taxpayer shall continue engaging in business in the City after their license has been cancelled or revoked.~~

~~**5-4-6: PENALTY:** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959)~~

**CHAPTER 5**  
**CONTRACTOR'S REGISTRATIONLICENSE**

**5-5-1: DEFINITIONS**

~~5-5-2: REGISTRATION~~

~~5-5-2: LICENSE REQUIRED~~

**5-5-3: EXEMPTIONS**

~~5-5-4: LICENSE APPLICATION ~~FOR REGISTRATION~~; RENEWAL~~

**5-5-5: CLASSIFICATION AND FEES**

~~5-5-6: RENEWAL LICENSE DENIAL, NON-RENEWAL, CANCELLATION, SUSPENSION  
AND OR REVOCATION~~

~~5-5-7: REGISTRATION~~

~~5-5-8: 7: BONDS AND INSURANCE REQUIRED~~

~~5-5-9: PENALTY~~

**5-5-1: DEFINITIONS:**

(A) The following words, terms and phrases, when used in this Chapter; shall have the following meanings, unless the content clearly indicates otherwise: (1959)

(1) "Contractor" means any person who:

~~(A)~~ (a) Undertakes work with or for another person within the City to build, construct, alter, remodel, repair, equip, move or wreck any building or structure, or any portion thereof, or any public utility system, or public street, for which a permit from the City of Westminster is required and which work is to be accomplished for a fixed sum price, fee percentage or other compensation;

~~(B)~~ (b) Builds, constructs, alters or adds to any building or structure either upon his own or another's property;

~~(C)~~ (c) Holds himself out to perform house moving or the moving of buildings or structures from one location to another;

~~(D)~~ (d) Holds himself out to perform the service of wrecking a building or other structure;

~~(E)~~ (e) Holds himself out to perform the service of plumber (which also requires a State Master's License);

~~(F)~~ (f) Holds himself out to perform the service of electrician (which also requires a State Master's License);

**5-5-2: REGISTRATIONLICENSE REQUIRED:** It shall be unlawful for any person to perform any work as a contractor within the City without first obtaining a registrationlicense pursuant to this Chapter. No permits shall be issued for work to be done by an unregisteredunlicensed contractor. (1959)

**5-5-3: EXEMPTIONS:** (1959)

(A) The registrationlicense requirement shall not apply to:

(1) An owner of a single family or ~~occupant making ordinary duplex residential property who alters, repairs to, remodels, equips, moves, or wrecks~~ the building he owns ~~or occupies, which repairs do not involve the structure of the building,~~ when the owner ~~or occupant~~ furnishes all the material and labor.

(2) ~~A home~~An owner who builds or constructs his own residence, or a building or structure accessory thereto which is intended for his own personal use. This exemption shall be permitted only once within a period of one (1) year; otherwise, a registration license as a contractor shall be required.

(3) A property owner who is doing work which would normally require a Class D public way contractor's registration license, but for whom the City engineer or his designee has waived the registration license requirement when:

      (a-) The proposed work affects an area of two hundred (200) square feet or less, or one (1) single-family dwelling; and

      (b-) The owner is performing the work in the public way immediately adjacent to his own property, and

      (c-) The owner provides a copy of his homeowner's insurance policy, which is sufficient in the opinion of the City engineer or his designee to provide liability coverage of claims by third parties resulting from the owner's work in the public right of way. This exemption shall be permitted only once within a period of one (1) year, otherwise registration license as a contractor shall be required.

(-B) The exemption from registration license requirements does not waive permit requirements.

#### **5-5-4: APPLICATION FOR REGISTRATION LICENSE: (1959)**

(A) Application for registration license shall be made at the City Building Division. The application for every registration license required by this Chapter shall contain:

(1) The name of the person desiring the registration license, and the names of the individual members of such firm or of each of the directing officers of such corporation.

(2) The residential address of each applicant or each of the individual members of such firm or of each of the directing officers of such corporation,

(3) The address of the principal place of business,

(4) The street address, if any, where such business is to be carried on, if different from the other addresses previously stated,

(5) The class of registration license desired,

(6) Any other relevant information required by the terms of the provisions pertaining to the class of registration license sought,

(7) State Master's License number for electricians and plumbers (no single master plumber or electrician may request a license for more than one company), and

(8) The fee required by this Chapter.

(B) All licenses shall expire twelve (12) months from date of issuance, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees. Renewal may be denied pursuant to the provisions below. (1959 2574)

**5-5-5: CLASSIFICATION AND FEES:** (1959 2305)

(A) The following classes of registrationlicense and fees are hereby established:

(1) Class A Contractor. This registrationlicense shall entitle the holder to contract for the construction, alteration, or repair of any type or size of structure permitted by this Code. The annual fee shall be one hundred ten dollars (\$110).

(2) Class B Plumber. The annual fee for plumbers holding a State of Colorado Master's License shall be one hundred ten dollars (\$110)

(3) Class C Electrician. No fee shall be charged for a registrationlicense of a person holding a state license.

(4) Class D Public Way Contractor. This class registrationlicense shall entitle the holder to contract for work affecting public property or grounds, utility systems (either City-owned or contracting with the City for service of any type) or work within any street right-of-way, utility easement, or other public property. The annual fee for this class registrationlicense shall be one hundred ten dollars (\$110)

(B) It shall be the duty of every contractor to exhibit its registrationlicense upon request of the chief building official, his authorized representative or any law enforcement officer of the City.

~~5-5-6: RENEWAL: All registrations shall expire twelve (12) months from date of issuance, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees. Renewal may be denied pursuant to the provisions below. (1959 2574)~~

~~5-5-7: REGISTRATION;~~ **5-5-6: LICENSE DENIAL, CANCELLATION, DENIAL OF RENEWAL, SUSPENSION, AND REVOCATION:** (1959 2574)

~~(A) The City Manager may suspend or revoke any registration for unskillfulness, carelessness or willful violation of the City Manager's directions by a registered contractor, after notice and hearing as provided below.~~

~~(B) A registrationlicense may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the registered contractor, or as listed below.~~

~~(C) A registration may be cancelled, denied renewal, suspended or revoked after the contractor has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the contractor or mailed to the address contained in the registration, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board. (1) The City Manager may suspend or revoke any license for unskillfulness, carelessness, or willful violation of any order for corrective action issued by the Chief Building Official.~~

~~(D) An application for a new registration may be denied by \_\_\_\_\_ (2) Any violation of the City Manager, upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(E) A registration may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(F) The Special Permit and License Board shall conduct an appeal of the denial of a new registration or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(G) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

**5-5-7: BONDS AND INSURANCE REQUIRED: (1959)**

(A) It shall be unlawful for any Class D contractor to engage in any work without first obtaining a right of way excavation/construction permit from the City.

(B) Before the issuance of a right of way excavation/construction permit to a Class D contractor, the contractor shall provide a surety bond ~~bond~~ payable to the City in the amount of five thousand dollars (\$5,000), which bond shall be conditioned upon faithful compliance with all applicable laws and all terms and conditions of the right of way excavation/construction permit and shall also indemnify and hold the City harmless from any liability resulting from the Class D contractor's work. If the Class D contractor's work is done on behalf of the City as principal, and a performance bond is required by the contractor's agreement with the City, then no additional bond shall be required pursuant to this section. Franchised entities are exempt from this requirement unless otherwise required by the individual franchise or by state or federal law. Independent contractors of franchised entities are not exempt unless so provided by the applicable franchise.

(C) Before the issuance of a right of way excavation/construction permit, the contractor shall submit satisfactory certificates of either the insurance coverage required under his contract or insurance in accordance with the following schedule, whichever is greater:

TYPE OF INSURANCE	AMOUNT
(1) Workmen's Compensation	Statutory - In conformance with the Workmen's Compensation Act of Colorado
<u>(2)</u> Employer's Liability	<del>\$100,000 (each person)</del> \$500,000 (Aggregate)

This insurance shall protect the contractor against all claims under the workman's compensation laws and employer's liability laws of the State of Colorado.

<u>(23)</u> Comprehensive Automobile Liability:	
(a) Bodily Injury	<del>\$150,000</del> \$500,000 (each person) <del>\$400,000 (each occurrence)</del>
(b) Property Damage	<del>\$150,000 (each person)</del> <del>\$400,000</del> \$500,000 (each occurrence)



This insurance shall be written in comprehensive form and shall include all motor vehicles licensed for highway use whether they are owned, non-owned, or hired.

~~(3)4~~ Comprehensive General Liability:

(a) Bodily Injury	\$ <del>150</del> 500,000 (each person)
<del>\$400</del> (b) Property Damage	\$500,000 (each occurrence)
<del>(b) Property Damage</del>	<del>\$150,000 (each person)</del>
	<del>\$400,000 (each occurrence)</del>

This insurance shall be written in comprehensive general liability form and shall include coverage for subcontractors. If work undertaken may require blasting, explosive conditions, or underground operations, the comprehensive general liability coverage shall include coverage of blasting, explosion, collapse of buildings, or damage to underground property. The insurance required in this section shall be continued throughout the period of the contract work and maintenance period.

~~**5-5-9: PENALTY:** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.~~

**CHAPTER 6  
PEDDLERS AND SOLICITORS**

**REPEALED.**

~~5-6-1: INTENT~~

~~5-6-2: DEFINITIONS~~

~~5-6-3: LICENSE REQUIRED; VIOLATION~~

~~5-6-4: EXEMPTIONS~~

~~5-6-5: LICENSE APPLICATION~~

~~5-6-6: ISSUANCE~~

~~5-6-7: FEES~~

~~5-6-8: BOND REQUIRED~~

~~5-6-9: TEMPORARY USE PERMITS~~

~~5-6-10: CONDITIONS OF OPERATION~~

~~5-6-11: ENFORCEMENT, LICENSE DENIAL, SUSPENSION, CANCELLATION~~

~~5-6-12: PENALTY~~

~~5-6-13: LOUD SPEAKERS OR SOUND TRUCKS~~

~~5-6-14: SOLICITATION ON OR NEAR STREET OR HIGHWAY~~

~~5-6-1: INTENT: The City Council finds that it is in the interest of the health, safety, and welfare of the public to enhance privacy of persons in their homes by preventing solicitors from soliciting in residential areas where the resident has posted a "NO SOLICITING", "NO TRESPASS," "NO HANDBILLS" sign or similar restriction. (3017)~~

~~5-6-2: DEFINITIONS: (1959-3017)~~

~~(A) "Nonprofit" means peddling or soliciting on behalf of a nonprofit corporation as demonstrated by the corporation's certificate of tax exempt status.~~

~~(B) "Peddler" means any person, whether as volunteer, owner, agent, consignee or employee, who engages in a temporary business of selling and delivering amusements or goods, within the City, and who, in furtherance of such purpose, leases, uses or occupies any tent, temporary structure, stand, or outdoor location on private property, for the exhibition and sale of such goods or amusements. This definition includes all persons engaged in said activities who occupy any single location within the City for more than ten (10) minutes at a time. This definition shall not include an individual who holds a general business or home occupation license from the City and operates indoors in full compliance with the zoning code of the City.~~

~~(C) "Solicitor" means any person, whether as volunteer, owner, agent, consignee or employee, who travels by foot, wagon, motor vehicle, pushcart or any other method of transportation from house to house or street to street selling or offering to sell services, food, beverages, goods or merchandise, distributing goods or information about such services, food, beverages, goods, or merchandise, or soliciting funds or other forms of assistance. A person is not a solicitor unless he or she knocks on doors or otherwise attempts to contact or speak to the occupants of a private residence.~~

~~(D) "Stand" means any table, bench, booth, rack, handcart, pushcart or any other fixture or device which is not required to be licensed and registered by the department of motor vehicles, used for the display, storage or transportation of articles offered for sale by a peddler.~~

**~~5-6-3: LICENSE REQUIRED; VIOLATION: (1959-3017)~~**

~~(A) It shall be unlawful for any person to engage in the business of a peddler within the city limits of Westminster without first obtaining a license as provided herein.~~

~~(B) It shall be unlawful for any person to solicit or attempt to solicit or to invite or attempt to discuss, verbally or in written form, ideas and issues, or distribute written information, at any private residence which has been posted with a sign stating "NO SOLICITATIONS," "NO TRESPASS" or a sign with similar meaning.~~

~~(C) upon conviction, a violation of this chapter shall be punished as stated in section 1-8-1 of this code. A violation at each residence or upon each day shall be considered a separate violation.~~

~~(D) nothing in this chapter shall be construed to alter or amend section 6-3-5 of this code.~~

~~(E) A peddler or solicitor shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trade, merchant or auctioneer.~~

**~~5-6-4: EXEMPTIONS: (1959-3017)~~**

~~(A) The discussion or invitation to discuss, either verbally or in written form, a public or private issue or political or religious ideas, shall not be considered to be solicitation governed by this Chapter. It shall be a violation of this Chapter to solicit funds to be paid directly to the person engaged in discussion of ideas or issues~~

~~(B) Solicitation on behalf of a governmental entity shall be exempt from the application of this Chapter.~~

~~(C) This ordinance shall not apply to yard sales, garage sales or estate sales in a residential area unless such a sale is subject to the sales and use tax provisions of this Code. This shall not be construed to allow such a sale to exceed a three day period or to allow the sale of food, beverages or amusements in conjunction with the sale. No loud speakers, tents, public toilet facilities or other portable structures are permitted. Auctions are prohibited except where permitted by zoning. Any professional or compensated agent of the owner of the items to be sold shall be licensed pursuant to this Code. Such license shall be conditioned upon the professional or compensated agent's sale or auction for sale of property owned only by the owner of the premises at which the sale is conducted. Children selling drinks, such as lemonade, at their own homes shall be exempted from the application of this Chapter.~~

**~~5-6-5: LICENSE APPLICATION: (1959-3017)~~**

~~(A) An applicant for a license under this Chapter shall file with the City Clerk a verified application in writing on a form to be furnished by the City Clerk, which shall include the following information:~~

~~(1) The name of the applicant;~~

~~(2) The residential address and telephone number of an individual applicant and the business address and telephone number.~~

~~(3) A brief description of the nature of the business or solicitation.~~

~~(4) The dates or length of time for which the right to do business is desired stated in number of days, weeks, or months, up to a maximum of one year.~~

- ~~(5) The location in which the applicant will be conducting business if a license is granted and written permission from the owner of the property or, if the applicant is the owner or lessee, evidence of ownership or a lease. If the applicant is not the property owner, the name, address and telephone number of the owner shall be provided.~~
- ~~(6) A brief statement of the nature and character of the signage or advertising shall be attached to said application as exhibits thereto.~~
- ~~(7) When requested, a list of the individuals or employees who will be operating on behalf of the licensee within the City.~~
- ~~(8) Documentation of nonprofit corporate status and nonprofit tax status, if applicable.~~

**~~5-6-6: ISSUANCE: (1959 3017)~~**

~~(A) Upon receipt of an application for a peddler's license (Temporary Use Permit), the application shall be referred to the Department of Community Development for processing as specified by this section.~~

~~(B) The Chief of Police shall cause such investigation of the applicant and the applicant's business to be made as he deems necessary for the protection of the public and return his recommendation to the City Clerk. If the investigation discloses that the applicant has been convicted of crimes that were not disclosed on the application, the Chief of Police shall recommend denial of the application. If the applicant has disclosed convictions on the application, the Chief of Police shall make his recommendation to the City Clerk based on the nature of the offenses, the length of time since the convictions and any other information relevant to the protection of the public. The Chief of Police may also base his recommendation upon other identifiable threats to public safety.~~

~~(C) The applicant shall apply for a sales and use tax license.~~

~~(D) Each licensee shall carry his or her license at all times while peddling and shall display it upon request.~~

~~(E) All licenses shall be issued in the individual's name except as otherwise provided herein. Any license issued to a firm, association or corporation shall include the name of the authorized representative of the firm, association or corporation which representative's name shall appear on the application, bond, badge, and license. No license shall be transferable or used by any other person, except as provided in this section. No other representative of the same firm, association or corporation shall use the same license, except as provided in this section.~~

~~(1) If a firm, association or corporation applies for and is granted an annual license at the fee set forth in this Chapter, it shall be entitled to obtain badges for up to and including ten employees under its annual license. The business shall comply with the bonding requirement under this Chapter, but need not obtain separate bonds for each employee.~~

~~(2) Each business applying for an annual license and wishing to license employees pursuant to such annual license shall provide such proof as may be required by the City Manager to demonstrate that it is a bona fide business entity separate from its alleged employees.~~

~~(F) A nonprofit corporation need not submit a separate application for each person peddling on its behalf, but shall inform the City Clerk in writing of each individual who will be acting on behalf of the nonprofit corporation within the City.~~

~~(G) Issuance of a license under this Chapter does not in any way relieve a peddler from responsibility for obtaining permission from respective property owners to set up displays and sell goods on private property.~~

~~(H) A licensee under this chapter shall comply with all applicable laws of the City of Westminster and the State of Colorado.~~

~~(I) The duties of the City Manager may be delegated to the City Clerk except that the City Manager shall review all denials of applications prior to notification to the applicant.~~

~~**5-6-7: FEES:** The following fees shall be charged upon application for a license as required by this Chapter. (1959 3017)~~

<u>Commercial</u>	<u>Nonprofit</u>
<del>\$ 5.00 per 1 day period</del>	<del>\$5.00 per 30 day period</del>
<del>\$ 15.00 per 7 day period</del>	
<del>\$ 50.00 per 30 day period</del>	
<del>\$500.00 per 365 day period</del>	

~~**5-6-8: BOND REQUIRED:** (1959 3017)~~

~~(A) Before any license shall be issued an applicant pursuant to this Chapter, the applicant shall file with the City Clerk a cash bond, certified funds payable to the City or a surety bond payable to the City in the sum of one thousand dollars (\$1,000.00). If a surety bond is provided it shall be executed by the applicant as principal and at least one surety upon which service of process may be made in the State of Colorado. Such bond must be approved by the City Attorney, both as to form and as to the responsibility of the surety.~~

~~(B) Such bond shall be conditioned that:~~

- ~~(1) The applicant shall comply fully with the terms of its license, all applicable laws and regulations of the City, and state statutes regulating and concerning the applicant's business, and~~
- ~~(2) The City shall be indemnified against and held harmless from any liability that may be imposed upon the City by the licensee's operations within the City.~~

~~(C) In the event of a breach of the conditions of the surety bond, or in the event of a breach of this Code by a licensee who has provided a cash bond or certified funds, the entire amount shall be forfeited to the City, upon demand and without proof of actual damages, as liquidated damages to compensate the City for actual costs and delay as well as inconvenience and other harm to the City and the general public that is impossible to estimate with certainty at the time the license is issued. The City shall be entitled to collect interest and its attorney's fees related to enforcement of the surety bond.~~

