

ORDINANCE NO. _____

INTRODUCED BY: Edwards

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AMENDING CERTAIN SECTIONS OF TITLE 3 AND TITLE 5 OF THE BRIGHTON MUNICIPAL CODE PERTAINING TO LICENSES, REPORTING PERIODS, AND INFREQUENT SALES AT RESIDENCES

WHEREAS, the City Council has been advised by the Acting City Manager that certain terms and requirements for obtaining a business license should be amended to simplify the process for business owners; and

WHEREAS, the Acting City Manager has recommended and the City Council agrees that certain sections require clarification.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AS FOLLOWS:

The following amendments shall be effective January 1, 2020.

Section 1. Section 3-28-20 (2) (ac) of the Brighton Municipal Code is hereby amended to read as follows:

(29) *License* means a City ~~sales tax~~ **business** license.

Section 2. Section 3-28-85 (c) (3) is hereby amended to read as follows:

(3) Licenses for vendors. It shall be unlawful for any person to engage in ~~the business of selling at retail or purchasing at retail, as such are defined in this Article, tangible personal property and services subject to the tax imposed by business in the City as defined in this Article, without first having obtained a license therefor, which license shall be granted and issued by the Finance Director. City Clerk, and shall be in force and effect until December 31 of the year in which it was issued, unless sooner revoked~~

Section 3. Section 3-28-85 (n) (2) is hereby amended to read as follows:

(2) Reporting periods. ~~If the accounting methods regularly employed by the vendor or licensed consumer in the transaction of business or other conditions are such that the returns made on a calendar month basis will impose unnecessary hardship, the Finance Director may, upon request of the vendor or licensed consumer, accept returns at such intervals as will, in the Finance Director's opinion, better suit the convenience of the taxpayer and will not jeopardize the collection of the tax. The Finance Director may, by rule, permit a vendor or licensed consumer whose monthly tax collected is less than forty dollars (\$40.00) to make returns and pay taxes on a calendar year monthly, quarterly or annual basis.~~

Section 4. Section 3-28-90 (a) of the Brighton Municipal Code is hereby amended to read as follows:

- (a) Finance Department; ~~City Clerk;~~ **Finance Director;** City Manager. Under this Article, responsibilities of the Finance Department, ~~City Clerk,~~ **Finance Director** and City Manager are as follows:
- (1) The Finance Department is given responsibility for administration and implementation of this Article under the direction of the City Manager.
 - (2) The ~~City Clerk~~ **Finance Director** is given responsibility for administration and implementation of the business licensing function of this Article.

(3) The City Manager shall adopt rules and regulations for the administration of this Code.

Section 5. Section 3-28-90 (e) of the Brighton Municipal Code is hereby amended to read as follows:

- (e) Employees' restrictions. It shall be unlawful for any officer or employee of the City engaged in any administration which is governed by this Article to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person holding a City ~~sales tax~~**business** license for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the City, by the State, by any other state or by the United States government or to accept any employment for the purpose of advising, preparing materials or data or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by any city of the State, by the State, any other state or its political subdivisions or by the United States government.

Section 6. Section 3-28-110 (j) of the Brighton Municipal Code is hereby amended to read as follows:

- (j) License revocation. A hearing on the revocation of a City ~~sales tax~~**business** license shall be held upon reasonable notice to the taxpayer by the Finance Director. The hearing shall be before the Finance Director. The final determination made by the Finance Director pursuant to the hearing shall be appealable as prescribed in this Section.

Section 7. Section 3-28-125 (a) and (b) of the Brighton Municipal Code are hereby amended to read as follows:

- (a) Any taxpayer licensed in this City pursuant to Section 3-28-140 hereof and holding a similar ~~sales tax~~**business** license in at least four (4) other Colorado municipalities that administer their own sales tax collection may request a coordinated audit as provided in this Section.
- (b) Within fourteen (14) days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the Finance Director, by certified mail, return receipt requested, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued such notice. Such request shall include a list of those municipalities utilizing local collection of their sales tax in which the taxpayer holds a current ~~sales tax~~**business** license and a declaration that the taxpayer will sign a waiver of any passage-of-time-based limitation upon this City's right to recover tax owed by the vendor for the audit period.

Section 8. Section 3-28-140 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 3-28-140. ~~Sales tax~~**Business** license required; term. ~~It shall be unlawful for any person to engage in the business of selling tangible personal property at retail without first having obtained a license therefor. Such license~~**A business license** shall be granted and issued by the ~~City Clerk~~**Finance Director** or designee and shall be in force and effect until the thirty-first day of December ~~of the year in which it is issued~~**of odd numbered years**, unless sooner revoked.

Section 9. Section 3-28-150 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 3-28-150. ~~Sales tax~~**Business** license required for separate place of business. In case business is transacted at more than one (1) premise, a separate license for each separate place of business shall be required.

Section 10. Section 3-28-160 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 3-28-160. Contents of application. Such licenses shall be granted and renewed only upon application stating the name and address of the person desiring such a license, the name of such business, the location and such other facts as the ~~City Clerk~~**Finance Director** may require.

Section 11. Section 3-28-170 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 3-28-170. Renewal of license; licensee's duties. It shall be the duty of each licensee, on or before January 1 of each **even numbered** year during which this Article remains in effect, to obtain a renewal of such license if the licensee remains **engaged** in ~~the retail business or is liable to account for the tax provided in this Article in the City~~ however, nothing contained in this Article shall be construed to empower the ~~City Clerk~~**Finance Director** to refuse such renewal, except revocation for cause of the licensee's prior license.

