

CHAPTER 08 BUSINESS REGULATIONS

ARTICLE 8-11. AFTER HOURS ESTABLISHMENTS

Sec. 8-11-1. Definitions in General

The definitions in A.R.S. tit. 9 (A.R.S. § 9-101 et seq.) shall be applicable to this Article unless a term is specifically defined in this Article, or unless the context requires otherwise.

Sec. 8-11-2. Definitions Pertaining to this Article

For the purposes of interpretation of this Article, the following words and phrases shall mean:

(a) *After-hours Activity* – Any of the following which are open to patrons during the hours of 2:30 a.m. to 6:00 a.m. and where dancing occurs.

(1) Dance Hall; or

(2) Premises of a State On-sale Retailer Liquor Licensee

(b) *After-hours Establishment* – Any place where an After-hours Activity occurs or is provided. The term includes the building or pavilion or other place where the After-hours Activity takes place, together with all surrounding premises used for parking or for any other purpose relating to the After-hours Activity.

(c) *After-hours Establishment License or License* - Authorization issued by the City to any Person to operate an After-hours Establishment.

(d) *Applicant* – Any Person filing an Application with the City for an After-hours Activity License.

(e) *Application* - An application for an After-hours Establishment License. The Application shall contain the full name of the Applicant, the Applicant's residential and business addresses and telephone numbers, the name of the business for which the License is sought and any additional information the City deems necessary.

(f) *Control* – The power to direct or cause the direction of the management and policies of an Applicant, Licensee or Controlling Person, whether through the ownership of voting securities or a partnership interest, or by agreement or otherwise. Control is presumed to exist if a Person has the direct or indirect ownership of or power to vote ten percent (10%) or more of the outstanding voting securities of the Applicant, Licensee or Controlling Person or to control in any manner the election of one or more of the directors of the Applicant, Licensee or Controlling Person. For the purposes of determining the percentage of voting securities owned, controlled or held by a Person, the voting securities of any other Person directly or indirectly controlling, controlled by or under common control with the other Person, or by an officer, partner, employee or agent of the Person or by a spouse, parent or child of the Person shall be included. Control is also presumed to exist if a creditor of the Applicant, Licensee or Controlling Person holds a beneficial interest in fifty percent (50%) or more of the liabilities of the Licensee or Controlling Person.

(g) *Controlling Person* – A Person directly or indirectly possessing Control of an Applicant or Licensee.

(h) *Dance Hall* – Any establishment or location where social dancing occurs and a patron pays an admittance fee or minimum charge.

(i) *Licensee* – Any Person to whom the City has issued a License under this Article or any Person acting on behalf of such Person.

(j) *Licensing Office* - The Finance Department for the City of Maricopa or other department as designated by the City Manager.

(k) *Minor Traffic Violation* - A conviction or finding of responsibility not to include the following, which shall be considered serious traffic violations: excessive speeding involving a single offense for a speed of fifteen miles per hour or more above the posted speed limit; reckless driving as provided by A.R.S. §§28-693; aggressive driving as provided by Section A.R.S. §§28-695; racing as defined in A.R.S. §§28-708; improper or erratic traffic lane changes as provided by A.R.S. §§28-729; following the vehicle ahead too closely as provided by A.R.S. §§28-730; a violation that is connected with a fatal traffic accident; driving a motor vehicle if the person has not been issued a valid driver license; driving a motor vehicle without a driver license in the person’s possession; driving a motor vehicle without having a valid endorsement for the type of motor vehicle or motor vehicle combination being operated.

(l) *Owner* – The owner of record, as shown by the records in the office of the county assessor, of the premises where an After-hours Establishment is located. “Business owner” means any legal owner of an After-hours Establishment or After-hours Activity.

(m) *Person* – Any individual, partnership, limited partnership, firm, corporation, association, or any other group acting as a unit.

(n) *Police Department* – The Police Department for the City of Maricopa.

(o) *Premises of a State On-sale Retailer Liquor Licensee* – Any area from which a Person holding any state on-sale retailer liquor license or a special event liquor license is authorized to sell, dispense or serve spirituous liquor.