~~(D) All licensees shall be personally liable to pay the City, its officials and employees, and their successors any judgments, claims, demand, losses, costs, expenses, or liabilities of any kind that the City or any of the persons above enumerated may sustain or that may be recovered from it or them, from or by reason of the issuance of a license pursuant to this Chapter or by reason of any act, neglect, or thing done under or by virtue of the authority given in the license or this Chapter.~~

~~(E) All licensees shall be responsible for all acts or omissions of any persons acting on behalf of such licensee, whether as an employee, volunteer or other agent. Any violation of this ordinance by an employee, volunteer or other agent of a licensee resulting in damage to the City shall be grounds for forfeiture of the licensee's surety bond, cash bond or certified funds.~~

~~(F) The bond requirement shall be waived if peddling or solicitation is conducted on behalf of a nonprofit corporation.~~

~~(G) Forfeiture or loss of such bond shall be grounds for summary suspension of a license issued pursuant to this Chapter by the City Manager until such time as a new bond is provided.~~

~~**5-6-9: TEMPORARY USE PERMITS: (1959 3017)**~~

~~(A) All uses conducted pursuant to this chapter shall conform to the zoning provisions of this Code, including the sign code, unless otherwise provided herein.~~

~~(B) A temporary use permit shall be required for all peddlers.~~

~~(C) If a temporary use permit is required, it shall be granted if the proposed temporary use meets the following criteria:~~

- ~~(1) The temporary outdoor use is of a seasonal or special event nature.~~
- ~~(2) All structures subject to any building, construction or fire codes comply with such codes, as appropriate.~~
- ~~(3) All signs comply with the applicable provisions of this Code.~~
- ~~(4) The location of the use is at least ten (10) feet from any public property or right of way.~~
- ~~(5) If customers of a peddler are required to park in order to gain access to the peddler, that sufficient parking is available without interfering with the public rights of way on sidewalks or streets and without requiring customers to park on private property without the consent of the property owner.~~
- ~~(6) Safe access is available by vehicle and pedestrian traffic to the peddler's location without requiring illegal or unsafe turning movements by vehicles or trespass across private property without the consent of the property owner.~~
- ~~(7) If the applicant proposes a use that will occupy private property or cause vehicles or pedestrians to use or cross private property, then written proof of the applicant's right to use such property shall be required.~~
- ~~(8) No use shall be permitted that:
  - ~~a. Impedes access to the entrance of any adjacent building or driveway,~~
  - ~~b. Is located in such a manner as to interfere with a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire station, police station, hospital or handicapped parking space or access ramp.~~~~

~~(D) The temporary use permit shall designate the specific location for the use and the time period for which the permit is issued. Permits may not be issued for any location for more than sixty (60) days per year.~~

~~(E) Services may not be rendered in a location pursuant to a temporary use permit.~~

~~(F) This ordinance shall not be construed to require a temporary use permit for the temporary outdoor extension of regular indoor commercial activity such as a sidewalk sale.~~

~~**5-6-10: CONDITIONS OF OPERATION: (1959 2826 3017)**~~

~~(A) Peddlers shall be allowed to engage in their businesses between the hours of 7:00 A.M. and 10:00 P.M. unless otherwise stated in the conditions on their license. Solicitors shall be allowed to solicit in residential areas between the hours of 8:00 A.M. and 8:00 P.M.~~

~~(B) All trash or debris accumulation caused by a licensee's activities shall be collected and deposited in a proper trash container. Any accumulation of trash or debris that causes the City to incur expense in removing the accumulation shall be cause for the City to proceed against the licensee's surety bond.~~

~~(C) Sales and use taxes shall be paid upon the schedule set by this Code.~~

**~~5-6-11: ENFORCEMENT; LICENSE DENIAL, SUSPENSION, CANCELLATION, OR REVOCATION: (1959 2574 3017)~~**

~~(A) It shall be the duty of any police officer, sales tax enforcement officer or code enforcement officer of the City to require any person subject to this Chapter to produce his license and to enforce the provisions of this Chapter against any person found to be violating the same.~~

~~(B) The Chief of Police shall report to the City Clerk all violations of this Chapter and of this Code by licensees and the City Clerk shall maintain a record of the reports of violation therein.~~

~~(C) A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title, or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(D) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing and shall be given by personal delivery to the licensee or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(E) An application for a new license may be denied by the City Manager upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this Code, such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(F) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(G) The Special Permit and License Board shall conduct a hearing of an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(H) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

**~~5-6-12: PENALTY:~~** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. ~~(1959 3017)~~

**~~5-6-13: LOUD SPEAKERS OR SOUND TRUCKS. (1224 2001 3017)~~**

~~(A) The use of sound trucks with sound amplifying equipment in operation shall be subject to the following regulations:~~

- ~~1. The only sounds permitted to be amplified are music or human speech.~~
- ~~2. Operations are permitted for nine (9) hours each day. The permitted nine (9) hours of operation shall be between the hours of ten o'clock (10:00) A.M. and seven o'clock (7:00) P.M.~~
- ~~3. Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of less than twelve (12) miles per hour. When stopped to make sales, said sound amplifying equipment shall not be operated.~~
- ~~4. Sound shall not be issued within one hundred (100) yards of hospitals, or within 100 hundred (100) yards of churches during the hours services are being held, or within five hundred feet (500') of a school during the school year.~~
- ~~5. The human speech and music amplified shall not be profane, lewd, indecent or slanderous.~~
- ~~6. The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) yards from the sound truck and so that said volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.~~
- ~~7. It shall be unlawful for any sound truck to amplify sound along any particular route more than one time during a twenty four (24) hour period.~~
- ~~8. It shall be unlawful for any sound truck to stop within twenty five feet (25') of an intersection when making a sale, or attempting to make a sale.~~
- ~~9. It shall be unlawful for any sound truck to double park, or park in a manner contrary to any ordinance relating to parking, when attempting a sale or making a sale.~~
- ~~10. It shall be unlawful for any sound truck to make a U turn in any block.~~
- ~~11. It shall be unlawful for any driver of a sound truck to drive his vehicle backward to make or attempt to make a sale.~~
- ~~12. It shall be unlawful for any driver of a sound truck to sell to any person who is standing in the street.~~
- ~~13. It shall be unlawful for any driver of a sound truck to permit any person to hang on the vehicle, or permit any person to ride in or on the vehicle, except a bona fide assistant or assistants.~~
- ~~14. All sound trucks must be equipped with four (4) way flashing lights, both parking and taillights. Trucks must have lights flashing while seeking or making a sale.~~

~~(B) It shall be unlawful for any person to use or cause to be used, a sound truck with its sound amplifying equipment in operation in the City without having paid an annual registration fee of \$5 per vehicle and filed a registration statement with the City Clerk in writing and having it approved by the City Manager and City Clerk. This statement shall be filed in duplicate and include the following information: (2001)~~

- ~~— 1. Name and address of the registrant,~~
- ~~— 2. Name and address of person having direct charge of the sound truck,~~
- ~~— 3. Name and address of all persons who will use or operate the sound truck,~~
- ~~— 4. The purpose for which the sound truck will be used,~~
- ~~— 5. A general statement as to the areas of the City in which the sound truck will be used,~~
- ~~— 6. The proposed hours of operation of the sound truck,~~
- ~~— 7. The number of days of proposed operation of the sound truck,~~

~~(C) DEFINITIONS:~~

- ~~1. "Sound truck" shall mean any vehicle, or horse drawn vehicle, having mounted, thereon, or attached thereto, any sound amplifying equipment.~~
- ~~2. "Sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music or any other sound. "Sound amplifying equipment" shall not be construed as including standard automobile radios when used and heard only by the occupants of the vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.~~



~~**5-6-14: SOLICITATION ON OR NEAR STREET OR HIGHWAY:** This Chapter shall not apply to sales or solicitation on or near streets or highways. See Title IX, Chapter 4 of this Code. (2362-2387-3017)~~

CHAPTER 8  
PAWNBROKERS

~~5-8-1:~~ LEGISLATIVE INTENT

~~5-8-2:~~ DEFINITIONS

~~5-8-2:~~ ~~3:~~ LICENSE REQUIRED

~~5-8-3:~~ ~~4:~~ LICENSE APPLICATION

~~5-8-4:~~ FEES

~~5-8-5:~~ RENEWAL APPLICATION REVIEW

~~5-8-6:~~ LICENSE DENIAL, NON-RENEWAL, SUSPENSION, CANCELLATION, OR  
REVOCATION

~~5-8-7:~~ BOND REQUIRED

~~5-8-8:~~ TRANSFER OF OWNERSHIP

~~5-8-8:~~ LICENSE ADMINISTRATION

~~5-8-9:~~ CONDITIONS OF OPERATION

~~5-8-10:~~ PROHIBITED ACTS

~~5-8-11:~~ PENALTY

**5-8-1: LEGISLATIVE INTENT:** In addition to the findings expressed in Section 5-1-1, the City Council finds that the local regulation of the pawn shop industry is necessary to protect the citizens of Westminster from potentially fraudulent criminal conduct in connection with the receipt, purchase, and sale of pawned property.

**5-8-2: DEFINITIONS:** (1965)

(A) The following words, terms and phrases, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

(1) "Applicant" shall mean:

~~1.~~(a) An individual, or

~~2.~~(b) All general or limited partners of a partnership, or

~~3.~~(c) All members of the board of directors or shareholders of a corporation,

that applies for a license pursuant to this Chapter.

(B) "Contract for purchasepawn" means a contract entered into between a pawnbroker and a customer pursuant to which money is advanced to the customer by the pawnbroker on the delivery of tangible personal property by the customer on the condition that the customer, for a fixed price and within a fixed period of time, not to exceed ninety days, has the option to cancel said contract.

(C) "Fixed price" means the amount agreed upon to cancel a contract for purchasepawn during the option period. Said fixed price shall not exceed:

— ~~1. One-tenth of the original purchase price for each month, plus the original purchase price, on amounts of fifty dollars or over; or~~

— ~~2. One one-fifth of the original purchase price for each month, plus the original purchase price, on amounts under fifty dollars.~~

~~(D)~~

(4) "Fixed time" means that period of time, ~~not to exceed ninety~~ be no less than thirty (30) days, as set forth in a contract for purchasepawn, for an option to cancel said contract.

~~(E5)~~ "Option" means the fixed time and the fixed price agreed upon by the customer and the pawnbroker in which a contract for purchasepawn may be but does not have to be rescinded by the customer.

~~(F6)~~ "Pawnbroker" means a person regularly engaged in the business of making contracts for purchase pawn and/or purchase transactions in the course of his business.

~~(G7)~~ "Purchase transaction" means the purchase by a pawnbroker in the course of his business of tangible personal property for resale, other than newly manufactured tangible personal property ~~which~~ that has not previously been sold at retail, when such purchase does not constitute a contract for purchasepawn.

~~(H8)~~ "Tangible personal property" means all personal property other than choses in action, securities, or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his business in connection with a contract for purchasepawn or purchase transaction.

**5-8-2: 5-8-3 LICENSE REQUIRED:** (1965)

(A) It shall be unlawful for any person to act as a pawnbroker within the City of Westminster without first obtaining a license to conduct such business pursuant to this Chapter.

(B) All requirements specified in Article 56 of Title 12, Colorado Revised Statutes, ~~shall control and~~ are hereby incorporated by reference in this Chapter. In the event that inconsistent of a conflict between those requirements are and the requirements set forth in this chapter herein, the more restrictive requirement shall apply.

**5-8-34: LICENSE APPLICATION:** (1965)

(A) The applicant for a license shall submit a verified application to the City Clerk on forms provided by the City Clerk, which shall include the following information:

~~(1-)~~ Name, address, telephone number, and description of the applicant, including date of birth;

~~—2-~~ In the case of a corporation, the name, ~~addresss,~~ addresses and telephone ~~number~~ numbers of the corporation and the agent for service of process;

(2) The names and addresses of any other pawn shops owned or operated by the applicant in the state of Colorado;

~~\_\_\_(3-)~~ A statement of whether the applicant has been convicted of any crime, misdemeanor or violation of any federal, state or municipal law, the nature of the offense and the punishment or penalty assessed therefor;

~~(4-)~~ A brief statement or drawing of the nature and character of the signage or advertising to be used;

~~(5-)~~ The location of the proposed business;

~~(6-)~~ A copy of the applicant's lease or other evidence of the applicant's right to possession of the premises;

~~(7-)~~ Information regarding the zoning of the location of the premises; and

~~(8-)~~ Such other reasonable information as to the identity or character of the applicant as may-be determined by the Chief of Police to be necessary for the protection of the public welfare.

~~(B) Upon receipt of an application, the City Clerk shall forward it to those persons designated by the City Manager, including the Chief of Police, who shall cause such investigation of the applicant to be made as he deems necessary for the protection of the public and return his recommendation to the City Clerk. If the investigation discloses that the applicant has been convicted of misdemeanors or felonies that were not disclosed on the application, the Chief of Police shall recommend denial of the application. If the applicant has disclosed convictions on the application, the Chief of Police shall make his recommendation based on the nature of the offenses, the length of time since the convictions and any other information relevant to the protection of the public. The Chief of Police may also base his recommendation upon other identifiable threats to public safety.~~ (B) The applicant for a license renewal shall submit a verified application to the City Clerk on forms provided by the City Clerk, which shall include any information listed in subSection (A) above that has changed since the original application or the last renewal application.

~~(C) If the application is approved by the City Manager, upon posting the bond required by this Chapter and payment of the prescribed annual license fee by the applicant, the license shall be issued.~~

#### **~~5-8-4: FEES:~~ (1965)**

~~(A)~~

~~(D)~~ All original applications shall be accompanied by a ~~four hundred and fiftyone thousand~~ dollar (~~\$4501,000~~) non-refundable application fee to defray the cost of reviewing and evaluating the application.

~~(B) For pawn shops existing prior to 1991, the annual license fee shall be three hundred dollars (\$300) for 1991, seven hundred dollars (\$700) for 1992, and one thousand dollars (\$1,000) for 1993. The annual license fee for pawn shops commencing business in 1991 and thereafter shall be one thousand dollars (\$1,000).~~

~~(C)~~ No application fee is refundable in the event of revocation or suspension of a license. The application fee may be refunded at the discretion of the City Manager if an application for a license is denied.

~~(D) The Police Department shall issue a quarterly invoice to each licensee listing the charges for all forms used by the Police Department pursuant to the state statute regulating pawn shops. Invoices shall be payable within thirty days.~~

#### **~~5-8-5: RENEWAL APPLICATION REVIEW:~~ (1965)**

~~(A) Upon receipt of an application, the City Clerk shall forward it to the City Manager and the Chief of Police. The Chief of Police shall cause such investigation of the applicant to be made as the Chief may deem necessary for the protection of the public and return his recommendations to the City Manager. The City Manager shall consider the following factors prior to approving or denying an application:~~

(1) Whether the investigation discloses that the applicant has been convicted of misdemeanors or felonies that were not disclosed on the application;

(2) If the applicant has disclosed convictions on the application, whether the nature of the offenses are relevant to the operation of a pawn shop. If such convictions exist, the Manager may also consider that number of convictions and the length of time since the last conviction;

(3) Whether investigation of other pawn shops operated by the applicant indicate a failure to comply with the requirements of state law;

(4) Whether the investigation discloses other identifiable threats to public safety.

(B) If the application or license renewal is approved by the City Manager, upon posting the bond required by this Chapter and payment of the annual license fee by the applicant, the license will be issued.

(C) The initial application and annual license fee for pawn shops shall be one thousand dollars (\$1,000).

(D) All licenses issued pursuant to this Chapter shall expire annually on December ~~thirty-first~~31, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the annual license fee.

~~(B)~~ The renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. The City Manager shall evaluate the application under the criteria set forth for original applications.

**5-8-6: LICENSE DENIAL, NON-RENEWAL, SUSPENSION, CANCELLATION OR REVOCATION:** (1965 2574)

~~(A)~~ A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, or for any reason set forth in Chapter 1 of this Title ~~or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(B)~~ A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

~~(C)~~ An application for a new license may be denied by the City Manager, upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.

~~(D)~~ A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

~~(E)~~ The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

~~(F)~~ Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.

**5-8-7: BOND REQUIRED:** Before any license shall be issued to an applicant pursuant to this Chapter, each applicant shall file with the City Clerk a cash bond, certified funds payable to the City, or a surety bond running to the City in the sum of Ten Thousand Dollars (\$10,000). If a surety bond is provided it shall be executed by the applicant as principal and at least one surety upon which service of process may be made in the State of Colorado. The bond shall be conditioned that the applicant shall comply fully with all the provisions of the laws of the City and the statutes of the State of Colorado regulating and concerning the applicant's business, and will pay all judgments rendered against the applicant for any violation of said laws or statutes together with all judgments and costs that may be recovered against him by any person for damage growing out of any such business with the applicant. Action on the bond may be brought in the name of the City to the use of the aggrieved person. Such bond must be approved by the City Attorney, both as to form and as to the responsibility of the surety. (1965)

**5-8-8: ~~TRANSFER OF OWNERSHIP:~~LICENSE ADMINISTRATION:** (1965)

(A) Every pawnbroker shall provide the Westminster Police Department, on a weekly basis, with two records, on a form to be provided or approved by the Police Department, of all tangible personal property accepted during the preceding week and one copy of the customer's declaration of ownership. The form shall contain the same information required to be recorded in the pawnbroker's register pursuant to Section 5-8-9 (A) and (B) of this Chapter. The Police Department shall designate the day of the week on which the records and declarations shall be submitted.

(B) The Police Department will issue a quarterly invoice to each licensee listing the charges for all forms used by the Police Department pursuant to the state statute regulating pawn shops. The pawnbroker shall pay the invoices within thirty days

(C) In the event of a transfer of a pawn shop ownership:

(1) Prior to or within thirty (30) days after the transfer of ownership of a ~~pawn~~shop, or of the transfer of ownership of any of the capital stock of the corporation, the new owner of the stock or business shall file with the City Clerk a written report of the transfer on forms provided by the City Clerk. The report shall be accompanied by an investigation fee of two hundred and fifty dollars (\$250).

~~(B) (2)~~ Upon receipt of the report of transfer, the City Clerk shall report the transfer to the City Manager, ~~after.~~ After sufficient investigation by the Police Department, ~~and~~ the City Manager may approve or deny the transfer. Criteria for approval shall be the same as for an original application. The City Manager shall consider ~~only~~ the character of the proposed new owner or owners and whether the new owner or owners comply with all requirements of the Code and rules and regulations adopted pursuant to the Code. If the new owner or owners are not approved, the license may be revoked.