Section 12. Section 3-28-180 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 3-28-180. License fee. For each license issued under this Article, a fee in an amount as set by resolution of the City Council shall accompany the application. ~~An additional fee shall be paid for each year or fraction thereof for which the license is renewed.~~

Section 13. Section 3-28-190 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 3-28-190. License contents; posting; nontransferability. Each license shall be numbered and shall show the name, ~~residence, and~~ place ~~and character~~ of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable.

Section 14. Section 3-28-200 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 3-28-200. Exception to License. No license shall be required for ~~any person engaged exclusively in the business of selling commodities which are exempt from taxation under this Article.~~ **infrequent sales of tangible personal property at the residence of the owner of the property to be sold if the property was originally purchased for use by members of the household where the sale is conducted and no person other than such household members conducts all or any portion of the sales.**

Section 15. Section 3-28-210 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 3-28-210. Unlicensed sales prohibited. Any person engaged in ~~the business of selling tangible personal property at retail~~ in the City, without having secured a license therefor, except as specifically provided herein, shall be guilty of a violation of this Article.

Section 16. Section 3-40-70 (c) of the Brighton Municipal Code is hereby amended to read as follows:

(c) ~~If the accounting methods regularly employed by the lodging provider or vendor in the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar month basis will impose an unnecessary hardship, the Finance Director may, upon request of the lodging provider or vendor, accept returns at such intervals as will, in the opinion of the Finance Director, better suit the convenience of the lodging provider or vendor and will not jeopardize collection of the tax; provided, however, that the~~**The Finance Director may, by rule, permit a lodging provider or vendor whose monthly tax collected is less than sixty dollars (\$60.00) to make returns and pay taxes at intervals not greater than three (3) months on a monthly, quarterly or annual basis.**

Section 17. Section 3-40-210 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 3-40-210. License required; exemption.

- (a) It shall be unlawful for any person to engage in the business of furnishing lodging without having first obtained a license therefor, which license shall be issued as part of the ~~sales tax~~ **business** license and in accordance with all applicable provisions of Article 3-28 of this Chapter.
- ~~(b) No license shall be required of any person engaged exclusively in the business of furnishing lodging, rooms or accommodations that are exempt from taxation under this Article.~~

Section 18. Section 3-40-220 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 3-40-220. Application. Each license issued pursuant to this Article shall be issued only upon application for a ~~sales tax~~ **business** license pursuant to Article 3-28 of this Chapter, which shall include the name and address of the person desiring such license, the street number of the business and such other facts as may be reasonably required by the ~~City Clerk~~ **Finance Director**.

Section 19. Section 3-40-230 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 3-40-230. Fee. No separate fee for each license issued under this Article shall be required, as the same shall be included in the fee for a ~~sales tax~~ **business** license as required in Section 3-28-18 of this Chapter.

Section 20. Section 3-40-240 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 3-40-240. Term. Each license issued shall be in force until **the thirty-first of December 31 of odd numbered years, unless sooner** revoked or until the licensee is no longer engaged in business ~~of furnishing lodging or liable to account for the tax herein~~ **in the City**, consistent with the provisions of Article 3-28 of this Chapter.

Section 21. Article 5-4 of the Brighton Municipal Code is hereby amended to read as follows:

CHAPTER 5 – Licenses, Regulations and Occupations

ARTICLE 5-4 – ~~Business~~ Licenses

Section 22. Section 5-4-10 is hereby amended to read as follows:

Sec. 5-4-10. Application fee.

- (a) All applications for ~~business~~ licenses governed by this Article, excluding contractor licenses, and provided for in Article 15-16 and licenses provided for in Articles 5-12 through 5-68 shall be made to the City Clerk in written form and shall be accompanied by the requisite license fee provided for said ~~business~~ licenses in this ~~Code~~ **Article**. Except as provided in this Article, the initial application shall also be accompanied by an application fee in an amount as set by resolution of the City Council, which shall remain in effect until such resolution is amended by action of the City Council. Contractor licenses shall be applied for and issued by the Building Department. Payment for contractor licenses shall be made to the Building Department ~~Permit Technician~~.
- (b) It is expressly provided that this Section shall not apply to the application fee relative to applications for the sale of alcohol beverages and fermented malt beverages which are governed by the provisions of Article 3-24, nor to the application fees for those ~~business~~ licenses of the construction industry which are governed by Article 15-16.

Section 23. Section 5-4-20 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 5-4-20. City Clerk to keep records. The City Clerk shall maintain a file of all applications for licenses **under this Article** other than contractor licenses according to the type of license applied for in accordance with the law of keeping of public records.

Section 24. Section 35-4-30 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 5-4-30. Fee payment and compliance required. No ~~business~~ license shall be issued unless the requisite license fee and the initial application fee are paid in advance to the City Clerk. Furthermore, the City Clerk shall not issue any license pursuant to this Chapter whenever the public health, safety and welfare of the citizens of the City shall require that the license shall not be issued.

Section 25. Section 5-4-40 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 5-4-40. Fees refunded on application denial. In the event an application for a ~~business~~-license pursuant to the provisions of this Article is denied, the license fee shall be returned forthwith to the proposed licensee; provided, however, this Section shall not apply to the initial application fee.