Sec. 8-11-3. Applicability; Provisions Cumulative

(a) The provisions of this Article shall apply to all After-hours Establishments and Persons as defined herein.

(b) The provisions of this Article shall be in addition to any other regulations, privilege or license taxes or permit requirements required by the City, the state or other applicable agency and cumulative to any other applicable regulations, procedures or penalties.

Sec. 8-11-4. License Application; Fee; Timeline

(a) Any Person desiring to obtain an After-hours Establishment License must apply to the Licensing Office. Each Application must be accompanied by all required Application fees.

(b) Upon approval, and prior to issuance of the After-hours Establishment License, the Applicant must pay all required license fees.

(c) An Application will be granted or denied within the schedule of administrative and substantive review timeframes, as established by the Licensing Office.

(d) Fees are not prorated, transferable or refundable unless otherwise provided by law.

Sec. 8-11-5. After-hours Establishment License Required

(a) It is unlawful for any Person to conduct or operate as an After-hours Establishment in the City without first obtaining and maintaining in effect a current, unrevoked and unsuspended After-hours Establishment License as required by this Article.

(b) It is unlawful for any Person licensed as provided in this Article to operate under any name or conduct business under any designation not specified in the License.

(c) It is unlawful for any Person licensed as provided in this Article to conduct business at any location not specified on such License.

(d) The License required by this Article is in addition to any other licenses or permits required by any governmental authority necessary to lawfully conduct business.

Sec. 8-11-6. After-hours Establishment License Application; Contents

(a) Each Application for an After-hours Establishment License shall include a description of the proposed business activity. Such description shall include, but not be limited to, the following information. Paragraphs (1) through (9) below are required to be completed about the Applicant, the business owner, the Licensee if not the Applicant or the Business Owner, the agent responsible for managing the premises on a day to day basis (hereinafter “managing agent”) and any Controlling Person as defined herein:

- (1) Full legal name and any name by which the Person is or has been known;
- (2) Current home address and telephone number and addresses over the past five (5) years;
- (3) Driver’s license number or other government-issued, federally recognized identification;
- (4) Birth date, height, weight, hair and eye color;
- (5) Business occupation and employment history for five (5) years;
- (6) License history, including issuance, revocation, suspension or termination of any current or past After-hours Establishment licenses;
- (7) The prospective Licensee shall submit to a fingerprinting process as directed by the Licensing Office for the purpose of obtaining a state or federal, or both, criminal records check pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. Fingerprints must be submitted on fingerprint cards provided by the Licensing Office or designee.
- (8) Listing of any prior felony or misdemeanor convictions except Minor Traffic Violations;
- (9) Documentation of age over eighteen (18) years;
- (10) Designation of the managing agent who will be managing or operating the After-hours Establishment at the indicated location and proof of the managing agent’s authorization to act on behalf of the prospective Licensee;

(11) Name, address and telephone number of any other local agent authorized to conduct daily business and proof of authority to act on behalf of the prospective Licensee;

(12) Name, address and telephone number of statutory agent in Arizona if a corporation or an out-of-state Applicant, Licensee or Owner;

(13) Except for corporations listed on the major stock exchanges, the names and addresses of all Persons financially interested in the business. If a Person financially interested in the business of the prospective Licensee is a corporation, the names and addresses of all Persons financially interested in that corporation shall be provided;

(14) The names and addresses of any Controlling Persons as defined herein. If the Controlling Person is a corporation, the names and addresses of all Persons having Control of the controlling corporation shall be provided;

(15) A plan of operation to ensure compliance with Section 8-11-19 and applicable provisions of this Article;

(16) Evidence of current, valid conditional use permit or any other applicable zoning approval for the proposed activity issued by the City;

(17) Legal description and location of the premises and lot where the proposed activity will take place, submitted on a map drawn to scale, at least eight and one-half by eleven inches, showing the dimensions of the property and the name and width of all internal and abutting streets, roads or alleys, any existing buildings, fences and easements, with distances to property lines;

(18) Floor plan containing an accurate drawing to scale depicting the interior plan and layout of the premises; and

(19) Such other information as may be requested by the Licensing Office to determine the truth of the information required to be set forth above.