**5-8-9: CONDITIONS OF OPERATION:** (1965)

(A) A pawnbroker shall keep a numerical register in which he shall record the following information:

(1) The name, address, and date of birth of the customer, and ~~his~~ driver's license number or other identification number from any other form of identification ~~which~~ that is allowed for the sale of valuable articles pursuant to ~~section~~Section 18-16-103, CRS., or for the sale of secondhand property pursuant to ~~section~~Section 18-13-114, CRS;

(2) The date, time, and place of the contract for ~~purchase~~ or purchase transaction; and

(3) An accurate and detailed account and description of each item of tangible personal property, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying marks on such property.

(B) The pawnbroker shall also obtain a written declaration of the customer's ownership which shall state that the tangible personal property is totally owned by the customer, or shall have attached to such declaration a power of sale from the partial owner to the customer, how long the customer has owned the property, whether the customer or someone else found the property, and, if the property was found, the details of the finding.

(C) The pawnbroker shall require the customer ~~shall to~~ sign his name in the numerical register or other tangible or electronic record and on the declaration of ownership and the pawnbroker shall give the customer a copy of the contract for purchasepawn or a receipt of the purchase transaction.

(D) The pawnbroker shall require the customer to place an indelible print of the customer's index finger on the numerical register or other tangible record of the transaction.

~~(E)~~ The pawnbroker shall be made make the numerical register or other tangible or electronic record available to the Westminster Police Department for inspection at any reasonable time.

~~(EF)~~ The pawnbroker shall keep each register or other tangible or electronic record for at least three years after the date of the last transaction entered in the register.

~~(F)~~

~~(G)~~ A pawnbroker shall hold all contracted goods within his jurisdiction for a period of ten days following the maturity date of the contract for purchasepawn, during which time such goods shall be held separate and apart from any other tangible personal property and shall not be changed in form or altered in any way.

~~(GH)~~ A pawnbroker shall hold all property purchased by him through a purchase transaction for thirty days following the date of purchase, during which time such property shall be held separate and apart from any other tangible personal property and shall not be changed in form or altered in any way.

~~(H) Every pawnbroker shall provide the Westminster Police Department, on a weekly basis, with two records, on a form to be provided or approved by the Police Department, of all tangible personal property accepted during the preceding week and one copy of the customer's declaration of ownership. The form shall contain the same information required to be recorded in the pawnbroker's register pursuant to subsection (B) of this section. The Police Department shall designate the day of the week on which the records and declarations shall be submitted.~~

#### **5-8-10: PROHIBITED ACTS: (1965)**

(A) It shall be unlawful for any personpawnbroker:

~~(1. To operate a pawnshop without holding a validly issued license;~~

~~—2.)~~ To enter into a contract for purchasepawn or purchase transaction with any individual under the age of eighteen years;

~~3-~~(2) To permit any customer to become obligated on the same day in any way under more than one contract for purchasepawn agreement with the pawnbroker ~~which~~that would result in the pawnbroker obtaining a greater amount of money than would be permitted if the pawnbroker and customer had entered into only one contract for purchasepawn covering the same tangible personal property;

~~4-~~(3) To violate the terms of the contract for purchase;pawn.

~~—5-~~ For (B) It shall be unlawful for a customer to knowingly give false information with respect to the information required by ~~section~~Section 5-8-9-

~~**5-8-11: PENALTY:** It shall be unlawful for any person to violate a provision(A), (B), or (C) of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1965)~~



CHAPTER 9  
AMUSEMENT CENTERS

~~5-9-1:~~ LICENSE REQUIRED

~~5-9-2:~~ EXEMPTIONS

~~5-9-3:~~ LICENSE APPLICATION FEES AND TAXES REVIEW

~~5-9-3:~~

~~5-9-4:~~ RENEWAL FEES AND TAXES

~~5-9-5:~~ RENEWAL

~~5-9-6:~~ LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION

~~5-9-6-7:~~ HOURS OF OPERATION, AGE LIMITATION

~~5-9-7-8:~~ SECURITY GUARDS

~~5-9-8-9:~~ PROHIBITED ACTS

~~5-9-9:~~ PENALTY

**5-9-1: LICENSE REQUIRED:** It shall be unlawful for any person to operate or conduct any place of amusement or recreation offering to the public for a fee the use of any pool or billiard table or any other amusement game or device, without first obtaining a license therefor pursuant to this Chapter. Licenses shall not be transferable, and upon a change of owner or change of location, a new license must be obtained. (1959 3016)

**5-9-2: EXEMPTIONS:** When operating a total of twelve (12) or fewer amusement tables, games or devices referred to in this Chapter, any premise used principally for the conduct of another business, including, but not limited to a grocery store, convenience store, drugstore, bowling alley or tavern, shall not be required to obtain an amusement center license in addition to a business license, but shall continue to be subject to the remaining provisions of this Chapter, unless otherwise noted herein.

**5-9-3: LICENSE APPLICATION AND REVIEW:** (1959 2229 2707 3016) Conditions for applications for an original license or a renewal; are:

(A) The applicant shall submit a verified application to the City Clerk, on forms provided by the City Clerk, and accompanied by the ~~fee and~~ tax required by this Chapter.

(B) The application shall be reviewed by the City Manager who shall have the power to grant or deny such license, to request an investigation by the Police Department, and to impose reasonable limitations and restrictions on any license so granted. The City Manager shall evaluate the application under the criteria set forth below and based upon the results of an investigation by the Police Department, if any.

~~(1-)~~ The character of the applicant;

~~(2-)~~ The applicant's prior experience and qualifications to operate such a business;

~~(3- The needs of the community for such a facility and the desires of its citizens regarding such a facility, including any petitions or remonstrances evidencing such desires;~~

~~4- Pedestrian safety;~~

~~5-)~~ Traffic volume and adequacy of parking and access;

~~6- Essential character of the neighborhood and the applicant's effect on the peace of the neighborhood;~~

- ~~7.(4)~~ Compliance of the facility with all applicable zoning and building regulations;
- ~~8.(5)~~ Police activity in comparable businesses;
- ~~9. Architectural compatibility with the character of the neighborhood.~~

**5-9-34: FEES AND TAXES:** (1959 2707 3016)

- (A) There shall be no application fee for a new or renewal license.
- (B) The licensee shall annually remit ~~a tax or an~~ excise ~~tax~~ of ~~Forty Dollars~~~~forty dollars~~ (\$40) per pool or billiard table or coin-operated amusement game or device, payable at the time of filing an application for an original or renewal license or when a new table or game or device is added to the premises. If a license is obtained or a pool or billiard table or coin-operated amusement game or device is added by the licensee after June 30 of a particular year, the tax or excise shall be ~~Twenty Dollar~~~~twenty dollars~~ (\$20) each.

**5-9-45: RENEWAL:** (1959 2707 3016)

- (A) All licenses issued pursuant to this Chapter shall expire December thirty first of the year for which issued, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required taxes.

(B) The renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. The City Manager shall evaluate the application under the criteria set forth for original applications.

- (C) Failure to pay required ~~fees or~~ taxes shall be grounds to deny renewal, and no renewal license shall be issued until such ~~fees and~~ taxes are paid.

**5-9-56: LICENSE DENIAL, CANCELLATION, NON-RENEWAL, SUSPENSION OR REVOCATION:** (1959 2229 2574 3016)

- (A) Upon his own motion, or upon complaint by the Police Chief, the City Manager may cancel, suspend or revoke any license at any time ~~on the grounds that it is:~~

- ~~1. Detrimental to the public health, safety or welfare due to the location of the amusement center,~~
- ~~2. Because of the proximity of said location to schools, churches, or other places where the public may congregate,~~
- ~~3. Based on the criteria set forth in section 5-9-2(A)(8), or~~
- ~~4. Based on for any violation of the provisions of this Code or any other law.~~
- ~~5. Based on the provisions of Chapter, or for any reason set forth in Chapter 1 of this Title.~~

(B) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title and shall inform the licensee that he may request, in writing to the City Clerk, a hearing before the Special Permit and license Board pursuant to subsection (E) below. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

- (C) An application for a new license may be denied by the City Manager, upon the grounds listed in Section 5-9-3(B), above, or Section 5-1-6, W.M.C. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance

with the zoning or building code, or failure to pay any required fees or taxes. The reason for the denial of the application shall be provided to the applicant in writing.

(D) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

(E) The Special Permit and License Board shall conduct a hearing on an appeal of the denial of a new license, the cancellation, denial of renewal, suspension or revocation of a license pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

(F) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.

(G) Any premises licensed pursuant to this Chapter, including the parking lots and streets and sidewalks adjacent to the premises, which become the location of frequent or repeated violations of the City's ordinances, including but not limited to disturbances, assaults, thefts, malicious mischief and disorderly conduct, is hereby declared to be a nuisance, which shall be abated pursuant to the provisions specified in Chapter 4 of Title VIII ~~of this code and the license of said premises shall be revoked.~~

**~~5-9-6:~~ 5-9-7: HOURS OF OPERATION; AGE LIMITATION: (1959 3016)**

(A) The licensee shall observe the following hours of operation:

~~(1-)~~ Except for premises licensed for the sale of fermented malt beverages, malt, vinous or spirituous liquor for consumption on the premises, premises licensed pursuant to this Chapter shall be open to the public not earlier than ten o'clock (10:00) AM and not later than eleven o'clock (11:00) PM on Sundays through Thursdays and on Fridays and Saturdays shall be open to the public no earlier than ten o'clock (10:00) AM and not later than midnight (12:00 AM). An adult twenty one (21) years of age or older shall be present on and responsible for management of the premises during all hours of operation.

~~(2-)~~ Private events: licensed amusement centers may conduct private events outside the hours of operation stated ~~in 5-9-6~~ herein subject to the following requirements:

(a) ~~in compliance with the following:~~

~~a-~~ The center may not be licensed for the sale of ferment malt beverages, malt, vinous or spirituous liquor, nor may any of the same be sold, served, or consumed on the premises.

~~(b-)~~ If minors are in attendance, there must be one (1) adult supervisor for every eight (8) minors.

~~(c-)~~ Minors must remain in the building and must not be allowed to leave and re-enter during the event.

~~(d-)~~ Participants must not be allowed to congregate or loiter in the parking lot or nearby areas and must comply with the regulation of nighttime juvenile loitering, contained in Section 6-3-11.

~~(e-)~~ The center must not allow any form of entertainment other than those amusement devices for which it is licensed.

~~(f-)~~ The center must report the event to the city clerk in writing, with a copy to the police department, at least seventy-two (72) hours in advance.

“Private Event” means an event for which the center has closed the premises to the general public.

(B) Unless the licensee of the premises maintains a full-time security guard, or has twelve or ~~less~~fewer amusement ~~tables, games or~~ devices, it shall be unlawful for a licensee or any other person in charge of the licensed premises to permit any pool or billiard table or coin-operated amusement games or devices to be used by any person under the age of sixteen (16) years or to allow any such persons to congregate or remain upon the licensed premises unless accompanied by a parent or legal guardian. Such security guard shall be in addition to the adult manager of the premises. This ~~section~~subsection shall not apply to premises licensed for the sale of fermented malt beverages, malt, vinous or spirituous liquor for consumption on the premises.

(C) When operating a total of twelve (12) or ~~less of the~~fewer amusement ~~tables, games, or~~ devices referred to in this Chapter, premises used principally for the conduct of another business, including, but not limited to grocery store, convenience store, drugstore, bowling alley or tavern shall not be subject to the provisions of this ~~section~~Section.

**5-9-78: SECURITY GUARDS:** (1959 3016)

(A) The owner of any premises licensed pursuant to this Chapter shall maintain security guards. The number of security guards required shall be calculated as follows:

~~(1-)~~ Premises licensed for the sale of fermented malt beverages, or malt, vinous or spirituous liquor for consumption on the premises: For thirteen (13) to fifty (50) tables or machines, one (1) guard on duty during all hours of operation; for more than fifty (50) tables or machines, one (1) or more additional guards may be required for such hours as the City Manager may decide based on, but not limited to, the number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels.

~~(2-)~~ All other premises: For thirteen (13) to fifty (50) tables or machines, one (1) guard on duty during all hours of operation; for more than fifty (50) tables or machines, one (1) or more additional guards may be required for such hours as the City Manager may decide based on, but not limited to, the number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels.

(B) For premises licensed for more than fifty (50) machines or tables, any requirements for security guards in excess of one (1) security guard, imposed pursuant to subsection (A) of this ~~section~~Section, shall be stated on the license. These conditions shall be reviewed annually by the City Manager upon application for renewal of the license or at any time at the request of the City Council, or the Chief of Police based on a finding that security measures are insufficient to protect the public health, safety and welfare. The City Manager may adjust these conditions based on, but not limited to, the following factors: The number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels. The City Manager's decision regarding additional security shall be mailed to the licensee. Unless the licensee requests a hearing on the matter before the Special Permit and License Board within ten (10) days after the letter is mailed to the licensee. Failure to timely request a hearing shall be deemed a waiver of a hearing.

**5-9-89: PROHIBITED ACTS:** (1959 2001 3016)

(A) It shall be unlawful for any licensee or his agent knowingly to do, to encourage, to participate or to permit any of the following acts on the premises of any place licensed pursuant to this Chapter or on any parking lot, street or sidewalk adjacent to the premises:

(1-) Gamble or to permit gambling upon any pool or billiard table or coin-operated amusement game or device. The licensee is hereby specifically charged with knowledge of and made liable for the use of all tables, games and devices on the premises in any manner constituting a violation of this ~~section~~Section.

(2-~~To permit any person to use~~) Use, sell, or distribute any illegal or dangerous drug, chemical substance, or narcotic. Any premise licensed under the Colorado Beer Code or Colorado Liquor Code shall conform to said code and shall not allow the use, sale or distribution of beer or alcohol to any minor.

(3-~~Any~~) Create any disturbance, unlawful or disorderly act, or activity offensive to the senses of the average citizen, or to the residents of the neighborhood to be committed by any person or group of persons upon the premises.

(B) It shall be unlawful for any licensee to fail to comply with the following requirements:

(1-) Any licensee and its employees shall immediately report to the Police Department any unlawful or disorderly act, conduct or disturbance committed on the premises. Failure to comply with the requirements of this Section may be considered by the City Manager in any action relating to revocation, suspension or nonrenewal of a license. Repeated failure to comply with the requirements of this ~~section~~Section shall constitute prima facie grounds for the suspension, revocation or nonrenewal of a license.

(2-) Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign to be provided by the City Clerk's Office which shall be in the following form:

"WARNING: CITY OF WESTMINSTER POLICE MUST BE NOTIFIED OF ALL DISTURBANCES IN THIS ESTABLISHMENT AND ON THE GROUNDS AND PARKING LOT WHICH ARE A PART OF THIS ESTABLISHMENT."

(C) It shall not be a defense to a prosecution under this Section that the licensee was not personally present on the premises at the time such unlawful or disorderly act, conduct or disturbance was permitted, encouraged or participated in; provided, however, that an agent, servant or employee of the licensee shall not be personally responsible hereunder when absent from the premises and not on duty.

~~**5-9-9: PENALTY:** (1959 3016) It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title VIII of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.~~

CHAPTER 13  
SECURITY ~~GUARDS~~GUARD BUSINESSES

5-13-1: DEFINITIONS

5-13-2: LICENSE REQUIRED

5-13-3: EXEMPTIONS

5-13-4: LICENSE APPLICATION ~~INVESTIGATION, TERM OF LICENSE AND ISSUANCE~~RENEWAL

~~5-13-5:~~ 5-13-5: APPLICATION REVIEW

5-13-6: FEES

~~5-13-7:~~ RENEWAL

~~5-13-8:~~ LICENSE DENIAL, SUSPENSION, CANCELLATION OR REVOCATION

~~5-13-9:~~ 7: INSURANCE REQUIRED

~~5-13-10:~~ 8: BADGES UNIFORMS AND EQUIPMENT

~~5-13-11:~~ 9: CHANGE OF LOCATION OR PERSONNEL

~~5-13-12:~~ 10: RULES AND REGULATIONS

~~5-13-13:~~ 11: PROHIBITED ACTS

~~5-13-14:~~ PENALTY

5-13-1: **DEFINITIONS:** *As*

(A) The following words, terms, and phrases, when used in this Chapter, shall have the following shall mean meanings unless the content clearly indicates otherwise: (1959)

(A)1 "Security Guard" means any person employed by a security guard business, as defined in this Section, who is directly engaged in providing protection for the clients of such business, or any person employed by another type of business for the purpose of providing protection to persons or property or to preserve the peace in the conduct of such business, which protection or preservation of the peace is incidental to the primary purpose of such business.

(B)2 "Security Guard Business" means any business whose primary purpose is to provide protection to persons or property or to preserve the peace in the conduct of a business. The term "security guard business" shall not include a business or operation where security is merely incidental to the primary purpose of the business.

**5-13-2: LICENSE REQUIRED:** It shall be unlawful for any person to engage in or conduct a security guard business without first obtaining a license ~~therefor~~ pursuant to this Chapter. (1959 2041)

**5-13-3: EXEMPTIONS:** (1959 2041)

(A) Security guards employed by any common carrier engaged in interstate commerce, maintenance workers, custodians, janitors, and repair persons are exempted from the provisions of this Chapter.

(B) A business may hire a security guard without being licensed as a security guard business if:

(1) The need for a security guard is incidental to the primary purpose of the business,

(2) The security guard wears a uniform that plainly identifies the business as the employer of the security guard, and

(3) The security guard complies with all provisions of this Chapter except the requirement of obtaining a license as a security guard business.

**5-13-4: LICENSE APPLICATION:** (1959 2041)

(A) Applicants for a security guard business license shall file a verified application with the City Clerk on forms to be provided by the City Clerk for that purpose which shall contain at least the information specified in this Section.

(B) An applicant for a security guard business license shall provide:

(1) The name of the licensee,

(2) The business address,

(3) A description of the nature and type of business to be conducted, and the services to be offered, by the ~~Security Guard~~security guard business,

(4) A color photograph depicting the uniform and badge to be worn by ~~Security Guards~~security guards employed by the ~~Security Guard~~security guard business,

(5) Any other pertinent information requested by the City Clerk.

(C) If the applicant for a security guard business license is other than a sole proprietor, the information required under ~~subsections~~subSection (B) of subSection 5-13-6(B) of this sectionSection must be supplied by each owner, officer or director of the ~~organization-business~~ applying for the license.