Section 26. Section 5-4-50 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 5-4-50. License requirements. Every ~~business~~-license issued pursuant to the this Article and Articles 5-8 through 5-68 shall be signed by the City Clerk and shall have the seal of the City affixed thereto. It shall be dated as of the date of issuance and shall set forth the purpose of the license and the length of time for which the license is valid.

Section 27. Section 5-4-60 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 5-4-60. Term, suspension or revocation. No ~~business~~-license shall be granted pursuant to this Article for a period of longer than one (1) year and the City Council shall have the right to suspend or revoke any ~~business~~-license issued to any person pursuant to this Article whenever the holder thereof violates any ordinance or statute or whenever in the judgment of the City Council the public health, safety and welfare shall require that the same shall be suspended or revoked.

Section 28. Section 5-4-80 of the Brighton Municipal Code is hereby amended to read as follows:

Sec. 5-4-80. Nonassignability. No ~~business~~-license issued pursuant to this Article shall be assignable nor shall any ~~business~~-license authorize any person to do business or to act pursuant to such license other than the person to whom such license is issued.

Section 29. Article 5-12 of the Brighton Municipal Code is repealed in its entirety.

~~ARTICLE 5-12—Amusement Devices~~

~~Sec. 5-12-10. — Definitions.~~

~~The following words and phrases as used in this Article unless the context otherwise indicates, shall be construed as defined in this Section:~~

~~*Jukebox* means any music vending machine, contrivance or device which, upon the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening, or by the payment of any price, operates or may be operated for the emission of songs, music or similar amusement.~~

~~*Mechanical amusement device* means any machine which, upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, skill ball, mechanical grab machines and all games, operations or transactions similar thereto under whatever name they may be indicated.~~

~~*Person*, as used in this Article, includes the following: any person, firm, corporation or association which owns any such machine; provided, however, that the payment of such fee by any person, firm, corporation or association enumerated in this Article shall be deemed a compliance with this Article.~~

~~Sec. 5-12-20. — License required; application and fee.~~

~~Any person displaying for public patronage or keeping for operation any jukebox or mechanical amusement device, as defined by Section 5-12-10, shall be required to obtain a license from the City, upon payment of a license fee. Application for such license shall be made to the City Clerk upon a form to be supplied by the City Clerk for that purpose.~~

~~Sec. 5-12-30. — Age requirement.~~

~~No license shall be issued pursuant to the provisions of this Article to any applicant unless he or she has attained the age of twenty one (21) years.~~

~~Sec. 5-12-40. — Contents of application.~~

~~The application for such license shall contain the following information:~~

- ~~(1) — The applicant's name, address, age, date and place of birth;~~
- ~~(2) — Prior convictions of the applicant, if any;~~
- ~~(3) — Place where the machine or device is to be displayed or operated and the business conducted at that place;~~
- ~~(4) — Description of the machine to be covered by the license, specifically including the mechanical features of the machine.~~

~~Sec. 5-12-50. — Investigation; approval.~~

- ~~(a) — The application for the license shall be made out in duplicate, one (1) copy being referred to the Chief of Police and the other copy to the Electrical Inspector.~~
- ~~(b) — The Chief of Police shall investigate the location wherein it is proposed to operate such machine, ascertain if the applicant is a person of good moral character and either approve or disapprove the application.~~

- ~~(c) — The Electrical Inspector shall inspect all wiring and connections to the machine, determine if the same complies with the electrical code of the City, and shall either approve or disapprove the application.~~
- ~~(d) — No license shall be issued to any applicant unless approved by the Chief of Police and the Electrical Inspector.~~

~~Sec. 5-12-55. — Action upon application.~~

- ~~(a) — Except as hereinafter provided, the City Clerk shall place all applications for new licenses provided for in this Article before the City Council for consideration at a duly convened Council meeting, and the City Council shall act upon such application within thirty (30) days after such application is filed with the City Clerk.~~
- ~~(b) — Those applications for new licenses pursuant to this Article for premises for the conduct or operation of no more than two (2) machines, including jukeboxes and/or mechanical amusement devices as defined in Section 5-12-10, shall be acted upon by the City Clerk within thirty (30) days after such application is filed with the City Clerk.~~
- ~~(c) — Upon receipt of an application for renewal of any license issued pursuant to this Article, the City Clerk shall make inquiry as to whether the applicant for renewal of the license has violated any of the provisions of this Article or has allowed the licensed premises to become a public nuisance or in any manner injurious to the public health, safety or welfare. If the City Clerk determines that no reasonable basis exists for denial of the application for renewal of the license, the City Clerk shall renew the license. In the event that the City Clerk determines that reasonable grounds exist for denial of the application for renewal of the license, the application shall be placed before the City Council for consideration at a duly convened Council meeting upon notice to the applicant and public hearing to be held within thirty (30) days after such application is filed with the City Clerk.~~
- ~~(d) — In rendering a decision on any application pursuant to this Article, the City Council or the City Clerk, as applicable, shall consider the following:
 - ~~(1) — The character of the applicant;~~
 - ~~(2) — The proposed method of operation of the contemplated business, including but not limited to the number of persons to be employed, the hours of operation, the character of the persons to be employed, the abilities of the persons to be employed and the size of the proposed business operation;~~
 - ~~(3) — The location of the proposed business;~~
 - ~~(4) — The desires of the inhabitants and the operators of the other businesses in the general area of the proposed business;~~
 - ~~(5) — The zoning on the subject premises;~~
 - ~~(6) — The means of ingress and egress to the proposed business, as well as the public improvements, including sidewalks, drainage and public right-of-way servicing the subject premises;~~
 - ~~(7) — Any other factors which are relative to the effect on the health, safety and general welfare of the citizens of the City.~~~~
- ~~(e) — If the applicant for a license pursuant to this Article is denied by the City Council or the City Clerk, as the case may be, the fee paid with the application shall be refunded to the applicant.~~