(b) Any change in ownership of the business or in the information required to be provided in paragraphs (1), (10), (11), (12), (13) or (18) above shall be reported to the Licensing Office within ten (10) calendar days after the change. Such changes shall be subject to investigation and approval by the City as provided in Subsection (c) set forth below and, if disapproved, the disapproval shall be grounds for termination of the license as provided in Section 8-11-14 of this Code. The requirement for reporting changes as required herein is effective at all times during the City's consideration of the Application and at all times when a License issued hereunder is in effect. All information set forth in paragraphs (1) through (19) above must be updated at the time of the renewal of the License.

(c) Any change in the plan of operation in paragraph 15 above must be approved by the City prior to the change becoming effective. Failure to comply with an approved plan of operation shall constitute grounds for termination of the License as provided in Section 8-11-14.

(d) The Police Department shall conduct an investigation of the Application and background of the Applicant and proposed Licensee. Based on such investigation, the Police Department shall recommend to the Licensing Office the approval or denial of the License. In addition, the development services department and fire department, and any other affected department, may inspect any premises proposed as the site of the establishment and may make separate recommendations to the Licensing Office concerning compliance with the provisions of this Article and applicable codes.

Sec. 8-11-7. Location of After-hours Establishment

Refer to the City of Maricopa Zoning Code for location requirements. An After-hours Establishment License will not be issued for any location not permitted in the City of Maricopa Zoning Code.

Sec. 8-11-8. Payment of Fees and Taxes

An Application for an After-hours Establishment License will not be processed or renewed if the Applicant is delinquent in payment of any City taxes, fees, renewals or other City payments due in accordance with Section 8-1-3 of this Code.

Sec. 8-11-9. Fees

- (a) An Application for an After-hours Establishment License must be accompanied by all fees required by this Chapter or by any other applicable laws, rules or regulations.
- (b) In order for an Application to be administratively complete, all fees must have been submitted.
- (c) Submission of the annual renewal form must include the annual fee before it will be processed.
- (d) Fees are not prorated, transferable or refundable unless otherwise provided by law.

Sec. 8-11-10. Term of License

The After-hours Establishment License, issued pursuant to the provisions of this Article, shall be valid only during the calendar year in which it is issued. Any License may be renewed by filing a renewal Application for approval and paying the renewal fee before the first day of the year in which the Applicant wishes to be licensed.

Sec. 8-11-11. Public Hearing on After-hours Establishment License; Notice

Refer to the City of Maricopa Zoning Code for requirements.

Sec. 8-11-12. Inspection of Premises, Property and Records

To ensure compliance with this Article and other applicable laws, the business premises of any Person required to be licensed under this Article, including any property on the premises related to the After-hours Establishment, must be open to inspection by representatives of the City upon request at any time during the Licensee's regular business hours, or reasonable hours as agreed upon by the Licensee and the City.

Sec. 8-11-13. Grounds for Denial

The following include, but are not limited to, grounds for denial of an Application for an After-hours Establishment License:

- (a) The Applicant, or proposed conduct of the After-hours Establishment, fails to meet the requirements of this Article or any other applicable provision of this Code or law;
- (b) The Applicant does not have an acceptable plan for compliance with Section 8-11-19 of this Article on requirements for operation;
- (c) The Applicant is a corporation which is not qualified to transact business in the state;
- (d) Misrepresentations or material misstatements are made in the Application;
- (e) Harm to the public health, safety or welfare of the community, or clear or present danger of serious damage or danger to the public, would result from granting the License; or
- (f) A Business Owner, or a managing agent, an applicant, other managing employee or a Controlling Person in the business to be licensed has been convicted of:
 - (1) A felony; or
 - (2) A misdemeanor which relates to the activity to be licensed, or has, within two (2) years preceding the date of the issuance of a License, violated any of the provisions of this Article or the Maricopa City Code while conducting an After-hours Establishment.