(D) A license for a security guard business is not transferable. ~~Upon a change in ownership, the new owner shall apply for a new license pursuant to this Chapter.~~

~~5-13-5: INVESTIGATION AND ISSUANCE~~5-13-5: APPLICATION REVIEW: (1959 2041 2574)

(A) Upon receipt of an application filed pursuant to this Chapter, the City Manager or his designee shall review the application, refer the application to the Chief of Police for review, and within thirty (30) days shall either issue or deny the license. The thirty (30) day period shall not begin to run until all information required under this Chapter has been submitted.

(B) Any of the following circumstances may be considered cause for denial of a license:

(1) The applicant is under twenty one (21) years of age;

(2) The applicant was convicted of a felony within ten (10) years immediately preceding the date of application;

(3) The applicant was convicted of a misdemeanor or ordinance violation involving moral turpitude or violence within five (5) years immediately preceding the date of application;

(4) The applicant has failed to comply with any of the provisions of this Chapter;

(5) The applicant's character and reputation is not satisfactory to the City Manager.

(6) The applicant does not have the basic skills to speak and to comprehend the spoken English language as determined by the City Manager or his designee.

(7) The required fees have not been paid.

(8) The application is incomplete or contains false, misleading or fraudulent statements.

(9) Nonconformance of the business, premises, building or land use with this Code.

(10) Any reason stated in Chapter 1 of this Title.



(C) Upon review and approval by the City Manager or his designee, and payment of the required fee, the Security Guard business license shall be issued. The application fee paid for any license shall be nonrefundable.

(D) The grounds specified for denial in this Section shall apply to individual applicants, as well as directors, officers or general partners of any applicant.

~~5-13-6: FEES: (1959-2041)~~

~~(A)(E)~~ An application for a security guard business license shall be accompanied by an investigation fee of thirty dollars (\$30).

~~(BF)~~ The annual fee for a ~~Security Guard~~security guard business license shall be sixty dollars (\$60).

~~5-13-7: RENEWAL:(G)~~ All security guard business licenses issued pursuant to this chapter, shall expire on December 31st of the year in which the license was issued, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees. Renewal may be denied as provided below. (1959 2574)

~~5-13-8~~ **5-13-6: LICENSE DENIAL, SUSPENSION, CANCELLATION, NON-RENEWAL OR REVOCATION:** (1959 2041 2574)

~~(A)~~ A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, or for any reason set forth in Chapter 1 of this Title ~~or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(B)~~ A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing. The notice shall be given by personal delivery to the licensee or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

~~(C)~~ An application for a new license may be denied by the City Manager or designee, upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.

~~(D)~~ A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

~~(E)~~ The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

~~(F)~~ Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.

**5-13-97: INSURANCE REQUIRED:** (1959 2041)



(A) Before any license shall be issued an applicant for a license for a security guard business, the applicant shall file with the City Clerk a certificate of ~~Insurance~~insurance indicating current insurance coverage as follows:

~~+~~

Comprehensive General Liability:

( <del>A</del> 1) Bodily Injury	\$ 500,000 (Each Person) \$1,000,000 (Each Occurrence)
( <del>B</del> 2) Property Damage	\$ 500,000 (Each Person) \$1,000,000 (Each Occurrence)

(B) Such ~~Certificate~~certificate of ~~Insurance~~insurance must name the City of Westminster as an additional insured for activities conducted by the Licensee within the City, and must be approved by the Risk Manager, both as to form and as to the responsibility of the surety.

The ~~Certificate~~certificate of ~~Insurance~~insurance shall also provide that coverage shall not be cancelled without at least thirty days notice to the City. Cancellation shall result in automatic suspension of the ~~Security Guard~~security guard business license.

**5-13-~~108~~: BADGES, UNIFORMS AND EQUIPMENT:** (1959 2041)

(A) The City Manager or his designee may, in his discretion, require that any licensee or employee of a security guard business wear an identification badge or uniform, but no badge or uniform shall be worn by any licensee or employee which is a colorable imitation of badges or uniforms or could be confused with those worn by officers of the Westminster Police Department, Adams County Sheriff's ~~office~~Office, Jefferson County Sheriff's ~~office~~Office or the Colorado State Patrol.

(B) No vehicle used in a security guard business or by a security guard while on duty shall be used or identified in any way which may be confused with those used by the Westminster Police Department, Adams County Sheriff's ~~office~~Office, Jefferson County Sheriff's ~~office~~Office or the Colorado State Patrol, nor shall any vehicle be equipped with a siren or emergency lights in violation of local or state law.

(C) The words "police" or "officer" or other similar words which might be confused with or represent a municipal, county, state or federal law enforcement agency shall not be used in any advertisement upon any premises within the limits of the City, nor on any clothing, vehicles or equipment used by the licensee.

(D) The City Manager or his designee may issue an order denying use of any item which is in violation of the provisions of this ~~section~~Section.

**5-13-~~119~~: CHANGE OF LOCATION OR PERSONNEL:** (1959 2041)

(A) Any licensee changing its place of business shall immediately notify the City Clerk of such fact, together with the new place of business, but a change of location shall not be deemed a transfer of a license or require payment of a new fee.

(B) Each security guard business required to be licensed pursuant to this Chapter shall maintain a current record of all employees and of their assignments. These records shall be open to the City Manager or his designee for inspection at any time during regular business hours.

**5-13-~~1210~~: RULES AND REGULATIONS:** The City Manager or his designee may issue and promulgate from time to time rules and regulations to provide for the health, safety and welfare of the

City in relation to security guard businesses. Such rules may include duties of the licensees, manner of conduct, reports to be furnished and any other regulations deemed necessary by the Police Chief. (1959 2041)

**5-13-1311: PROHIBITED ACTS:** (1959 2041)

(A) It shall be unlawful for any licensee or an employee of a licensee:

- (1) To arrest any person except when that person commits a criminal offense in the presence of the person making the arrest;
- (2) To fail to release an arrestee immediately to the Westminster Police Department;
- (3) To ~~draw or~~ fire a firearm in the performance of his duties except when necessary to protect himself or another from great bodily harm;
- (4) To hinder or interfere with any action or investigation under the jurisdiction of the Westminster Police Department;
- (5) To fail to report to the Westminster Police Department any violations of city, state or federal laws of which he has knowledge;
- (6) To represent himself to be an officer of the Westminster Police Department or any municipal, county, state or federal law enforcement agency;
- (7) To fail to identify himself or take any action which would obscure his presence from a police officer inspecting an area where the licensee is assigned;
- (8) To wear a badge or uniform or use any vehicle or equipment not authorized for use under section Section 5-13-10;
- (9) To interfere with the performance of any police officer or City official in the performance of their official duties;
- (10) To advertise, represent or identify himself as a police officer or use any acronym or initials that could cause him to be mistaken to be a member of a federal, state or municipal law enforcement agency.

(B) No licensee or an employee of a licensee shall have any greater authority to arrest than would another private citizen. Nothing in this Chapter shall be construed to mean that a licensee may conduct criminal investigations, make arrests or reports of criminal activity, use deadly force, or take any other action on behalf of, under color of laws of, or under the authority of the City of Westminster.

~~**5-13-14: PENALTY:** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959)~~

**CHAPTER 15  
MESSAGE PARLORS**

**5-15-1: LEGISLATIVE DECLARATION**

**5-15-2: DEFINITIONS**

**5-15-3: LICENSE REQUIRED; STATE STATUTES**

**5-15-4: LICENSE APPLICATION**

**5-15-5: FEES**

**5-15-6: RENEWAL**

**5-15-7: LICENSE DENIAL, SUSPENSION OR REVOCATION**

**5-15-8: CHANGE OF LOCATION, TRANSFER OF BUSINESS OR STOCK**

**5-15-9: IDENTITY CARDS**

**5-15-10: PROHIBITED ACTS**

**5-15-11: PENALTY**

**5-15-1: LEGISLATIVE DECLARATION:** The City Council hereby declares that the operation of message parlors in this City affects the public health, safety, and welfare and that City regulation of such operation is in the public interest. (1959)

**5-15-2: DEFINITIONS:** ~~As~~The following words, terms, and phrases, when used in this Chapter, shall have the following ~~shall mean~~meanings, unless the content clearly indicates otherwise: (1938 1959 2189)

(A) "License" means a grant of a licensee to operate a message parlor ~~or to render services as a message therapist.~~

(B) "Licensed premises" means the premises specified in an approved application for a license under this article which are owned or in the possession of the licensee and within which such licensee is authorized to carry on the practice of massage.

(C) "Location" means a ~~particular~~specific parcel of land that may be identified by an address or by other descriptive means.

(D) "Massage Therapy" means a method of treating the body for remedial or hygienic purposes by a massage therapist licensed pursuant to this Chapter, including but not limited to rubbing, stroking, kneading, or tapping with the hand or an instrument or both.

~~— (1) "Other Massage Services" shall include any services which are~~  
~~a) Offered or performed for compensation, and which are b) advertised or represented as massage or which involve the touching of the body with the purpose of inducing any type of pleasurable or erotic experience, by a person who is not licensed pursuant to this chapter as a massage therapist.~~

(E) "Massage parlor" means a parlor providing massage, but it does not include training rooms of public and private schools accredited by the state board of education or approved by the division charged with the responsibility of approving private occupational schools, training rooms of recognized professional or amateur athletic teams, and licensed health care facilities. A facility which is operated for the purpose of massage therapy performed by a massage therapist is not a message parlor.

~~(F) "Massage therapist" means a person who has graduated from a massage therapy school accredited by the state educational board or division charged with the responsibility of approving private occupational~~

~~schools, or from a school with comparable approval or accreditation from another state with transcripts indicating completion of at least five hundred hours of training in massage therapy. For the purposes of this subsection (F), a massage therapy school may include an equivalency program approved by the state educational board or division charged with the responsibility of approving private occupational schools. A massage therapist shall provide proof of meeting the requirements as defined in this subsection (F) and shall further meet all applicable licensing requirements of the City.~~

~~(G)-(F)~~ "Massage therapist" means an individual registered by the State of Colorado to engage in the practice of massage therapy pursuant to Title 12, Article 35.5, Colorado Revised Statutes.

(G) "Other Massage Services" means any services which are offered or performed for compensation, and which are advertised or represented as massage or which involve the touching of the body with the purpose of inducing any type of pleasurable or erotic experience, by a person who is not licensed pursuant to this chapter as a massage therapist.

(H) "Party in interest" means the applicant, a resident of the neighborhood under consideration, or the owner or manager of a business located in the neighborhood under consideration.

(H) "Person" means a natural person, partnership, association, company, corporation, organization, or managing agent, servant, officer, or employee of any of them.

(I) "Premises" means a distinct and definite location which may include a building, a part of a building, a room, or any other definite area contiguous to the building, part of a building or room.

### **5-15-3: LICENSE REQUIRED; STATE STATUTES: (1959 2189)**

(A) It shall be unlawful for any person to operate a massage parlor ~~or to render massage therapy services for compensation~~ within the City of Westminster without first obtaining a license therefor pursuant to this Chapter.

(B) The Colorado General Assembly has declared that the licensing and regulation of massage parlors is a matter of statewide concern. All licensing requirements and regulations specified in Article 48.5 of Title 12, Colorado Revised Statutes, shall be complied with in the local licensing process and shall control in the event that inconsistent requirements are set forth in this chapter.

(C) The following classes of persons and establishments are exempt from this ~~chapter~~Chapter:

- (1) Physicians, Osteopaths, Physical Therapists, Chiropractors licensed to practice in this State.
- (2) Registered nurses and licensed practical nurses who are licensed to practice in this State while performing massage therapy services in their usual nursing duties.
- (3) Barbers and Cosmetologists duly licensed under the laws of this State in the course of practice of their usual and ordinary licensed profession, as defined by State Statute.
- (4) Massage Therapy practiced at the athletic department of any accredited school, college, university or seminary or in connection with the conduct of professional athletics.
- (5) Hospitals, clinics, nursing and convalescent homes and other similar institutions where massage therapy may be used and which are dedicated to medical or nursing practices licensed under State Statutes.

(6) Massage therapy practiced in an institution of learning established for such instruction under Article 59, Title 12, of the Colorado Revised Statutes.

**5-15-4: LICENSE APPLICATION: (1959 2189)**

(A) The applicant for a license to operate a massage parlor ~~or to render massage therapy services for compensation~~ shall submit a verified application to the City Clerk on forms provided by the City Clerk. The application to operate a massage parlor shall include complete plans and specifications for the interior of the premises to be licensed, a copy of the lease or other evidence of the applicant's right to possession of the premises, information regarding the zoning of the location of the premises, ~~the fees required by this Chapter,~~ and any other information which is required by state statute. ~~Applications to render services as a massage therapist shall include proof of certification as a massage therapist as defined by Section 5-15-2 (F), the fees required by this Chapter, and any other information required by applicable law.~~

(B) The application for a license to operate a massage parlor shall be reviewed by the City Manager, who, within ten (10) days after receipt of the application and after such additional investigation as he may deem necessary, shall schedule a public hearing before the Special Permit and License Board not less than thirty (30) days from the date of the application. ~~An application to render services as a massage therapist shall be reviewed by the City Manager and a license issued if the applicant qualifies as a massage therapist pursuant to Section 5-15-2 F, and a criminal history check reveals no drug or prostitution related convictions. The City Manager may deny a license to render services as a massage therapist if the applicant has committed prior violations of this Chapter.~~

(C) Notice of a hearing on an application for a license to operate a massage parlor shall be mailed to the applicant by the City Clerk not less than ten (10) days before the hearing date. Notice of such public hearing shall also be given by publication in a newspaper of general circulation in the community once, not less than ten (10) days prior to the hearing date and by posting a notice of hearing upon the premises for at least ten (10) days prior to the hearing. Publication and posting shall be done by the City Clerk.

(1) Notice given by posting shall be placed so as to be conspicuous and plainly visible to the general public and shall include a sign of suitable material, not less than 22 inches wide and 26 inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners, and, if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.

(2) Notice given by publication shall contain the same information as that required for signs.

(D) The City Clerk shall propose the boundaries of the neighborhood in writing to the Special Permit and License Board with a copy to the applicant. If a majority of the Board or the applicant disputes the proposed neighborhood boundaries, the issue shall be considered by the Board at a public hearing. A dispute of the boundaries by the applicant must be filed within ten (10) days of the letter notifying the applicant of the boundaries established.

(E) Prior to the public hearing, the City or its designee shall circulate petitions to determine the reasonable requirements of the neighborhood and the desires of the inhabitants regarding the application for a license. The petition form shall be approved by the City.

(F) At least five (5) days prior to the date of the public hearing the City Clerk shall send the petition and investigation results to the applicant and make them available to other interested parties.

(G) After such public hearing, the Special Permit and License Board shall make findings of fact and a recommendation to the City Council, with or without conditions, which may either grant or deny the license consistent with the findings and recommendation of the Special Permit and License Board, or may schedule the matter for further hearing before the City Council. If such further hearing is held, the City Council may grant or deny the license notwithstanding the recommendation of the Special Permit and License Board. A copy of the decision of the City Council, its findings of facts and conclusions shall be sent to the applicant by certified mail to the address shown on the application within thirty (30) days after the date of the public hearing.

(H) In determining whether to grant or deny the license the Special Permit and License Board or the City Council shall consider all factors allowed pursuant to state statutes, including the following:

- (1) The number, type, and availability of other massage parlors located near or in the neighborhood;
- (2) The character of the applicant or its officers or directors including information provided by a background check and inspection of the premises made by the Police Department;
- (3) The applicant's prior experience, qualifications and fitness to operate such a business;
- (4) The reasonable requirements of the neighborhood and the desires of the inhabitants, including any petitions or remonstrances evidencing such requirements and desires;
- (5) Pedestrian safety;
- (6) Traffic volume and adequacy of parking and access;
- (7) Essential character of the neighborhood and the applicant's effect on the peace of the neighborhood;
- (8) Compliance of the structure with all applicable zoning and building regulations;
- (9) Police activity in comparable businesses;
- (10) Architectural compatibility with the character of the neighborhood.

(I) Any party in interest shall be allowed to present evidence and cross-examine witnesses at the public hearing.

**5-15-5: FEES:** (1959 2189)

(A) All original applications to operate a massage parlor shall be accompanied by a nonrefundable fee of three hundred and fifty dollars (\$350) to defray the cost of reviewing and evaluating the application. The applicant shall also reimburse the City for the actual cost of petitioning.

(B) The nonrefundable fee for renewal of a license to operate a massage parlor shall be one hundred fifty dollars (\$150), payable at the time of filing the application for renewal.

(C) ~~The fee for a license to render services as a massage therapist shall be five dollars (\$5), payable at the time of filing the application.~~

**5-15-6: RENEWAL:** (1959 2189 2754)

(A) All licenses issued pursuant to this Chapter shall expire December 31st of the year for which issued unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees, unless renewal is denied as provided below.

**5-15-7: LICENSE DENIAL, SUSPENSION, OR REVOCATION:** (1959 2574)

(A) A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee, or any of the following:

(1) The issuance would be detrimental to the public health, safety, or welfare due to the character, reputation, or moral integrity of the applicant;

(2) The character of the applicant or licensee, or its officers, directors, or partners is such that a violation of this Chapter would be likely to result if a license were granted;

(3) The licensed premises have been inactive for at least three (3) months;

(4) Violation by the licensee or by any of its agents, servants, or employees of state law or of this Code;

(5) For any cause specified by law.

(B) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

(C) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

(D) The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

(E) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.

**5-15-8: CHANGE OF LOCATION; TRANSFER OF BUSINESS OR STOCK:** (1959 2574)

(A) No change of location for licensed premises shall be allowed.

(B) Transfer of Business or Stock:

(1) Within thirty (30) days after the transfer of ownership of a massage parlor, or of the transfer of ownership of ten percent (10%) or more of a partnership interest or of the capital stock of the corporation, the new owner of the stock or business shall file with the City Clerk a written report of the transfer on forms provided by the City Clerk. The report shall be accompanied by an investigation fee of two hundred and fifty dollars (\$250).

(2) Upon receipt of the report of transfer, the City Clerk shall report the transfer to the City Manager, after sufficient investigation by the Police Department, and the City Manager may approve the transfer or, in his sole discretion, refer the matter to the Special Permit and License Board for a public hearing regarding the transfer, at which parties in interest may be heard.

(3) The Special Permit and License Board shall hold the hearing after proper notice is given. Publication, posting and notice requirements shall be the same as are required for a hearing on an original application.