~~Sec. 5-12-60. — License fee required.~~

~~Each applicant for a license pursuant to this Article shall, before being granted a license, pay an annual license fee for the privilege of operating or maintaining for operation each jukebox or mechanical amusement device as defined in this Article, and a fee per each machine on the premises for any portion of the period for which the license is issued pursuant to this Article. Such fee shall be set by resolution of the City Council, which shall remain in effect until such resolution is amended by action of the City Council.~~

~~Sec. 5-12-70.—Expiration of license.~~

~~Each license issued pursuant to the provisions of this Article shall expire at 12:00 midnight on December 31 of the year for which the license is issued.~~

~~Sec. 5-12-80.—Display of license required.~~

~~The license provided for in this Article shall be posted permanently and conspicuously at the location of the machine, in the premises wherein the device is to be operated or maintained to be operated.~~

~~Sec. 5-12-90.—Hours of jukebox operation.~~

~~No person holding a license under this Article shall permit the playing of jukeboxes, as defined in Section 5-12-10, between the hours of 2:00 a.m. and 6:00 a.m. of any day.~~

~~Sec. 5-12-100.—Gambling devices prohibited.~~

~~Nothing in this Article shall in any way be construed to authorize, license or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device or in any way contrary to law, or that may be contrary to any future laws of the State.~~

~~Sec. 5-12-110.—Seizure and destruction of amusement devices.~~

~~If the Chief of Police has reason to believe any mechanical amusement device is used as a gambling device, such machine may be seized by the police and impounded, and if upon trial of the exhibitor for allowing it to be used as a gambling device the exhibitor be found guilty, such machine shall be destroyed by the police.~~

~~Sec. 5-12-120.—Suspension or revocation of license.~~

~~Each license issued pursuant to this Article shall be subject to revocation or suspension by the City Council after notice and hearing, if such licensee is found to conduct his or her business in a manner which violates any ordinance of the City or the laws of the State, or in a manner which constitutes a breach of the peace or is a menace to the health, safety or general welfare of the public.~~

~~Sec. 5-12-130.—Exemptions.~~

~~No charitable, religious, patriotic, philanthropic or nonprofit corporation shall be required to comply with the provisions of this Article.~~

Section 30. Article 5-16 of the Brighton Municipal Code is repealed in its entirety.

ARTICLE 5-16—Auctioneers

~~Sec. 5-16-10.—License required.~~

No person shall sell any property at public auction within the City without first having obtained a license therefor pursuant to the provisions of this Article.

~~Sec. 5-16-20. License fees.~~

~~(a) In order to sell at public auction in the City, any person maintaining an auction room or place of regular business for auction within the City shall pay to the City Clerk, at the time application is made for the license, a fee in an amount to be set by resolution of the City Council.~~

~~(b) In order for any person, other than a person maintaining an auction room or place of regular business for auction within the City, to sell at public auction in the City, such person shall pay to the City Clerk, at the time application is made for the license, a fee in an amount to be set by resolution of the City Council.~~

~~Sec. 5-16-30. Expiration of license.~~

~~Each license issued pursuant to this Article shall expire at 12:00 midnight on December 31 of the year for which the license is issued, notwithstanding any provision to the contrary contained in this Article.~~

~~Sec. 5-16-40. Exceptions to applicability.~~

~~No provision of this Article shall be considered as applicable to sales made at public auction under or by virtue of any legal proceeding, or process through or from a court of law; to sales under any mortgage or deed of trust; to any tax sales; or to sales under any ordinance of the City by any municipal officer.~~

Section 31. Article 5-48 of the Brighton Municipal Code is repealed in its entirety.

ARTICLE 5-48 Peddlers, Canvassers and Solicitors

~~Sec. 5-48-10. Definitions.~~

As used in this Article:

- ~~(1) Excluding *outdoor vendors*, as defined in Section 5-98-10, *canvasser* or *solicitor* means an individual, whether a resident of the City or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property, or any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has carried or exposed for sale a sample of the subject of such sale or whether he or she is collecting advanced payments on such sales or not; provided that such definition includes any person who, for himself or herself, or for another person, hires, leases, uses, or occupies any building, structure, tent, railroad boxcar, hotel room, lodge house, apartment, shop, or any other place within the City of the sole purpose of exhibiting any samples and taking orders for future delivery.~~
- ~~(2) Excluding *mobile vendor*, *mobile vending* and *mobile vending unit* as defined in Section 5-98-10, *peddler* means and includes any person, whether a resident of the City or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares and merchandise, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who, without traveling from place to place, sells or offers the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance; and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of~~

scheme or design to evade the provisions of this Article shall be deemed a peddler subject to the provisions of this Article. *Peddler* includes the words *hawker* and *huckster*.