Sec. 8-11-14. Grounds for Revocation, Suspension, or Non-Renewal of License

- (a) In addition to the automatic termination of a License as provided in this Article, the License may be revoked, suspended or denied renewal for any one or more of the following grounds:
 - (1) The Licensee has violated the requirements of this Article or any other applicable provision of this Code or law;
 - (2) The Licensee is guilty of fraud in conducting the business or was deceitful in obtaining a License to conduct the business;
 - (3) The Licensee has been convicted in a court of competent jurisdiction of a felony or of any misdemeanor which relates to the licensed activity;
 - (4) The Licensee is grossly ignorant or willfully negligent in the business of the After-hours Establishment;
 - (5) The Licensee fails to comply with the terms of the plan of operation as approved by the City;
 - (6) There occurs on the premises repeated acts of violence or disorderly conduct;
 - (7) The Licensee or any employee or managing agent thereof fails or refuses to make the premises or records available for inspections and examination as provided in this Article;
 - (8) The Licensee knowingly files an Application or other document with material information which is false or misleading or knowingly gives testimony in an investigation or other proceeding which is false or misleading;
 - (9) The Licensee is delinquent for more than thirty (30) days in the payment of any applicable taxes or fees payable to the City following formal notice of delinquency;

(10) The Licensee fails to take reasonable steps to protect the safety of a customer of the Licensee entering, leaving or remaining on the licensed premises when the Licensee knew or should have known of the danger to such person, or the Licensee fails to take reasonable steps to intervene by notifying law enforcement officials or otherwise to prevent or break up an act of violence or an altercation occurring on the licensed premises or immediately adjacent to the premises when the Licensee knew or reasonably should have known of such acts of violation or altercations;

(11) The Licensee, his managing agent, a Controlling Person or other managing employee knowingly associates with a Person who has engaged in racketeering, as defined in A.R.S. § 13-2301, or has been convicted of a felony and the association is of such a nature to create a reasonable risk that the licensee will fail to conform to the requirements of this Article or any criminal statute of this state; or

(12) Any completion of non-permitted improvements to the premises of the After-hours Establishment occurs without appropriate approvals from the City.

(b) Upon discovery of a violation, the provisions of Section 8-1-10 of this Chapter shall go into effect.

Sec. 8-11-15. Appeals

Any Person aggrieved by the denial of an Application for License or by the restrictions placed upon the License or by the suspension or revocation of such License, and who is not satisfied with the decision of the City Manager or designee, shall have the right to an appeal before the City Council in accordance with Section 8-1-11 of this Chapter.

Sec. 8-11-16. Application after Denial or Termination

No Person may apply for an After-hours Establishment License within one (1) year from:

(a) The denial of any such License to the Applicant; or

(b) The suspension, revocation, termination or non-renewal of such License unless the cause of the denial, suspension, termination, revocation or nonrenewal has been, to the satisfaction of the Licensing Office, removed in such time.

Sec. 8-11-17. Display of License

A Licensee shall display such License in a conspicuous place in the After-hours Establishment.

Sec. 8-11-18. Transferability; Automatic Termination of License

(a) Licenses issued hereunder are not transferable.

(b) The following shall result in automatic termination of an After-hours Establishment License:

(1) Any change in location of a licensed After-hours Establishment;

(2) Upon the sale or transfer of more than fifty percent (50%) of the stock or ownership of the After-hours Establishment; or

(3) Upon the revocation or termination of any use permit or other zoning approval issued by the City relating to the After-hours Establishment.

(c) A new Application may be made by the Person whose License is terminated as provided in this Section, or by another Person desiring to own or operate an After-hours Establishment.

Sec. 8-11-19. Requirements for Operation of Establishment; Plan of Operation Required

(a) An After-hours Establishment shall comply with this Article and all applicable City and state laws and ordinances, including but not limited to fire and building and zoning codes. In addition, the following requirements apply:

(1) The hours during which the After-hours Establishment may be open for conduct of After-hours Activity shall be as specified in the After-hours Establishment License issued by the City;

(2) Persons under eighteen (18) years of age are prohibited in an After-hours Establishment;

(3) Written proof of identification shall be required for admission to an After-hours Establishment to ensure compliance with paragraph (2) of this section. The following written instruments are the only acceptable types of identification:

(i) An unexpired driver's license issued by any state, provided such license includes a picture of the licensee;

(ii) An identification license issued pursuant to state law;

(iii) An armed forces identification card; or

(iv) A valid unexpired passport issued by a government which contains a photograph of the person and the date of birth.