(4) At the hearing, all interested parties may appear and be heard, provided, however, that the Board shall consider only the character of the proposed new owner or owners and whether the new owner or owners comply with all requirements of the Code and state statutes.

**5-15-9: IDENTITY CARDS:** Every licensee or agent or employee of the licensee shall, prior to commencing work in or upon the licensed premises, apply for and obtain an identity card from the Westminster Police Department, and shall carry the card at all times while in or upon the licensed premises. The nonrefundable application fee for a card shall be five dollars (\$5). The Police Department shall do a background check on the applicant prior to issuance of the card. The card shall be in the form required by the City. (1959 2189)

**5-15-10: PROHIBITED ACTS:** (1959 2189)

(A) It shall be unlawful for any person:

(1) To operate a massage parlor without holding a validly issued license;

(2) To work in or upon the licensed premises of a massage parlor without obtaining and carrying a valid identity card pursuant to Section 5-15-9;

~~(3) To render massage therapy services for compensation without obtaining and carrying a license issued pursuant to this Chapter.~~

~~(4) To perform other massage services within the City.~~

~~(54) To obtain the services provided in a massage parlor by misrepresentation of age or by any other method in any place where massage is practiced when such person is under eighteen (18) years of age, unless such person is accompanied by his parent or has a physician's prescription for massage services;~~

~~(65) To allow the sale, giving, or procuring of any massage services to any person under the age of eighteen (18) years, unless such person is accompanied by his parent or has a physician's prescription for massage services;~~

~~(76) To permit any person under the age of eighteen (18) years to be employed as an employee in a massage parlor. If any person who, in fact, is not eighteen (18) years of age exhibits a fraudulent proof of~~



age, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this article unless the person employing such person knew or should have known that the proof of age was fraudulent.

(87) To fail to display at all times in a prominent place on the licensed premises a printed card with a minimum height of fourteen (14) inches and a width of eleven (11) inches with each letter a minimum of one-half (1/2) inch in height, which shall read as follows:

**WARNING**

IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME, UNLESS HE IS ACCOMPANIED BY HIS PARENT OR HAS A PHYSICIAN'S PRESCRIPTION FOR MASSAGE SERVICES.

IT IS ILLEGAL FOR ANY PERSON TO ALLOW A PERSON UNDER EIGHTEEN YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME, UNLESS HE IS ACCOMPANIED BY HIS PARENT OR HAS A PHYSICIAN'S PRESCRIPTION FOR MASSAGE SERVICES. FINES OR IMPRISONMENT MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS UNDER ARTICLE 48.5 OF TITLE 12, COLORADO REVISED STATUTES.

(9) To possess, consume or dispense or to allow the possession, consumption or dispensation of alcoholic beverages, drugs or narcotics upon the premises. This subparagraph shall not apply to the use of drugs or narcotics which have been prescribed by a licensed physician.

**5-15-11: PENALTY:**

(A) It shall be unlawful for any person to violate a provision of this Chapter. A violation of this Chapter shall be a criminal offense. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code, including imprisonment, and may also be subject to civil remedies provided by Chapter 4 of Title ~~IXVIII~~ of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959 2000)

(B) In addition to any other penalties, the court trying such offense may decree that any license issued under the provisions of this chapter be suspended or revoked and may decree that no such license shall thereafter be issued to any such person for a period not to exceed five (5) years. (1959)

(C) The penalties provided in this ~~section~~Section shall not be affected by the penalties provided in any other provision of state or local law but shall be construed to be in addition to any other penalties. (1959)

**CHAPTER 16  
DANCE HALLS AND CABARETS**

5-16-1: LEGISLATIVE DECLARATION

~~5-16-2: DEFINITIONS~~

5-16-3: 2: LICENSE REQUIRED

5-16-4: 3: LICENSE APPLICATION

5-16-4: FEES

5-16-5: FEES RENEWAL

5-16-6: RENEWAL

~~5-16-7: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION~~

5-16-8: 7: TRANSFER; CHANGE IN NATURE OF BUSINESS

5-16-9: 8: PROHIBITED ACTS

5-16-10: REPORTS, SIGNS

~~5-16-11: 9: MANAGEMENT AND SUPERVISION~~

5-16-12: OCCUPANCY LIMITS

5-16-13: SECURITY GUARDS

5-16-14: HOURS OF OPERATION

~~5-16-15: PENALTY~~

~~**5-16-1: LEGISLATIVE DECLARATION:** The City Council hereby declares that the operation of dance halls and cabarets in this City affects the public health, safety and welfare and the City regulation of such operations is in the public interest. (1959)~~

~~**5-16-2: DEFINITIONS:** As used in this Chapter, the following shall mean: (1959)~~

**5-16-1: DEFINITIONS:** The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise: (1959)

(A) "CabaretDance hall" means any commercial premises open to designed for public dancing on a regular or continuing basis for gain or to and which the public is admitted upon payment of an admission fee or charge of any kind, not to include includes one or more designated dance floors, but excluding commercial dance studios where designed and used primarily for dance instruction is given on a regular and continuing basis, and.

(B) "Cabaret" means a dance hall, as defined by this Section, which is licensed for the sale of fermented malt beverages or malt, vinous or spirituous liquors.

~~(B) "Dance Hall" means any premises satisfying the definition of a "cabaret," as defined by this section, which is not licensed for the sale of fermented malt beverages or malt, vinous or spirituous liquor. (C) "Dance Hall" and "Cabaret" do not include any adult businesses as defined by Section 5-17-2, W.M.C., and the issuance of any license to any dance hall or cabaret pursuant to this Chapter shall not be deemed or construed as authorizing any such adult business.~~

**5-16-32: LICENSE REQUIRED:** It shall be unlawful for any person to operate any dance hall or cabaret without first obtaining a license therefor pursuant to this Chapter. (1959)

**5-16-43: LICENSE APPLICATION: (1959 2229)**

(A) The applicant for a license shall submit a verified application to the City Clerk on forms provided by the City Clerk. The application shall include ~~complete plans and specifications~~ a floor plan for the interior of the premises to be licensed, which shall include a drawing that shows the dimensions and location of the stage and dance floor, a copy of the lease or other evidence of the applicant's right to possession of the premises, information regarding the zoning of the location of the premises, and the fee required by this Chapter.

(B) The application shall be reviewed by the City Manager, who, within ~~ten (10)~~ twenty (20) days after receipt of the application and after such additional investigation as he may deem necessary, shall schedule a public hearing before the Special Permit and License Board. If the applicant is simultaneously applying for a license to sell fermented malt beverages or alcoholic beverages for consumption on the premises, the public hearings shall be consolidated.

(C) Notice of such hearing shall be mailed by the City Clerk to the applicant not less than ten (10) days before the hearing date. Notice of such hearing shall also be given by publication in a newspaper of general circulation in the ~~community~~ City once, not less than ten (10) days prior to the hearing date and by posting a notice of the hearing upon the premises for at least ten (10) days prior to the hearing. Publication and posting shall be done by the City Clerk.

~~(D) The City Clerk shall propose the boundaries of the neighborhood in writing to the Special Permit and License Board with a copy to the applicant. If a majority of the Board or the applicant disputes the proposed neighborhood boundaries, the issue shall be considered by the Board at a public meeting. A dispute of the boundaries by the applicant must be filed within ten (10) days of the letter notifying the applicant of the boundaries established.~~

~~(E) Prior to the hearing, the City or its designee shall circulate appropriate petitions to determine the desires of the inhabitants within the neighborhood surrounding the applicant. The petition form shall be approved by the City.~~

~~(F) At least five (5) days prior to the public hearing, the City Clerk shall send the results of the petitioning and investigation of the application to the applicant and make them available to other interested parties.~~

~~(G) After such public hearing, the Special Permit and License Board shall grant or deny the license and may place reasonable conditions upon the license.~~

~~(H)~~ (HE) In determining whether to grant or deny the license, the Board shall take into consideration:

- (1) The character of the applicant; \_\_\_\_\_
- (2) The applicant's prior experience and qualifications to operate such a business;
- (3) ~~The desires of the inhabitants of the neighborhood regarding such a facility including any petitions or remonstrances evidencing such desires;~~
- ~~\_\_\_\_\_ (4) Pedestrian safety;~~
- ~~\_\_\_\_\_ (5) Traffic volume and adequacy of parking and access;~~
- ~~\_\_\_\_\_ (6) Essential character of the neighborhood and the applicant's \_\_\_\_\_ (4) The potential effect of the business on the peace of the neighborhood, including off-site noise~~
- ~~\_\_\_\_\_ (7) and light;~~
- ~~\_\_\_\_\_ (5) Compliance of the structure with all applicable zoning and building regulations;~~
- ~~\_\_\_\_\_ (8) Police activity in comparable businesses;~~

~~(9) Architectural compatibility with the character of the neighborhood.~~

(7) The proposed size and character of the business in relation to surrounding land uses; and

(8) The reasonable requirements of the neighborhood and the desires of its inhabitants.

If the applicant is simultaneously applying for a license to sell fermented malt beverages or alcoholic beverages for consumption on the premises, the Board may rely on information from any hearing on that application in considering the criteria above.

**5-16-54: FEES:** (1959)

(A) All original applications shall be accompanied by a four hundred and fifty dollar (\$450) non-refundable application fee to defray the cost of reviewing and evaluating the application. If the applicant is simultaneously applying for a license to sell fermented malt beverages or alcoholic beverages for consumption on the premises, and the public hearings are consolidated, the application fee ~~for an original application~~ shall be one hundred dollars (\$100).

(B) The annual renewal license fee thereafter shall be one hundred dollars (\$100), payable at the time of filing the application for renewal.

**5-16-6: 5-16-5: RENEWAL:** (1959 2229 2574)

(A) All dance hall licenses issued pursuant to this Chapter shall expire one (1) year from the date of issuance, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees.

(B) Cabaret licenses issued pursuant to this Chapter shall expire concurrently with the expiration of the fermented malt beverages or alcoholic beverages license issued to the establishment, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees.

~~(C) A license may be denied renewal for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title, for any of the reasons set forth below, or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the license. License renewals shall be considered by the Special Permit and License Board concurrently with the licensee's liquor license renewal.~~

**5-16-76: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION** (1959 2229 2574)

~~(A) The Special Permit and License Board may deny, deny renewal, suspend or revoke any license at any time on the grounds that it is:~~

~~—(1) Detrimental to the public health, safety or welfare due to the location of the dance hall or cabaret;~~

~~—(2) Because of the proximity of the location to schools or churches or other places where the public may congregate; or~~

~~—(3) Based on the criteria set forth in section 5-16-4(H).~~

~~(B) A license may be denied, cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided any reason stated in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit, and License Board.~~

~~(C) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection any violation of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(D) The Special Permit and License Board shall conduct the hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(E) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

~~(F) Any place licensed hereunder, including the parking lots and streets and sidewalks adjacent thereto which become the location of frequent or repeated violations of the City's ordinances including but not limited to disturbances, assaults, thefts, malicious mischief and disorderly conduct is hereby declared to be a nuisance which shall be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code and the license of the premises shall be revoked. Chapter.~~

**5-16-8: TRANSFER; CHANGE IN NATURE OF BUSINESS**~~5-16-7: TRANSFERS:~~ (1959 2229)

~~(A) Transfer of Business or Stock:~~

~~—(1) Within thirty (30) days after the (A) An application for a transfer of ownership or location of a dance hall or cabaret, or of the transfer of ownership of ten percent (10%) or more of the capital stock of the corporation, the new owner of the stock or business license shall file with the City Clerk a written report of the transfer be submitted on forms provided by the City Clerk. The report shall be accompanied by an investigation, together with a non-refundable application fee of two hundred and fifty dollars (\$250).~~

~~—(2) Upon receipt of the report of transfer, the City Clerk shall report the transfer to the City Manager, after sufficient investigation by the Police Department, and the City Manager may approve the transfer or, in his sole discretion, recommend to the Special Permit and License Board that a public hearing be held regarding the transfer, at which parties in interest may be heard (B) No transfer of ownership or location of a cabaret license shall be approved except in conjunction with the transfer of the associated fermented malt beverage or alcoholic beverage license.~~

~~—(3) The (C) An application for transfer of ownership or location of a dance hall or cabaret license shall be referred by the City Clerk to the Police Department for investigation. Following said investigation, the City Clerk may approve the transfer, or refer the matter to the Special Permit and License Board, in which case the Special Permit and License Board shall conduct consider the matter at a public meeting, and may approve the transfer or may schedule a public hearing.~~

~~(D) Should a public hearing after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearingscheduled on an original application. Criteria for approval shall be as for an original application.~~

~~— (4) At the hearing, all interested parties may appear and be heard, provided, however, that the Board shall consider only the character of the new owner or owners and whether the new owner or owners comply with all requirements of the Code and rules and regulations adopted pursuant to the Code. If the new owner or owners are not approved, the license may be revoked.~~

~~(B) Change in Nature of Business:~~

~~— (1) At least thirty (30) days prior to the commencement for transfer of expansion, remodeling, or other change in the nature of the licensed business, the owner shall submit an application for a change in the nature of the business to the City Clerk on forms provided by the City Clerk. The application shall be reviewed by the City Manager, who, within ten (10) days shall determine whether the proposed change in the nature of the business is significant. For purposes of this subsection, "significant change" shall include, but shall not be limited to: (a) an increase or decrease in the total size ownership or capacity of the licensed premises; (b) the sealing off, creation of or relocation of a common entryway, doorway, or passage or other means of public ingress or egress; (c) dance hall or cabaret license, any substantial or material enlargement of a bar, relocation of a bar or addition of a bar; and (d) any material change in the interior of the premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application. The term does not include painting and redecorating of premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment, and other similar changes interested party may appear and be heard. For a proposed transfer of ownership, the Special Permit and License Board shall consider only the character of the transferee, and, in the case of an application for the transfer of a cabaret license, whether the requirements of this Code and state statute for the transfer of the ownership of the associated fermented malt or alcoholic beverage license have been met.~~

~~— (2) After investigation by the City Manager, he may approve the proposed change or, in his sole discretion, recommend to the Special Permit and License Board that a public hearing be held regarding the proposed change, at which parties in interest may be heard. The Special Permit and License Board shall conduct a public hearing after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearing on an original application. Criteria for approval shall be as for an original application. Petitioning shall be at the discretion of the Special Permit and License Board or City Council. (E) For a proposed transfer of location, the criteria for approval shall be the same as for an original application as set forth in Section 5-16-3(H).~~

**5-16-98: PROHIBITED ACTS: (1959 2614)**

(A) It shall be unlawful for any licensee or his agent knowingly to do or to permit any of the following acts on the premises of any premises licensed pursuant to this Chapter or on any parking lot, street or sidewalk adjacent to the premises.

(1) It shall be unlawful for ~~any person or group of persons to congregate or linger needlessly at any location at or near the premises licensed pursuant to this Chapter other than in the building.~~

~~— (2) No a dance hall or cabaret licensee shall to install, maintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, device, machine, apparatus or other thing contrary to this Code or to the laws of this State or which is kept or used for the purpose of gambling, either directly or indirectly. The licensee is hereby specifically charged with~~

knowledge of and made responsible for the use of all tables, games and devices in any manner constituting a violation of this ~~section~~Section.

(32) It shall be unlawful for any licensee knowingly to permit any unlawful or disorderly act, conduct or disturbance to be committed by any person or group of persons upon any premises licensed hereunder.

(3) It shall be unlawful for any licensee to fail to report immediately to the Westminster Police Department any unlawful or disorderly act, conduct or disturbance to be committed by any person or group of persons upon any premises licensed hereunder.

(4) It shall be unlawful for any licensee to conduct any activities requiring an adult business license without having first secured an adult business license.

(5) It shall be unlawful for a licensee to operate or permit the operation of any amplified sound devices anywhere outside of the licensee's enclosed premises in a manner that disturbs the peace and quiet of the surrounding neighborhood.

(B) Minors Restricted: (2398)

(1) It shall be unlawful for any minor to enter or remain on the premises of any business holding both a tavern liquor license and a cabaret license, or for any parent or guardian to allow the minor to do so. It shall be unlawful for a minor to use false identification to seek entry or to remain on the premises. For purposes of this ~~subsection~~Section, a "minor" is any person under the age of twenty-one (21).

(2) It shall be unlawful for any licensee or its managers, agents, and employees to admit any minor or to allow any minor to remain on the premises of any business holding both a tavern liquor license and a cabaret license. For purposes of this subsection, a "minor" is any person under the age of twenty-one (21).

(3) Subsections (1) and (2) above shall not apply to bona fide employees of ~~the~~a duly licensed business~~dance hall, nor shall subsections~~to bona fide employees of a duly licensed tavern with a cabaret license that regularly serves meals as defined in Section 12-47-103(20), C.R.S.

(4) Subsections (1) and (2) above shall not apply to members of entertainment groups who have contracted with the licensed business, while such groups are on the premises to provide entertainment.

~~(4) A violation of Subsection (2) above shall be grounds for the suspension or revocation of a cabaret license. If a violation is proven, the Licensing Authority may place reasonable conditions upon the operation of the business to commence after the termination of the suspension, or the Licensing Authority may place reasonable conditions upon the operation of the business in lieu of suspension.~~

~~(5) It shall be an affirmative defense to a violation of this Section that the minor or minors were, at the time of the alleged violation, (1) bona fide employees of the licensed business or (2) members of an entertainment group on the premises to provide entertainment pursuant to a contract with the licensed business.~~

~~5-16-10: REPORTS; SIGNS: (1959 2229)~~

~~(A) Any licensee hereunder and its employees shall immediately report to the Police Department any unlawful or disorderly act, conduct or disturbance committed on the premises. Failure to comply with~~



~~this section may be considered by the Special Permit and License Board in any action relating to revocation, suspension or non-renewal of a license. Repeated failure to comply with the requirements of this section shall constitute prima facie grounds for the suspension, revocation or non-renewal of a license.~~

~~(B) Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign to be provided by the City Clerk's office which shall be in the following form:~~

~~WARNING: CITY OF WESTMINSTER POLICE MUST BE NOTIFIED OF ALL DISTURBANCES IN THIS ESTABLISHMENT AND ON THE GROUNDS AND PARKING LOT WHICH ARE A PART OF THIS ESTABLISHMENT.~~

**5-16-119: MANAGEMENT AND SUPERVISION:** Each licensee shall manage such premises himself or employ a separate and distinct manager on the premises of at least twenty-one (21) years of age and such licensee or manager shall be present and responsible for the premises during all hours of operation. The licensee shall report the name of the manager to the City Clerk and shall report any change in managers within thirty (30) days after the change. (1959)

**5-16-120: OCCUPANCY LIMITS:** The occupancy capacity of the premises shall be determined according to the requirements of ~~the City~~ this Code. There shall be posted on the premises in a place open to the view of the occupants thereof a sign stating the maximum number of occupants permitted therein at any one time. (1959)

**5-16-131: SECURITY GUARDS:** Whenever the Police Department has repeatedly been required to investigate complaints of any disorderly conduct or disturbances at any premises licensed hereunder, the City Manager or his designee may, in his discretion, schedule a public hearing before the Special Permit and License Board, in the manner provided for an original application for a license, for the purpose of determining whether maintenance of licensed security guards should be required as a condition for the continuation of the license. (1959)

**5-16-142: HOURS OF OPERATION:** Premises licensed hereunder shall open to the public no earlier than seven o'clock (7:00) a.m. and close no later than two o'clock (2:00) a.m. daily. The Special Permit and License Board may require different hours as a condition of granting the license, but in no event shall premises licensed hereunder remain open to the public later than two o'clock (2:00) a.m. (1959)

~~**5-16-15: PENALTY:** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959)~~



**6-3-5: TRESPASSING:** (1224 1593 2001 2056 2706 2782)

(A) UNLAWFUL TRESPASS: It shall be unlawful for any person to commit trespass. A person commits trespass if he enters or remains upon premises of another when consent to enter or remain is absent, denied, or withdrawn by the owner, occupant, any agent of the owner or occupant, or any other person having lawful control thereof.