- (3) ~~Person~~ means and includes the singular and the plural and also means and includes any person, firm or corporation, association, club, copartnership or society, or any other organization.
- (4) ~~Transient merchant, itinerant merchant or itinerant vendor~~ means any person, whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the City, and who, in furtherance of such purpose, hires, leases, uses or occupies any public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. However, such definition shall not be constructed to include any person occupying such temporary location who does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this Article 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, trader, merchant or auctioneer.

~~Sec. 5-48-20. License required.~~

~~It is unlawful for any person to engage in the business of a peddler, solicitor, canvasser or itinerant vendor, as defined in Section 5-48-10, within the corporate limits of the City, without first obtaining a license therefor as provided in this Article.~~

~~Sec. 5-48-30. License application; bond; nontransferability.~~

~~Every individual who is a peddler, canvasser, solicitor, transient merchant, itinerant merchant or itinerant vendor as defined in Section 5-48-10 shall be required to make an individual application, give a bond and secure a license, which license shall be issued in the individual's name. No license shall be transferable or used by any other person. Any license issued to a firm, association or corporation shall include the name of the authorized representative of the firm, association or corporation, which individual name of the representative shall appear on the application, bond, badge and license. No representative of the same firm, association or corporation shall use the same license; provided that an individual license may authorize the same individual to be a peddler, canvasser, solicitor, transient merchant, itinerant merchant or itinerant vendor, and such multipurpose license shall be for the same fee as if the license was issued for only one (1) purpose.~~

~~Sec. 5-48-40. Bond required; conditions and approval.~~

~~Before any license, as provided by this Article, is issued to an applicant, such applicant shall file with the City Clerk a bond running to the City in the sum of one thousand dollars (\$1,000.00), executed by the applicant as principal and at least one (1) surety upon which service of process may be made in the State; such bond to be conditioned that the applicant shall comply fully with all the provisions of the City ordinances and of the state statutes regulating and concerning the applicant's business, and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes, or any of them together with all judgments and costs that may be recovered against him or her by any person for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant, whether the misrepresentations or deceptions were made or practiced by the owners or by their servants, agents or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. 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 Clerk, both as to form and as to the responsibility of the surety thereon.~~

~~Sec. 5 48 50.— Application contents.~~

~~An applicant for a license under this Article must file with the City Clerk an application in writing on a form to be furnished by the City Clerk, giving the following information:~~

- ~~(1) — Name and description of the applicant;~~
- ~~(2) — Address, including an address where the applicant may be reached in the area of the City;~~
- ~~(3) — A brief description of the nature of the business and the goods to be sold, solicited or delivered;~~
- ~~(4) — The length of time for which the right to do business is desired;~~
- ~~(5) — If a vehicle is to be used, a description of the same, including a license number;~~
- ~~(6) — A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance and if so, the nature of the offense, and the punishment or penalty assessed therefor;~~
- ~~(7) — A brief description of the nature and character of the advertising to be used for the business;~~
- ~~(8) — Credentials from the employer of the applicant, including an authorization from the employer permitting the applicant to act as a representative in the City; and~~
- ~~(9) — Such other information as the City Clerk shall deem necessary for the public health, safety and welfare.~~

~~Sec. 5 48 60.— License application; investigation.~~

- ~~(a) — Upon receipt of such application by the City Clerk, the City Clerk shall cause an investigation of the applicant's business and character to be made to the extent being necessary for the protection of the public health, safety and welfare.~~
- ~~(b) — If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the City Clerk shall endorse on such application his or her disapproval and his or her reasons therefor, and shall notify the applicant that the application has been disapproved and that no license will be issued for the reasons stated.~~
- ~~(c) — If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the City Clerk shall endorse his or her approval on the application.~~
- ~~(d) — Upon posting the bond as required by this Article, and payment of the required license fee by the applicant, the City Clerk shall issue the license applied for.~~

~~Sec. 5 48 70.— Fee schedule; exception.~~

~~License fees pursuant to this Article shall be set by resolution of the City Council and shall remain in effect until such resolution is amended by action of the City Council. No fee shall be required of a person selling products of the farm or orchard actually produced by the seller.~~

~~Sec. 5 48 80.— Expiration of license.~~

~~Each annual license issued pursuant to the provisions of this Article shall expire at 12:00 midnight on December 31 of the year for which the license is issued. Other licenses issued pursuant to this Article shall expire on the date specified in the license.~~

~~Sec. 5 48 90.— Suspension or revocation conditions.~~

~~Licenses issued pursuant to the provisions of this Article may be revoked or suspended by the City Council after notice and hearing for any of the following causes:~~

- ~~(1) — Fraud, misrepresentation or false statement contained in the application for license;~~
- ~~(2) — Fraud, misrepresentation or false statement made in the course of carrying on the business for which the license is issued;~~
- ~~(3) — Any violation of a City ordinance or state statute;~~
- ~~(4) — Conduct of the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.~~

~~Sec. 5-48-100. — Exhibition of license required.~~

~~Each licensee hereunder shall exhibit his or her license at the time of initial introduction to persons in the City for the purpose of consummating any transaction included in this Article.~~