(4) No Person shall be admitted to, nor shall any Person be allowed to remain on, the licensed premises who is or appears to be under the influence of spirituous liquor or drugs or who is disturbing the peace;

(5) No spirituous liquor may be furnished, sold, served or consumed at an After-hours Establishment between 2:30 a.m. and 6:00 a.m. If the after-hours licensee holds a liquor license from the state, spirituous liquor service and consumption must terminate upon the hours as required by state law;

(6) Admittance and any admittance lines for entry to the establishment shall be closed at 3:00 a.m. or at such other time prescribed in the License issued by the City;

(7) Any parking used by patrons of the Licensee, and any parking area of the Licensee or within three hundred (300) feet of the licensed premises shall be supervised by the Licensee to ensure that the parking areas are used by persons entering and exiting from their vehicles and are not used as a gathering place; and

(8) Applicant must have a current security plan pursuant to Section 8-11-20 of this Code.

(b) A plan which demonstrates how the Licensee will ensure compliance with these regulations shall accompany the Application and is subject to approval by the Police Department. Any change in the plan of operation once approved must be submitted to the

City for approval prior to the change becoming effective as provided in Section 8-11-6. A copy of the plan of operation shall be available at the After-hours Establishment for inspection by the City during business hours and at other reasonable times. The plan shall include such information as required by the Licensing Office, including identification of employees, agents or private contractors who are responsible for security and ensuring compliance with the terms of this Article

Sec. 8-11-20. Security Plan Required

The Applicant shall furnish to the Licensing Office, for review and approval by the Police Department, a security plan containing the following information:

- (a) Plan of operation, program plan and hours;
- (b) Site/building information;
- (c) Safety conditions;
- (d) Patron parking, ingress and egress, vehicular and pedestrian traffic control;
- (e) Staffing and operations;
- (f) Conditions of plan;
- (g) On-site contact person/manager;
- (h) Any and all responsible parties for business operations;
- (i) Floor plan and evacuation routes; and
- (j) Any other reasonable information the police department deems necessary for review and approval of the security plan.

Sec. 8-11-21. Unlawful Activities

It is unlawful for any Person or Licensee at an After-hours Establishment to:

- (a) Operate without any required City or state permit or in violation of any applicable City or state law or ordinance;
- (b) Admit persons under eighteen (18) years of age;
- (c) Serve spirituous liquor or permit the consumption thereof at an After-hours Establishment when prohibited in this Article or state law;
- (d) Employ any person who is under eighteen (18) years of age to work during the hours between 2:30 a.m. and 6:00 a.m.;
- (e) Allow an intoxicated or disorderly person to come into or remain on the licensed premises, except that an intoxicated person may remain on the premises for no longer than thirty (30) minutes to arrange for transportation;
- (f) Solicit or encourage, or allow an employee to solicit or encourage, to buy a patron anything of value, directly or indirectly, or for a patron to solicit or encourage to buy an employee anything of value, directly or indirectly;
- (g) Knowingly permit unlawful possession, use, or sale of narcotics, dangerous drugs or marijuana;
- (h) Knowingly permit prostitution or solicitation of prostitution;

- (i) Knowingly permit unlawful gambling on the premises;
- (j) Knowingly permit trafficking in stolen property;
- (k) Fail or refuse to make the premises or records, or the plan required in Section 8-11-19 available for inspection as provided in this Article; or
- (l) Employ or permit a person to be employed on a salary, contractor commission basis for the purpose of dancing with patrons, except that this shall not apply to bona fide instructors of dancing regularly employed for the exclusive purpose of giving bona fide instructions for dancing.

Sec. 8-11-22. Penalty

- (a) A violation of this Article is an offense, punishable as provided in Article 1-8 of this Code. Each day on which a violation continues shall be a separate offense.
- (b) In addition to the penalties provided for in this Section, a violation of this Article is grounds for revocation of a business License as provided in Section 8-11-14.