(B) PREMISES DEFINED: "PREMISES" means any real estate, all improvements thereon, and any motor vehicle.

(C) PRIMA FACIE EVIDENCE: It shall be prima facie evidence that consent is absent, denied, or withdrawn, when one or more of the following events occur:

1. ~~Any person fails or refuses to remove himself from said premises when requested to leave by~~ The owner, occupant, any agent of the owner or occupant, or any other person having lawful control of private property requests a person to leave the premises and the person fails or refuses to do so ~~thereof~~; or
2. Private property, which is not then open to the public, is posted with signs giving notice that entrance is forbidden or restricted to certain hours or persons; or
3. A private residence has been posted with a sign stating "NO SOLICITATIONS," "NO TRESPASS," or a sign with similar meaning, and a person knocks on the door or otherwise attempts to contact or speak to the residence's occupant for the purpose of: (a) selling, distributing or offering to sell or distribute, services, food, beverages, goods or merchandise, or (b) distributing information about services, food, beverages, goods, or merchandise, or (c) inviting or attempting to discuss verbally or in written form, ideas and issues, or (d) distributing written information, or (e) seeking funds or other forms of assistance.
- 3.4. Such premises are fenced or otherwise enclosed in a manner designed to exclude intruders.

The enumeration in this Subsection of the events constituting prima facie evidence shall not be construed to require any summons and complaint to specify one or more provisions of this Subsection.

(D) PENALTY: Trespass is a criminal offense, punishable by a fine or imprisonment, or both, as provided in Section 1-8-1 of this Code.

## CHAPTER 4

### SOLICITATION ON OR NEAR STREET OR HIGHWAY

#### **9-4-1: SOLICITATION ON OR NEAR STREET OR HIGHWAY: (2362 2387)**

(A) The purpose of this Chapter is to prevent dangers to persons and property, to prevent delays, and to avoid interference with the traffic flow. Roadways that have center medians often are designed to deal with specific traffic flow problems. Any delay or distraction may interfere with traffic planning. Sometimes persons stand near intersections and near traffic lights to contact drivers or passengers in cars that are passing or that are stopped temporarily due to traffic lights.

(B) It shall be unlawful for any person to solicit employment, business, contributions, or sales of any kind, or collect monies for the same, from the occupant of any vehicle traveling upon any street or highway when such solicitation or collection either:

(1) Causes the person performing the activity to enter onto the traveled portion of a street or highway.

(2) Involves the person performing the activity to be located upon any median area which separates traffic lanes for vehicular travel in opposite directions.

(3) The person performing the activity is located such that vehicles cannot move into a legal parking area to safely conduct the transaction.

(C) It shall be unlawful for any person to solicit or attempt to solicit employment, business, contributions or sales of any kind, or collect monies for the same, from the occupant of any vehicle on any highway included in the interstate system including any entrance to or exit from such highway.

(D) For purposes of this Chapter, the traveled portion of the street or highway shall mean that portion of the road normally used by moving motor vehicle traffic.

#### **9-4-2: SOUND TRUCKS. (1224 2001 3017)**

(A) The use of sound trucks with sound amplifying equipment in operation shall be subject to the following regulations:

- (1) The only sounds permitted to be amplified are music or human speech.
- (2) Operations are permitted for nine (9) hours each day. The permitted nine (9) hours of operation shall be between the hours of ten o'clock (10:00) A.M. and seven o'clock (7:00) P.M.
- (3) Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of less than twelve (12) miles per hour. When stopped to make sales, said sound amplifying equipment shall not be operated.
- (4) Sound shall not be issued within one hundred (100) yards of hospitals, or within 100 hundred (100) yards of churches during the hours services are being held, or within five hundred feet (500') of a school during the school year.
- (5) The human speech and music amplified shall not be profane, lewd, indecent or slanderous.
- (6) The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) yards from the sound truck and so that said volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.

- (7) It shall be unlawful for any sound truck to amplify sound along any particular route more than one time during a twenty four (24) hour period.
- (8) It shall be unlawful for any sound truck to stop within twenty five feet (25') of an intersection when making a sale, or attempting to make a sale.
- (9) It shall be unlawful for any sound truck to double park, or park in a manner contrary to any ordinance relating to parking, when attempting a sale or making a sale.
- (10) It shall be unlawful for any sound truck to make a U turn in any block.
- (11) It shall be unlawful for any driver of a sound truck to drive his vehicle backward to make or attempt to make a sale.
- (12) It shall be unlawful for any driver of a sound truck to sell to any person who is standing in the street.
- (13) It shall be unlawful for any driver of a sound truck to permit any person to hang on the vehicle, or permit any person to ride in or on the vehicle, except a bona fide assistant or assistants.
- (14) All sound trucks must be equipped with four (4) way flashing lights, both parking and taillights. Trucks must have lights flashing while seeking or making a sale.

(B) It shall be unlawful for any person to use or cause to be used, a sound truck with its sound amplifying equipment in operation in the City without having paid an annual registration fee of \$5 per vehicle and filed a registration statement with the City Clerk in writing and having it approved by the City Manager and City Clerk. This statement shall be filed in duplicate and include the following information: (2001)

- \_\_\_ (1) Name and address of the registrant,
- \_\_\_ (2) Name and address of person having direct charge of the sound truck,
- \_\_\_ (3) Name and address of all persons who will use or operate the sound truck,
- \_\_\_ (4) The purpose for which the sound truck will be used,
- \_\_\_ (5) A general statement as to the areas of the City in which the sound truck will be used,
- \_\_\_ (6) The proposed hours of operation of the sound truck,
- \_\_\_ (7) The number of days of proposed operation of the sound truck,

(C) DEFINITIONS:

- (1) "Sound truck" shall mean any vehicle, or horse-drawn vehicle, having mounted, thereon, or attached thereto, any sound amplifying equipment.
- (2) "Sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music or any other sound. "Sound amplifying equipment" shall not be construed as including standard automobile radios when used and heard only by the occupants of the vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

9-4-3: VIOLATIONS:(E)\_\_\_\_\_A

violation of this Chapter is a criminal offense, punishable by a fine or imprisonment, or both, as provided in Section 1-8-1 of this Code.

**NEW SECTION** - Formerly, temporary use permits were addressed in Chapter 6 of Title V.

**11-4-17: TEMPORARY USES ON PRIVATE PROPERTY: (1959 3017)**

(A) **SCOPE:** A temporary use permit allows for the displaying, selling, offering for sale, offering to give away or giving away of anything of value including any good, service or amusement that is not permanent in nature and does not involve any permanent structure, but which occupies any single location within the City for more than two (2) hours at a time. Examples include a Christmas tree lot, pumpkin patch, parking lot sale, carnival and other promotional use involving a temporary outdoor display, wagon, handcart, pushcart or motor vehicle. The selling or giving away of used merchandise is not permitted as a temporary use.

(B) **ZONING COMPLIANCE:** All temporary uses conducted pursuant to this Chapter shall conform to the zoning provisions of this Code, including the Sign Code, unless otherwise provided herein.

(C) **TIME PERIOD:** The temporary use permit shall designate the specific location for the use and the time period for which the permit is to be issued. Permits may not be issued for any temporary use for more than sixty (60) days per calendar year. The 60 days may run consecutively or be broken into increments, such as weekends; however, because of the intended temporary nature of the use, incremental periods shall not extend beyond thirty (30) cumulative weeks or weekends per calendar year.

(D) **PERMIT REQUIRED:** It shall be unlawful for any person to engage in a temporary use within the city limits of Westminster without first obtaining a permit as provided herein.

**(E) EXEMPTIONS:**

(1) This section does not apply to persons who knock on the door or otherwise attempt to contact or speak to the occupant of a private residence for the purpose of: (a) selling, distributing or offering to sell or distribute, services, food, beverages, goods or merchandise, or (b) distributing information about services, food, beverages, goods or merchandise, or (c) inviting or attempting to discuss verbally or in written form, ideas and issues, or (d) distributing written information, or (e) seeking funds or other forms of assistance.

(2) This section shall not be construed to require a temporary use permit for the temporary outdoor extension of regular indoor commercial activity such as a sidewalk sale, so long as the outdoor use is allowed pursuant to the zoning for the property.

(3) This section shall not apply to yard sales, garage sales or estate sales in a residential area unless such a sale is subject to the sales and use tax provisions of this Code. Children selling drinks, such as lemonade, at their own homes shall be exempted from the application of this Chapter.

(4) This section shall not apply to the temporary use of parks, community buildings and recreational facilities which are addressed in Chapter 2 of Title XIII.

(F) **APPLICATION:** An applicant for a Temporary use permit shall submit to the Community Development Department a completed, signed application on a form to be furnished by the Planning Division, as well as the following information:

(1) Written authorization from the real property owner of the applicant's right to use such property is required.

- (2) A written description of the nature of the activity.
- (3) An illustration or picture of any proposed stand, including measurements.
- (4) An illustration or picture of any proposed signage, including measurements.
- (5) When requested, a list of the individuals or employees who will be operating on behalf of the business within the City.
- (6) Documentation of nonprofit tax status, if applicable.
- (7) Site Plan to include:
  - (a) The location where the activity will be conducted;
  - (b) All buildings and structures, including entrance and exit locations;
  - (c) All parking spaces, drive aisles, and emergency access aisles, including any area proposed to be blocked off or barricaded for the activity and method of barricade;
  - (d) All trash enclosures or receptacles;
  - (e) Location of on-site restrooms to be available to employees and/or the public, if any;
  - (f) All landscaped areas;
  - (g) All freestanding light fixtures; and
  - (h) All freestanding signs.
- (8) Additional information, as needed, to assess the proposed temporary use.

(G) **CONDITIONS OF APPROVAL:** All temporary uses must meet the following criteria:

- (1) The temporary outdoor use is of a seasonal or special event nature;
- (2) All structures subject to any building, construction or fire codes shall comply with such codes
- (3) Permitted signage may include:
  - (a) One (1) wall sign. The wall sign shall be no larger than twenty (20) square feet, inclusive of frame. The wall sign shall be securely attached to a structure used in conjunction with the temporary use or a primary building structure. In no event shall a wall sign be attached to any structure in the public right-of-way. If the wall sign is to be attached to the primary building, written permission from the owner of such building is required.
  - (b) Up to three (3) incidental signs, such as menu boards or hours of operation, securely affixed to a structure used in conjunction with the temporary use. Each sign shall not exceed two (2) square feet.
- (4) The location of the use shall not obstruct any sight visibility triangle.
- (5) If customers are required to park in order to gain access to the temporary use location, sufficient parking, as determined by the Planning Manager or his/her designee, is available without interfering with the public rights of way on sidewalks or streets and without requiring customers to park at another location on private property without the consent of the property owner. A parking study or traffic study may be required.

- (6) Safe access is available by vehicular and pedestrian traffic to the temporary use location without requiring illegal or unsafe turning movements by vehicles or trespass across private property without the consent of the property owner.
  - (7) The use shall not:
    - (a) Impedes access to the entrance of any adjacent building or driveway,
    - (b) Be located in such a manner as to interfere with a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire station, police station, hospital or handicapped parking space or access ramp.
  - (8) Adequate trash receptacles shall be provided, as determined by the Planning Manager or his/her designee.
  - (9) Adequate restroom facilities, if needed, as determined by the City, shall be provided either within an existing building or as port-o-lets.
  - (10) If needed, as determined by the City, adequate barriers and directional signs shall be installed.
  - (11) All other permits and licenses as required by the City for the use have been applied for or obtained.
- (H) REVIEW AND ISSUANCE OF PERMIT:** Upon receipt of an application for a temporary use permit, the application shall be reviewed by the Department of Community Development and referred to other departments as needed for review.
- (1) If the review determines that one or more of the conditions in (H) above have not been met, the Planning Division will notify the applicant in writing describing the condition or conditions that have not been satisfied.
  - (2) An application for a Temporary use permit may be denied if any of the conditions in (H) above have not been met, as determined by the Planning Manager or his/her designee. The applicant may appeal a denial to the City Manager, who shall have the final decision.
  - (3) No approval for any business license or building permit shall be issued until the Temporary Use has been reviewed and approved by the City to insure that the conditions established in this Section have been met.
  - (4) The permit shall be issued in the individual's name, except as otherwise provided herein. Any permit issued to a firm, association or corporation shall include the name of the authorized representative of the firm, association or corporation which representative's name shall appear on the application, badge, and permit. No other representative of the same firm, association or corporation shall use the same permit, except as provided in this section.
    - (a) If a firm, association or corporation applies for and is granted a permit at the fee set forth in this Chapter, it shall be obtain badges which identify such entity for purposes of identification and enforcement for its employees under its permit.
    - (b) Each business applying for a permit and wishing to permit employees pursuant to such temporary permit shall provide such proof as may be required by the City Manager to demonstrate that it is a bona fide business entity separate from its alleged employees.

(I) Issuance of a permit under this Chapter does not in any way relieve an applicant from responsibility for obtaining permission from respective property owners to set up displays and sell goods on private property.

(J) CONDITIONS OF OPERATION:

(1) If permitted, each permittee shall carry his or her permit at all times while engaged in the temporary use and shall display it upon request.

(2) A permit shall be not be transferable to any other location or used by any other person or other legal entity, except as provided in this section.

(3) Temporary uses may operate at times other than the permanent on-site user, subject to City review and approval.

(4) All trash or debris accumulation caused by a permittee's activities shall be collected and deposited in a proper trash container daily. Any accumulation of trash or debris that causes the City to incur expense in removing the accumulation shall be cause for the City to revoke the Temporary use permit.

(5) A sales and use tax license shall be obtained and sales and use taxes shall be paid upon the schedule set by this Code.

(6) Any permittee issued a permit under this Chapter shall comply with all Municipal Code requirements, conditions of such permit, and all applicable laws of the City of Westminster and the State of Colorado.

(7) The permittee shall return the property to its original condition upon conclusion of doing business on the site.

(K) FEES: The fee to be charged upon application of a Temporary use permit shall be as outlined in the Land Use and Development Review Fee Schedule of the City, as amended.

(L) INSPECTION: Upon request from a City official who presents his or her City identification, the permittee or permittee's employee shall produce his or her permit and property for inspection.

(M) REVOCATION AND TERMINATION: If, upon inspection by a City official, a permittee is found to be operating in an unsafe or unlawful manner, or violating any provisions of the Municipal Code or the subject permit conditions, a permit may be immediately revoked and denied renewal. In such event, the temporary use shall immediately cease and the permittee shall return the property to its original condition.

(N) VIOLATION AND PENALTY:

(1) It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided under Title I of this Code and may also be subject to civil remedies provided by Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.

(2) Nothing in this Chapter shall be construed to alter or amend §6-3-5, Trespassing, W.M.C.



**Staff Report**

Information Only Staff Report  
December 6, 2010



SUBJECT: 2010 Debt Refinancing Summary  
  
PREPARED BY: Tammy Hitchens, Finance Director  
Robert Byerhof, Senior Financial Analyst

**Recommended City Council Action:**

This report is for City Council information only and requires no action by City Council.

**Summary Statement:**

In 2010 the City refinanced a total of five debt issues for a combined savings of \$2,645,259 without extending the maturity schedule of the original issues.

**Background Information:**

Due to excellent financial market conditions with respect to borrowing, the City was able to refinance certain debt issues in 2010, which resulted in obtaining very low interest rates. The City refinanced five debt issues with a combined total interest cost savings of \$2,645,259 without extending the maturity beyond the original retirement of the respective debt issues. The table below summarizes the total City savings of each refunding:

<b>Date</b>	<b>Original Issue</b>	<b>Total Savings</b>
July 2010	2001 & 2002 Sales & Use Tax Revenue Bonds	\$662,438
August 2010	2001 Certificates of Participation (COPS)	\$754,514
August 2010	1998 Golf Course Revenue Bonds	\$693,191
November 2010*	1998 Ice Centre COPS	\$535,117
<b>Total Savings</b>		<b>\$2,645,259</b>

\* Represents savings allocated to the City. Another \$535,117 in savings was allocated to Hyland Hills.

The City employs sound debt management practices. The City was able to refinance five debt issues and save over \$2.6 million in interest costs, which will help balance the budget over the next 5 years as most of the savings will be realized over this period. Staff worked with the City's Finance team: Bond Counsel, Sherman & Howard; Disclosure Counsel, Kutak Rock; and Underwriter, Piper Jaffray to accomplish these refinancings.



Staff Report - 2010 Refinancing Summary

December 6, 2010

Page 2

The ability to respond efficiently to refinancing opportunities is an important financing tool employed by the City as well as other governments. The flexibility to pursue future refinancing opportunities would have been lost with the passage of Amendment 61. The citizens of Colorado defeated Amendment 61, which allows the City to continue to make sound business decisions in operating the City. Staff will review with Council and pursue additional refinancing opportunities as they arise.

Respectfully submitted,

J. Brent McFall

City Manager



# WESTMINSTER

## Staff Report

Information Only Staff Report  
December 6, 2010



SUBJECT: Westminster Economic Development Authority 3rd Quarter 2010 Financial Update

PREPARED BY: Karen Creager, Special Districts Accountant

### Summary Statement:

This report is for information only and requires no action by the Board. The report represents the unaudited financial position for each of the Westminster Economic Development Authority's (WEDA) Urban Renewal Areas (URAs) as of September 30, 2010.