~~Sec. 5-48-110. — Exemptions to Article applicability.~~

- ~~(a) — This Article does not apply to persons selling personal property at wholesale to retailers in the City, nor to merchants or their employees with established premises for the conduct of sales to the public who deliver goods in the regular course of business in the City, nor shall it apply to the following professions or businesses in the City: newsboys, state licensed real estate agents, state licensed insurance agents, public utilities and their employees franchised to do business within the City, and motor vehicle salesmen.~~
- ~~(b) — Any person desiring to solicit or have solicited in his or her name money, property or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons in the City for charitable, religious, patriotic or philanthropic purposes, shall be exempt from the requirements of Sections 5-48-40, 5-48-50 and 5-48-70 of this Article, provided that there is filed with the City Clerk an application giving the following information:
 - ~~(1) — Name and purpose of the cause;~~
 - ~~(2) — Names and addresses of the officers and directors of the organizations;~~
 - ~~(3) — Period during which solicitation is to be carried on; and~~
 - ~~(4) — Whether or not any commissions, fees or wages are to be expended in connection with such solicitation and the amount thereof.~~~~
- ~~(c) — In all other respects, the requirements of this Article shall apply to such applicants.~~

~~Sec. 5-48-120. — Chief of Police to report violations.~~

~~The Chief of Police shall report to the City Clerk all violations and suspected violations of this Article.~~

~~Section 32. Article 5-52 of the Brighton Municipal Code is repealed in its entirety.~~

~~ARTICLE 5-52 — Poolrooms, Billiard Halls and Bowling Alleys~~

~~Sec. 5-52-10. — License required.~~

~~No person shall operate or maintain for profit, or permit the operation or maintenance for profit, within the City, any billiard hall, poolroom or bowling alley, without having received a license therefor from the City pursuant to the provisions of this Article.~~

~~Sec. 5-52-20. — Fee schedule.~~

- (a) ~~The annual license fee for a billiard hall or poolroom in the City shall be set by resolution of the City Council and shall remain in effect until such resolution is amended by action of the City Council, and shall be payable to the City Clerk at the time of application for the license.~~
- (b) ~~The annual license fee for operation of a bowling alley in the City shall be set by resolution of the City Council and shall remain in effect until such resolution is amended by action of the City Council, and shall be payable to the City Clerk at the time of application for the license.~~

~~Sec. 5-52-30. Expiration.~~

~~All licenses issued pursuant to the provisions of this Article shall expire at 12:00 midnight on December 31 of the year for which issued.~~

Section 33. Article 5-56 of the Brighton Municipal Code is repealed in its entirety.

~~ARTICLE 5-56 Public Dances~~

~~Sec. 5-56-10. License required; exceptions.~~

~~No person shall operate, maintain or permit the operation or maintenance of a public dance hall, booth, pavilion or other place where dancing is permitted in public, in a place provided therefor within the City, without first obtaining a license therefor pursuant to the provisions of this Article. This requirement shall not apply to dances conducted by schools, churches or charitable organizations.~~

~~Sec. 5-56-20. Fee; license term.~~

~~Upon application for a license pursuant to the provisions of this Article, there shall be paid to the City Clerk a fee to be set by resolution of the City Council, which shall remain in effect until such resolution is amended by action of the City Council. Such license shall be issued for a period of one (1) year or any portion thereof, and shall expire on December 31.~~

~~Sec. 5-56-30. Location; nontransferability.~~

~~Each license issued pursuant to the provisions of this Article shall be for a particular place or premises as described in the application and in the license and shall not be transferable to a different place or premises.~~

~~Sec. 5-56-40. Expiration.~~

~~Each license issued pursuant to the provisions of this Article shall expire at 12:00 midnight on December 31 of the year for which the license is issued.~~

Section 34. Article 5-72 of the Brighton Municipal Code is repealed in its entirety.

~~ARTICLE 5-72 Massage Therapist Licenses~~

~~Sec. 5-72-10. Short title.~~

~~This Article may be cited as the "Brighton Massage Therapist Licensing Code." (Ord. 1753 §1, 2002)~~

~~Sec. 5-72-20. Required; term.~~

No person shall engage in the business of providing a massage, massage therapy or massage services without first obtaining from the City Clerk a massage therapist license authorizing the person to engage in such business. Each license must be renewed annually.

~~Sec. 5-72-30. Definitions.~~

~~As used in this Article:~~

- ~~(1) — *Massage* means a method of treating the body for remedial or hygienic purposes, including but not limited to rubbing, stroking, kneading or tapping with the hand or an instrument or both.~~
- ~~(2) — *Massage therapist* means a person who has graduated from a massage therapy school approved or accredited by the state educational board or division charged with the responsibility of approving or accrediting private occupational schools or from a school with comparable approval or accreditation from another state with transcripts showing completion of at least five hundred (500) hours of training in massage therapy. A massage therapy school may include an equivalency program approved or accredited by the state educational board or division charged with the responsibility of approving or accrediting private occupational schools.~~

~~Sec. 5-72-40. Qualifications.~~

~~Massage therapist licenses shall be issued only to persons qualified as massage therapists.~~

~~Sec. 5-72-50. Applications.~~

~~Every applicant for a massage therapist license shall furnish the City Clerk the following:~~

- ~~(1) — Name, date of birth and residential address;~~
- ~~(2) — Applicant's height, weight and color of eyes;~~
- ~~(3) — Diploma or certificate of graduation as contemplated by Section 5-72-30 above;~~
- ~~(4) — Evidence that the school attended complies with the requirements of Section 5-72-30.~~

~~Sec. 5-72-60. License and renewal fees.~~

~~Each application for a new license or a renewal shall be accompanied by a fee paid to the City Clerk at the time of application for a license, and such fee shall be an amount to be set by resolution of the City Council and shall remain in effect until such resolution is amended by action of the City Council. Such license shall be issued For a period of one (1) year or any portion thereof, and shall expire on December 31.~~

Section 35. Article 5-73 of the Brighton Municipal Code is repealed in its entirety.