### Background Information:

WEDA currently includes seven separate URA's. This report presents the financial activity as of September 30, 2010. Included in the report are the following for each URA:

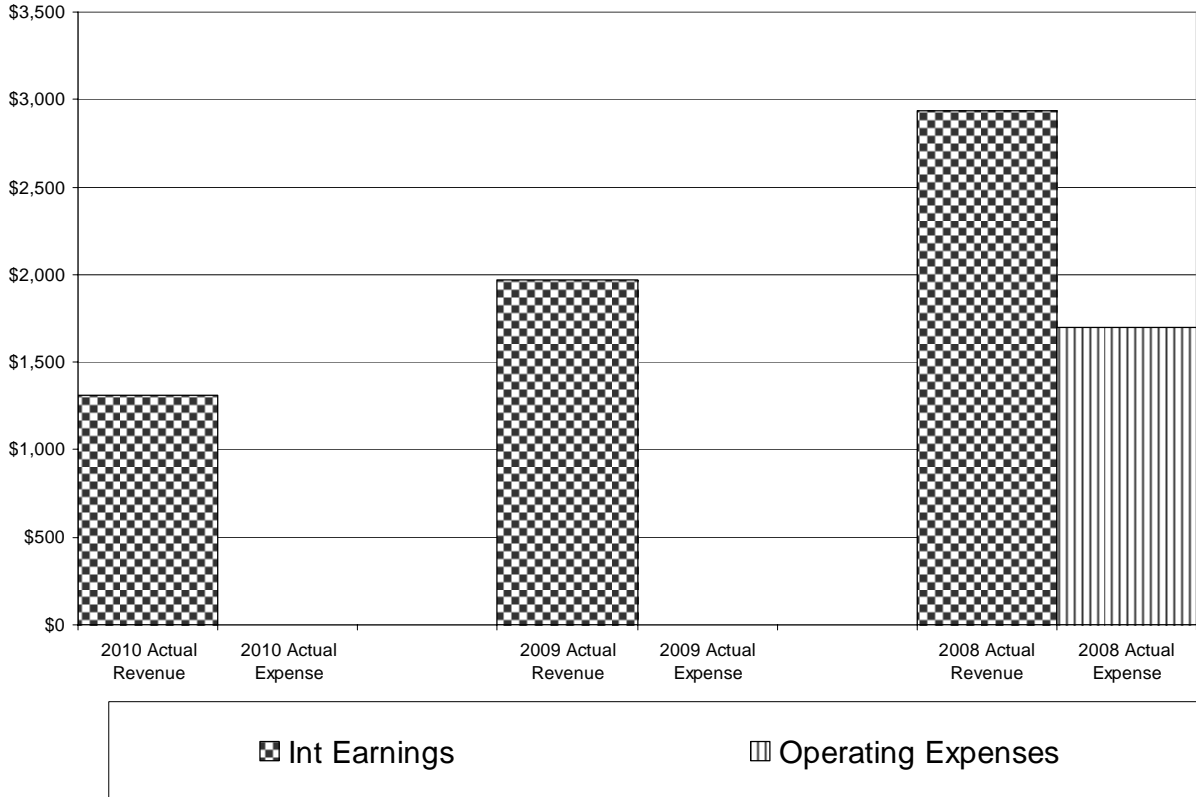
- Year-to-date comparative graphs showing three years of operating revenues and expenses and debt service, as of September 30, and;
- A chart with an at-a-glance look at the changes in revenues and expenses for comparable reporting periods from 2009 to 2010.

Additionally, attached are

- A chart summarizing the financial position as of September 30, 2010
- A list of all current outstanding obligations of the URAs

Holly Park URA

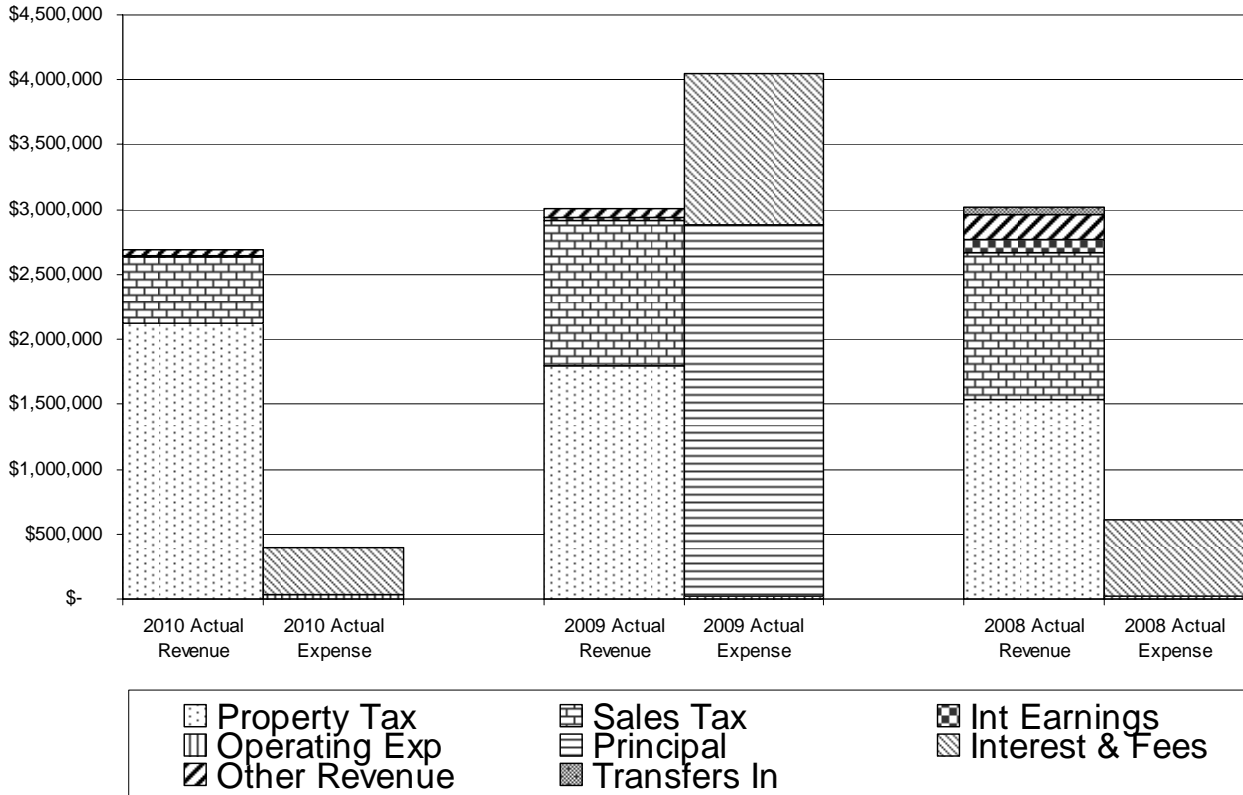
Holly Park URA Comparative Revenues vs Expenses as of 9/30/10



- The General Fund and General Capital Improvement Fund loaned \$120,000 and \$1,125,000, respectively, to this URA to fund the capital project for the clean-up of the property to ready it for resale. It is anticipated that the interfund loan will be repaid once the property is sold.
- Interest earnings, the only revenue recorded in this URA to-date, decreased \$662 in 2010 from 2009 due to spend down of the funds loaned to the URA for the capital project.
- Due to minimal operating activity in the URA, no comparison table is included.

Mandalay Gardens URA (Shops at Walnut Creek)

**Mandalay Gardens URA Comparative Revenues vs Expenses as of 9/30/10**



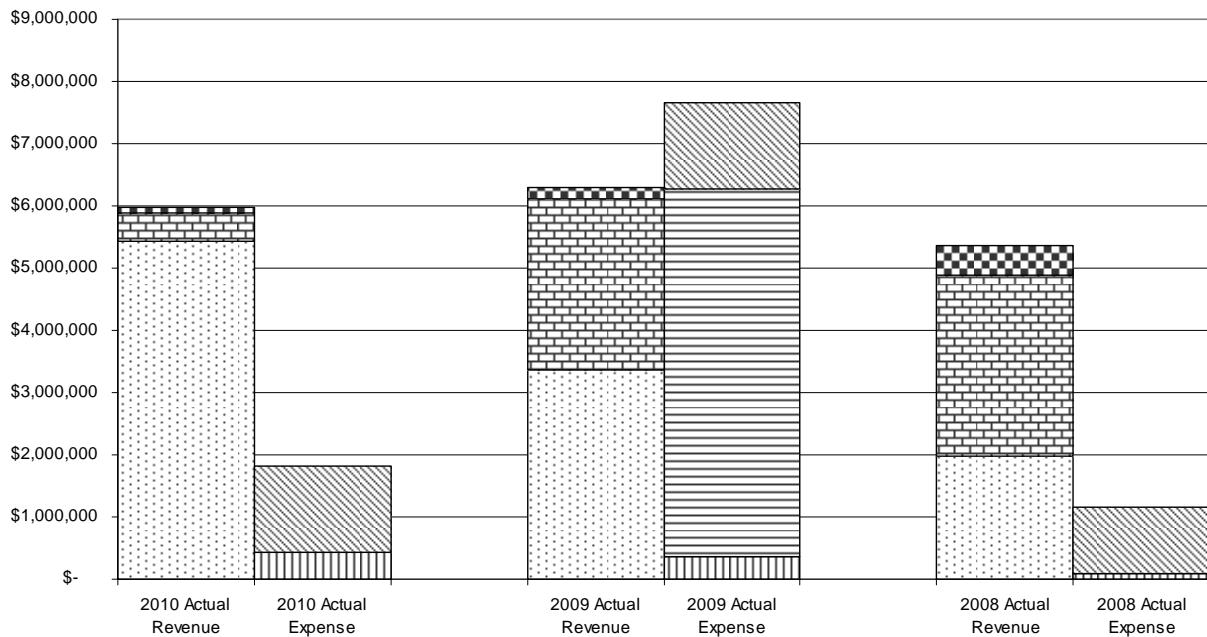
Description	2010	2009	Change
Property tax increment	\$ 2,130,299	\$ 1,800,265	\$ 330,034
Sales tax increment	508,028	1,111,346	(603,318)
Interest Earnings	5,983	30,813	(24,830)
Other Revenue	42,912	62,746	(19,834)
Operating Exp	31,954	27,004	4,950
Principal	-	2,857,875	(2,857,875)
Interest and Fees	367,065	1,160,859	(793,794)

- Assessed valuation increased in 2010 from 2009, therefore, property tax increment increased in 2010 from 2009.  
 The sales tax pledge was 1.75% from January 2009 through September 2009 and increased to 3% in October 2009 as part of the bond refinancing. In March 2010, the pledge decreased to 0%, as funds already on deposit with US Bank Trust as well as anticipated property tax increment will be sufficient to meet debt service requirements in 2010. Therefore, the sales tax increment reported here is the total sales tax increment that will be received for 2010. The remaining non-increment sales tax of approximately \$1.5M flowed to the City's General Fund.
- Due to the low interest rate earnings environment, the interest earnings on the funds invested at the US Bank Trust are low relative to historic performance.
- Other revenue consists of a payment from the Mandalay Town Center General Improvement District (District) to assist with the repayment of the URA's debt. The decrease in 2010 from 2009 is due to a decrease in assessed valuation for the District.

- Year-to-date operating expenses increased in 2010 from 2009 due to the property tax collection fee paid to the county treasurer. This is consistent with higher collections than in the same quarter of 2009.
- Year-to-date debt service costs reflect a decrease in 2010 from 2009. This is primarily due to larger fees and principal payments required in 2009 because the bonds converted to bank bonds. Year-end debt service payments are expected to remain lower in 2010 from 2009.

**North Huron URA**

**North Huron URA Comparative Revenues vs Expenses as of 9/30/10**



Property Tax	Sales Tax	Int Earnings
Operating Exp	Principal	Interest & Fees

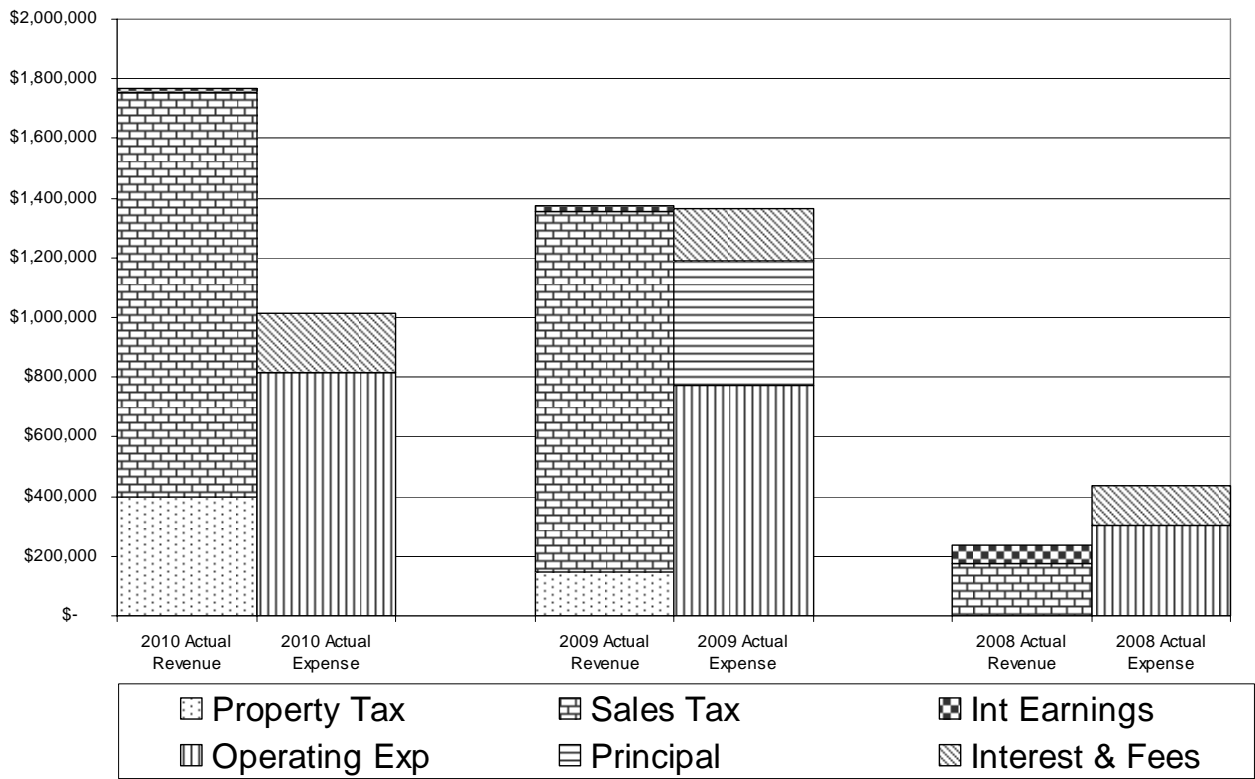
Description	2010	2009	Change
Property tax increment	\$ 5,431,417	\$ 3,365,200	\$2,066,217
Sales tax increment	460,570	2,741,865	(2,281,295)
Interest Earnings	77,297	190,177	(112,880)
Operating Exp	443,131	358,916	84,215
Principal	-	5,925,000	(5,925,000)
Interest and Fees	1,380,254	1,370,054	10,200

- Property tax increment increased as a result of an increase in the assessed valuation due to development in the URA.
- Sales tax increment decreased due to the reduction of the sales tax pledge from 1% to 0% in March 2010. Funds already on deposit with Compass Bank, as well as anticipated property tax increment will be sufficient to meet debt service requirements for 2010. Therefore, the sales tax increment reported here is the total sales tax increment that will be received for 2010. The remaining non-increment sales tax of approximately \$3.2M flowed to the City’s General Fund.
- Interest earnings decreased in 2010 from 2009 as a result of lower project cash-on-hand resulting from project completions and the pay down of principal when the bonds were refinanced.

- Operating expenses increased due to increased economic development agreement (EDA) expenses and an increase in the property tax collection fee paid to the county treasurer, consistent with the increase in property tax revenues.
- Year-to-date debt service costs reflect a decrease in 2010 from 2009. This is primarily due to larger principal payments required in 2009 because the bonds converted to bank bonds. Year-end debt service payments are expected to remain lower in 2010 from 2009.

**South Sheridan URA**

**South Sheridan URA Comparative Revenues vs Expenses as of 9/30/10**



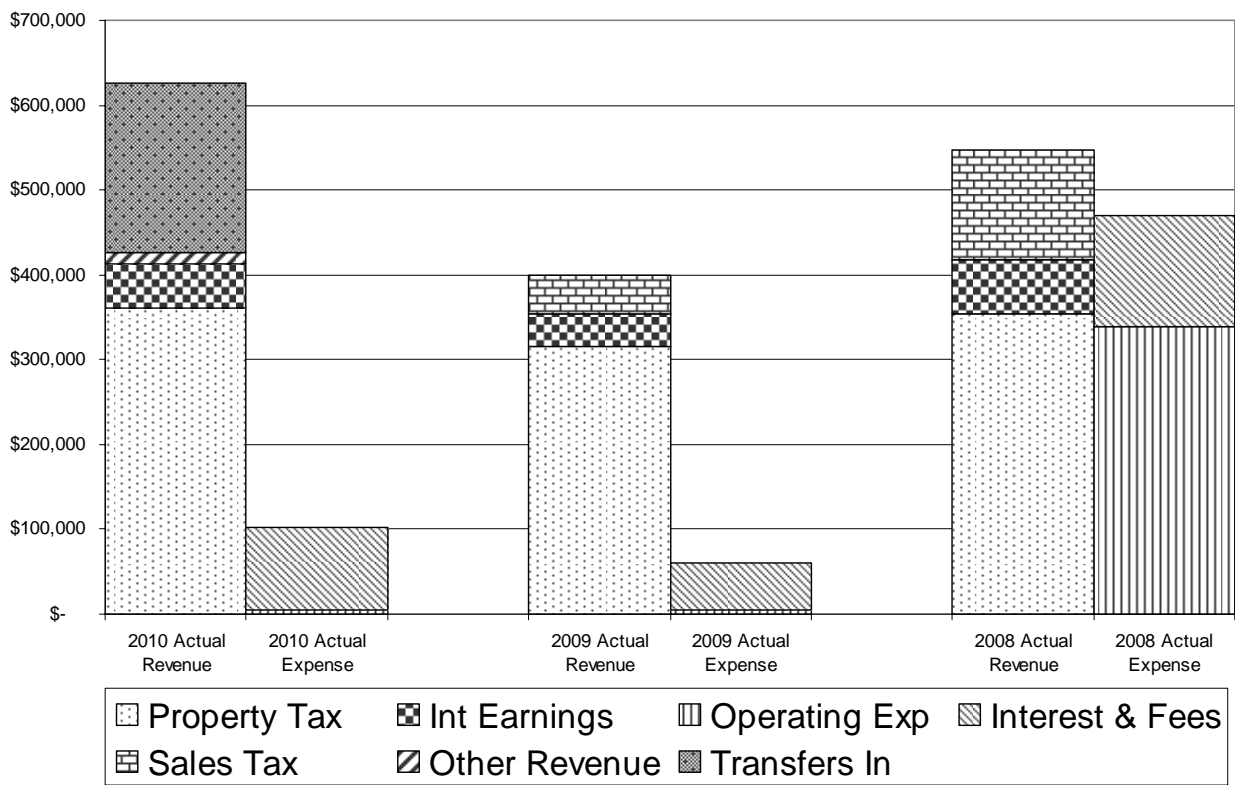
Description	2010	2009	Change
Property tax increment	\$ 399,350	\$ 148,249	\$ 251,101
Sales tax increment	1,352,229	1,209,389	142,840
Interest Earnings	14,744	15,906	(1,162)
Operating Exp	817,158	772,900	44,258
Principal	-	416,000	(416,000)
Interest and Fees	199,114	178,243	20,871

- Receipt of incremental property tax revenues began in 2009. Property tax increment increased in 2010 as a result of an increase in the assessed valuation due to completion of development in the URA.
- Increased retail sales in the area resulted in an increase to the sales tax increment in 2010 from 2009. However, due to debt reserve requirements, sales tax increment currently does not flow to the City for this URA.

- Operating expenses increased due to increased EDA expenses and an increase in the property tax collection fee paid to the county treasurer, consistent with the increase in property tax revenues.
- Year-to-date debt service costs reflect a decrease in 2010 from 2009. This is primarily due to larger principal payments required in 2009 because the bonds converted to bank bonds. Year-end debt service payments are expected to remain lower in 2010 from 2009.

**South Westminster URA**

**South Westminster URA Comparative Revenues vs Expenses as of 9/30/10**



Description	2010	2009	Change
Property tax increment	\$ 361,640	\$ 315,715	\$ 45,925
Sales tax increment	-	45,192	(45,192)
Interest Earnings	50,619	38,742	11,877
Transfers in	200,000	-	200,000
Other Revenue	13,360	-	13,360
Operating Exp	5,425	4,736	689
Interest and Fees	96,235	56,113	40,122

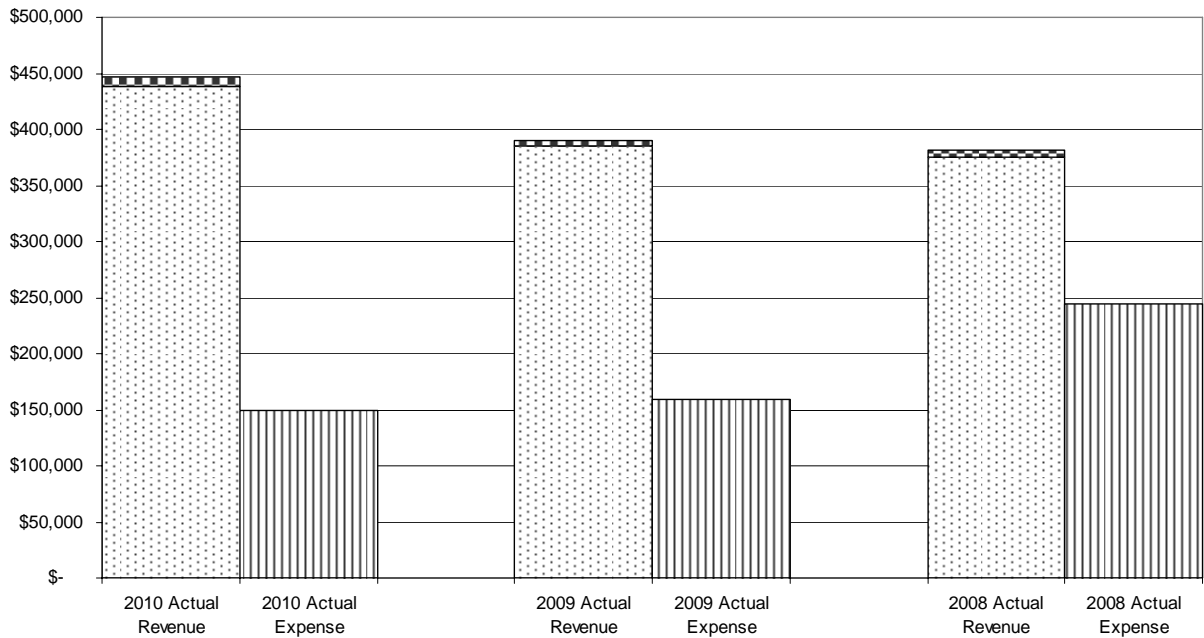
- Year-to-date property tax increment has increased in 2010 from 2009. However, property tax receipts tend to fluctuate from month-to-month in this URA.
- There is no sales tax increment revenue in this URA as the sales tax base was not met.
- Interest earnings increased in 2010 from 2009 as a result of the improved rate of return on the pooled investments.
- Debt service costs increased in 2010 from 2009. The original debt service schedule on the bonds issued for this URA provided for lower debt service payments in 2009. The City purchased the

bonds for this URA in May 2009. The new repayment schedule increased the annual debt service payments.

- It is anticipated that current year revenues and existing available cash will be sufficient to fund current obligations of the URA. Annually, a review of the available cash is performed in order to determine how much cash is available to pay down the Utility Enterprise Fund loan. However, the use of existing available cash will result in a further reduction in this URA's fund balance.

**Westminster Center East URA**

**Westminster Center East URA Comparative Revenues vs Expenses as of 9/30/10**



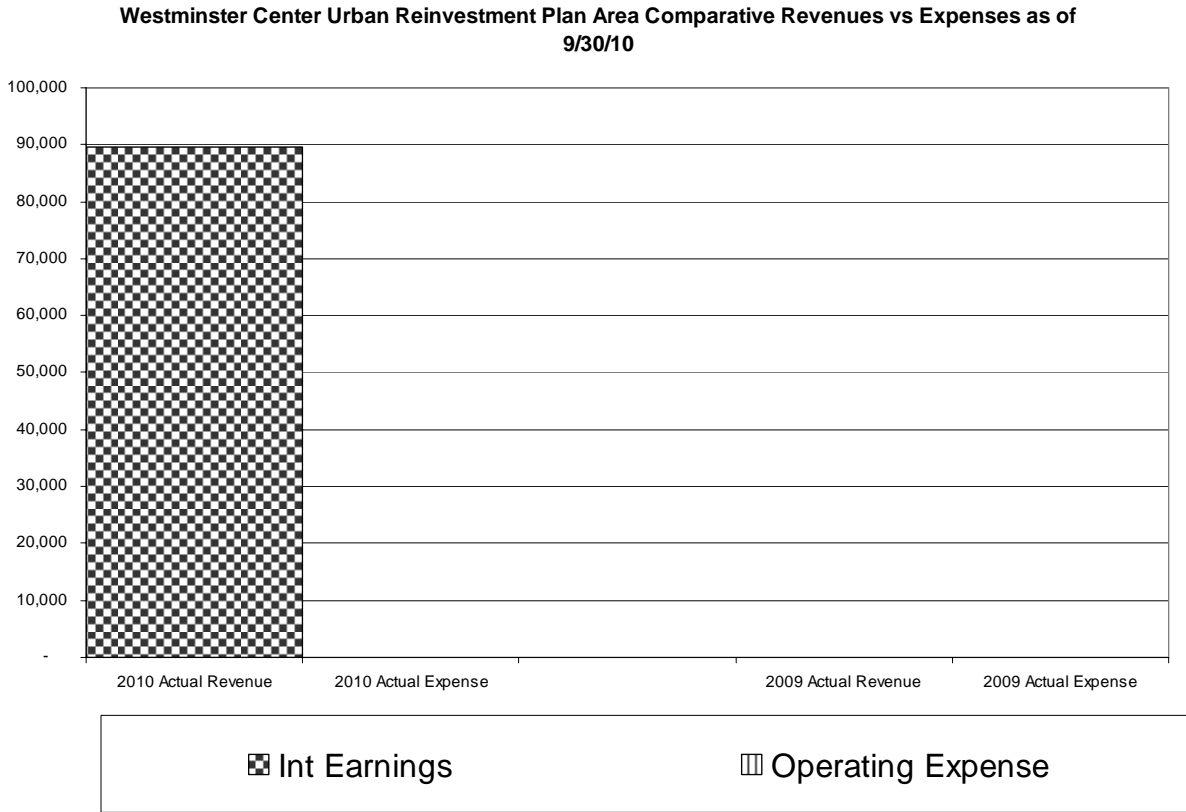
Property Tax
  Int Earnings
  Operating Expense
  Other Revenue

Description	2010	2009	Change
Property tax increment	\$ 438,349	\$ 384,628	\$ 53,721
Interest Earnings	8,862	5,908	2,954
Other Revenue	208	12	196
Operating Exp	149,427	159,008	(9,581)

- Year-to-date property tax increment has increased in 2010 from 2009. However, property tax receipts tend to fluctuate from month-to-month in this URA.
- No sales tax increment was realized in 2010 or 2009, as property tax increment was sufficient to meet the URA's obligations. All sales taxes collected in this URA continue to flow to the City's General Fund.
- Interest earnings increased in 2010 from 2009 as a result of the improved rate of return on the pooled investments.
- This URA has no bonded debt obligations.



**Westminster Center Urban Reinvestment Project Area**



- On April 13, 2009, City Council approved Resolution 12, Series 2009, which established the Westminster Center Urban Reinvestment Project Area (WURP) and the Reinvestment Plan.
- Tax increment financing approval was not requested at that time.
- While the above chart reflects only operating activity in this URA, it is important to note that City participation funds of \$10,544,099 have been transferred to the WURP URA for redevelopment capital project expenditures.
- Interest earnings, the only revenue recorded in this URA, increased in 2010 from 2009 due to interest earned on the City’s participation funds received in 2010 that have not yet been spent.
- Due to minimal operating activity in the URA, no comparison table is included.

Respectfully submitted,

J Brent McFall  
Executive Director

Attachments

**Westminster Economic Development Authority  
Obligations at 9/30/10**

	<u>URA</u>	<u>Outstanding Balance</u>	<u>2010 Estimated Expense</u>
<i>Debt-Principal only</i>			
2009 WEDA Bonds	South Westminster	\$ 5,065,000	\$ 555,000
2009 WEDA Loan	N Huron	61,205,000	2,125,000
2009 WEDA Bonds	Mandalay	35,830,000	1,125,000
2009 WEDA Loan	South Sheridan	7,955,000	260,000
Total Debt		<u>\$ 110,055,000</u>	<u>\$ 4,065,000</u>
<i>EDA</i>			
Lowe's HIW, Inc. - 136th Avenue location	N Huron	\$ 312,268	\$ 154,084
Shoenberg Ventures assigned to Wal-Mart	South Sheridan	3,849,770	957,278
LaConte Real Estate Trust	South Westminster	25,000	25,000
Pappa's Restaurants, Inc.	Westminster Center	96,017	45,082
Total EDA		<u>\$ 4,283,055</u>	<u>\$ 1,181,444</u>
<i>Interfund loans</i>			
Gen Capital Improv Fund	Holly Park	\$ 1,125,000	\$ -
General Fund	Holly Park	120,000	-
Utility Fund	South Westminster	2,200,000	200,000
Total Interfund loans		<u>\$ 3,445,000</u>	<u>\$ 200,000</u>

Westminster Economic Development Authority  
 Unaudited Financial Statements  
 For the period ending September 30, 2010

	Holly Park	Mandalay Gardens	North Huron	South Sheridan	South Westminister	Westminster Center East	Westminster Center Urban Reinvestment Area	Total
<b>Revenues</b>								
Property Tax	\$ -	\$ 2,130,299	\$ 5,431,417	\$ 399,350	\$ 361,640	\$ 438,349	\$ -	\$ 8,761,055
Sales Tax	-	508,028	460,570	1,352,229	-	-	-	2,320,827
Interest	1,309	5,983	77,297	14,744	50,619	8,862	89,685	248,499
Miscellaneous	-	-	-	-	13,360	208	-	13,568
Intergovernmental	-	42,912	-	-	-	-	-	42,912
Other Financing Source	-	-	-	-	-	-	-	-
Transfers In	-	-	-	-	200,000	-	10,544,099	10,744,099
<b>Total Revenues</b>	<b>1,309</b>	<b>2,687,222</b>	<b>5,969,284</b>	<b>1,766,323</b>	<b>625,619</b>	<b>447,419</b>	<b>10,633,784</b>	<b>22,130,960</b>
<b>Expenses</b>								
Operating	-	31,954	443,131	817,158	5,425	149,427	-	1,447,095
Capital Project -proj exp	5,644	-	48,906	500	-	-	1,079,229	1,134,279
Interest & Fees	-	367,065	1,380,254	199,114	96,235	-	-	2,042,668
<b>Total Expenses</b>	<b>5,644</b>	<b>399,019</b>	<b>1,872,291</b>	<b>1,016,772</b>	<b>101,660</b>	<b>149,427</b>	<b>1,079,229</b>	<b>4,624,042</b>
<b>Revenues Over(under) Exp</b>	<b>(4,335)</b>	<b>2,288,203</b>	<b>4,096,993</b>	<b>749,551</b>	<b>523,959</b>	<b>297,992</b>	<b>9,554,555</b>	<b>17,506,918</b>
Beginning Fund Balance	(316,858)	6,456,826	13,975,762	1,454,517	497,503	320,472	784,074	23,172,296
<b>Ending Fund Balance*</b>	<b>\$ (321,193)</b>	<b>\$ 8,745,029</b>	<b>\$ 18,072,755</b>	<b>\$ 2,204,068</b>	<b>\$ 1,021,462</b>	<b>\$ 618,464</b>	<b>\$ 10,338,629</b>	<b>\$ 40,679,214</b>

\* Ending fund balance includes the following reserved amounts that can be spent only as indicated in the line description:

Debt Service Reserve	\$ -	\$ 8,716,461	\$ 16,464,467	\$ 2,350,843	\$ -	\$ -	\$ -	\$ 27,531,771
Capital Project Reserve Inventory	37,015	-	1,539,604	68,795	-	-	9,518,622	11,164,036
	850,000	-	-	-	-	-	728,425	1,578,425
<b>Total Reserved Fund Balance</b>	<b>\$ 887,015</b>	<b>\$ 8,716,461</b>	<b>\$ 18,004,071</b>	<b>\$ 2,419,638</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 10,247,047</b>	<b>\$ 40,274,232</b>



# WESTMINSTER

## Staff Report

Information Only Staff Report  
December 6, 2010



**SUBJECT:** Rental Property Inspection Fees for Affordable Rental Units

**PREPARED BY:** Dave Horras, Chief Building Official  
Holly Clayton, Lead Housing Inspector

### **Summary Statement:**

This report is for City Council information only and requires no action by City Council.

### **Background Information:**

City Council passed Councillor's Bill No. 64 on first reading at the November 22, 2010 City Council meeting. Councillor's Bill 64 establishes fee structure and licensing program for rental properties in the City of Westminster.

During the discussion on Councillor's Bill No. 64, City Council requested that staff analyze approaches to reduce the inspection fee for affordable rental units. Since there is no definition of an affordable rental unit, staff has developed a definition to identify what is believed to be the intent of the request and is proposing a reduced fee for units meeting the definition.

Staff is recommending that "income restricted" rental units may best represent the types of affordable units intended in the City Council request. "Income restricted property" is proposed to be defined as "a unit of rental property over which the owner, whether a non-profit or a for-profit entity, lacks the sole discretion to increase rent due to state or federal law."

Income restricted rental units are units that are subsidized by some type of state or federal program. These units are typically either Project-Based Section 8 Housing Units or part of the Low Income Housing Tax Credit (LIHTC) program administered by Colorado Housing and Finance Authority (CHFA), but are not necessarily limited to these two programs. This definition does not include the Tenant-Based Section 8 Housing Choice Voucher Program because this program is not property specific. The Project-Based program provides Section 8 rental assistance at a specific property whereas the Tenant-Based program provides rental assistance to eligible individuals and families who rent units in any private rental housing market.

Staff has identified income restricted units in 12 rental properties throughout the City of Westminster. Many of the properties are owned or operated by the Housing Authorities; however, there are also income restricted units under other ownerships, including "for profit" ownerships. No matter what the ownership is, the income restricted units are only available to low-income residents and the owners are obligated by the conditions of the government programs.

Properties can be totally income restricted such as Toscana Apartments, Mountain Terrace Apartments or East Bay Senior Housing. Properties can also be partially income restricted such as Walnut Creek Apartments, Redwood Village or the Village of Greenbriar.

Staff has identified 1,280 income restricted rental units in the City of Westminster. This represents about 13% of the 9,927 total known rental units included in the proposed licensing program. It is proposed to reduce the inspection fees for these units to \$20 per unit from the \$40 rate that will be changed under the Rental Inspection Program. This will result in an average reduction of revenue of \$11,625 per year. This reduction in revenue will result in anticipated average revenue for the program of \$158,000 per year. Staff believes that this reduction in the fee addresses a key concern raised by the rental property owners.

The Agenda Memo and Councillor's Bill No. 64 have been revised reflecting these modifications. City Council will be requested to consider Councillor's Bill No. 64 on second reading as part of the December 13, 2010 City Council meeting.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment - List of Income Restricted Properties

**Income Restricted Properties in Westminster  
12/01/2010**

<b><u>Property Name</u></b>	<b><u># of Income Restricted Units</u></b>	<b><u>Total # of Units</u></b>
Village of Greenbriar	11	221
Orchard Crossing Apts.	72	89
Susan Kay Apts.	16	16
Toscana Apts.	252	252
Mountain Terrace Apts.	151	151
Westchester Apts.	20	20
East Bay Senior Housing	81	81
Glendale Apts.	120	120
Walnut Creek Apts.	55	220
Bradburn Gardens Apts.	43	43
Westbury Apts.	228	228
Claire of Assisi	59	60
Villa Maria	40	40
Redwood Village Apts.	7	50
Westminster Commons	125	130
<b>Totals</b>	<b>1,280</b>	<b>1,721</b>