~~ARTICLE 5-73—Massage Parlors~~

~~Sec. 5-73-10. Short title.~~

~~This Article may be cited as the "Brighton Massage Parlor Code." (Ord. 1753 §2, 2002)~~

~~Sec. 5-73-20. License required; term.~~

~~No person shall engage in the business of operating a massage parlor without first obtaining from the local licensing authority, as described in Section 5-73-40 below, a massage parlor license authorizing the person to engage in such business. Each license must be renewed annually.~~

~~Sec. 5-73-30. Definitions.~~

As used in this Article:

- (1) — *Applicant* includes any natural person, partnership, association, company, corporation, organization or other association making application for licensing under this Article. Whenever the application required pursuant to Section 5-73-50 below provides for the furnishing of information or production of documents, and the applicant is other than a natural person, then such information or production requirements shall apply to the individual making such application, along with all partners and associates, if the applicant is a partnership or other association; and the president, vice president, secretary, managing officer and all shareholders holding over ten percent (10%) of the outstanding capital stock, if the applicant is a corporation. The applicant shall additionally provide the information and production for each employee providing massage services, and in each instance such information and production shall be submitted before the issuance of any identity card as to that individual.
- (2) — *Massage parlor* means an establishment providing massage, but it does not include training rooms of public and private schools approved or accredited by the state educational board or approved or accredited by the division charged with the responsibility of approving or accrediting private occupational schools, training rooms of recognized professional or amateur athletic teams and licensed health care facilities. A facility operated for the purpose of massage therapy performed by a massage therapist is not a parlor.
- (3) — *Massage therapist* means a person who has graduated from a massage therapy school approved or accredited by the state educational board or division charged with the responsibility of approving or accrediting private occupational schools, or from a school with comparable approval or accreditation from another state with transcripts indicating completion of at least five hundred (500) hours of training in massage therapy.
- (4) — A *massage therapy school* may include an equivalency program approved or accredited by the state educational board or division charged with the responsibility of approving or accrediting private occupational schools.

Sec. 5-73-40. — Local licensing authority designated.

The City Council shall be the local licensing authority for the licensing of massage parlors.

Sec. 5-73-50. — License application.

Every applicant for the issuance of a massage parlor license shall, upon application, submit the following documents and specify the following information, in writing and verified by oath or affirmation, upon forms prepared and furnished by the local licensing authority:

- (1) — Name, date of birth and residential address of applicant for the immediate past three (3) years, providing dates of residency for each such address;
- (2) — Written statements of at least three (3) bona fide residents of the City relating to the issue of the good moral character of the applicant;
- (3) — Written proof that the applicant is over the age of eighteen (18) years;
- (4) — Applicant's height, weight and color of eyes;
- (5) — Two (2) recent portrait photographs at two (2) inches by two (2) inches reflecting the present general appearance of the applicant;
- (6) — Applicant shall submit to the City Police Department for the taking of fingerprints, which shall be retained by the City Clerk;
- (7) — The business, occupation or employment of the applicant for the five (5) years immediately preceding the date of application;
- (8) — The massage or similar business license history of the applicant, including whether such person, in a previous operation, in this or another state, has had his or her license revoked or suspended,

- the reason therefor and any such business activity or occupation subsequent to the action of suspension or revocation;
- (9) — ~~The conviction or plea of *nolo contendere* or no contest of any crime which in its nature, under the laws of the State, would constitute a felony, along with any conviction for crimes in the nature of prostitution, pimping or pandering;~~
 - (10) — ~~A certificate from a medical doctor or doctor of osteopathy designating that, as to each person applying massage, within thirty (30) days immediately prior thereto, he or she has been examined and found to be free of any contagious or communicable disease;~~
 - (11) — ~~The address of the premises where the massage business will be located; whether the building in which the massage activity is to be conducted is located within five hundred (500) feet of any church, public or parochial school, the principal campus of any college, university or seminary or any property used for residential purposes. The distance referred to in this Section is to be computed by direct measurement from the nearest property line of the land used for school, church or residential purposes to the nearest portion of the building in which the massage activity is to be conducted, using a route of direct pedestrian access; and such location shall be considered in determining whether such license should be granted;~~
 - (12) — ~~Such other identification and information as the Chief of Police may require in order to discover the truth of the information set forth in the application.~~

~~Sec. 5-73-60. — Minimum requirements.~~

~~The application for a new massage parlor license shall not be issued unless an inspection by the City reveals that the establishment complies with each of the following minimum requirements:~~

- (1) — ~~Sign. A recognizable and legible sign shall be posted at the main entrance identifying the establishment as a massage parlor.~~
- (2) — ~~Lighting. Minimum lighting shall be provided in accordance with the Uniform Building Code and, in addition, at least an artificial light of not less than forty (40) watts shall be provided in each room or enclosure where massage services are performed on patrons.~~
- (3) — ~~Ventilation. Minimum ventilation shall be provided in accordance with the Uniform Building Code.~~
- (4) — ~~Equipment. Adequate equipment for disinfecting and sterilizing instruments used in performing acts of massage shall be provided.~~
- (5) — ~~Water. Hot and cold running water shall be provided at all times.~~
- (6) — ~~Linen storage. Closed cabinets shall be provided for the storage of clean linen.~~
- (7) — ~~Bathing, dressing, locker and toilet facilities. Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one (1) tub or shower, one (1) dressing room containing a separate locker for each patron to be served, which locker shall be capable of being locked, and a minimum of one (1) toilet and one (1) wash basin shall be provided by every massage parlor; provided, however, that if male and female patrons are to be served simultaneously at said establishment, a separate massage room or rooms, separate dressing facilities and separate toilet facilities shall be provided for male and female patrons.~~
- (8) — ~~Physical and sanitary conditions. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities for the parlor must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after use.~~
- (9) — ~~Towels and linens. Clean and sanitary towels and linens shall be provided for each person of the establishment. No common use of towels and linens shall be permitted.~~
- (10) — ~~Facilities and employees. A minimum of one (1) separate wash basin shall be provided in each massage parlor for the use of employees of any such establishment, which basin shall provide soap or detergent and hot and cold running water at all times, and shall be located within or as~~

~~close as practicable to the area devoted to the performing of massage services. In addition, there shall be provided, at each wash basin, sanitary towels placed in a permanently installed dispenser.~~

~~(11) Compliance is required with all zoning, building and fire prevention laws of the City.~~

~~Sec. 5-73-70. License and renewal fees.~~

~~Each application for a new massage parlor license or renewal shall be accompanied by a fee to be paid to the City Clerk at the time of application for a license. Such fee shall be in an amount to be set by resolution of the City Council and shall remain in effect until such resolution is amended by action of the City Council. Such license shall be issued for a period of one (1) year or any portion thereof, and shall expire on December 31.~~

~~Sec. 5-73-80. Identity card required; contents; validity.~~

~~Prior to commencing work in the provision or application of massage services in or upon the licensed premises, every applicant, licensee and employee shall obtain an identity card, required by the Colorado Massage Parlor Code, from the Brighton Police Department, which card shall contain the name, address, date of birth, name of physician and date of medical examination as required by Section 5-73-50, a recent photograph of suitable size, along with the name of the person or firm to whom the massage parlor license is issued, and the license number and street address of the licensed premises. Such identity card shall be signed by the City Clerk or designee. The identity card shall only be valid upon the premises of the massage parlor thereon endorsed, and unless revoked or suspended, shall be valid during the term of the current massage parlor license.~~

~~Sec. 5-73-90. Massage therapy license.~~

~~Any person, prior to engaging in the business of providing a massage, massage therapy or massage services upon the premises of a duly licensed massage parlor, shall obtain, and at all times retain, a valid massage therapist license. A duly licensed massage parlor operator shall not engage in the business of performing massage, massage therapy or massage services without a massage therapist license under Article 5-72 of this Code.~~

Section 36. Section 5-94-20 (13) of the Brighton Municipal Code is hereby amended to read as follows:

(13) *License* means a sexually oriented ~~business~~ license applied for or issued pursuant to Section 5-94-60 of this Article.

Section 37. Section 5-94-60 (a), (b), and (c) of the Brighton Municipal Code are hereby amended to read as follows:

(a) No sexually oriented business shall be operated within the corporate limits of the City without a valid sexually oriented ~~business~~ license issued by the City.

(b) It shall be unlawful to operate or cause to be operated a sexually oriented business when the person knows or reasonably should know that the business:

- (1) Does not have a sexually oriented ~~business~~ license;
- (2) Has a license that is under suspension;
- (3) Has a license that has been revoked; or
- (4) Has a license that has expired.

(c) A sexually oriented ~~business~~-license shall be requested through the application and licensing process described in this Section. Any person desiring to operate a sexually oriented business shall file with the City Clerk an original and two (2) copies of a fully completed and sworn license application on the standard application form supplied by the City Clerk.

- (1) The City Clerk is responsible for granting, denying, revoking, renewing and suspending the licenses for proposed or existing sexually oriented businesses. In the City Clerk's discretion, the City Clerk may, but need not, appoint an employee of the City to act for and on behalf of the City Clerk as to any or all matters related to sexually oriented businesses as specified in this Article.
- (2) The Planning Department is responsible for ascertaining whether a proposed sexually oriented business for which a license application has been submitted complies with all locational requirements of Chapter XVII, Section 11, Paragraph J.5 of this Code.
- (3) The Police Department is responsible for securing information on whether an applicant has been convicted of a specified criminal act during the time period set forth hereafter.
- (4) The Building Inspection Department is responsible for inspecting a proposed sexually oriented business in order to ascertain whether it is in compliance with applicable building codes and ordinances.

Section 38. Article 5-98 of the Brighton Municipal Code is hereby amended to read as follows:

ARTICLE 5-98 - Outdoor Vending

Sec. 5-98-10. - Definitions.

The following definitions as used in this Article:

City block shall mean the smallest area that is completely surrounded by public rights-of-way, or access easements that act as public rights-of-way, not to include alleys.

Commissary shall mean a commercial kitchen that is approved as such under the laws and regulations of the State and County that govern retail food establishments.

Commissary-prepared shall mean food that is prepared, cooked, or assembled, or any combination of these, in a commissary, and is intended for consumption at another establishment or place.

Food shall mean any product sold for human consumption, the sale of which is not prohibited by law.

~~*Licensee/Permittee*~~ shall mean a person who has been issued ~~an outdoor vending license or outdoor vending temporary use permit~~ under the provisions of this Article.

Outdoor vendor (or vendor) shall mean any person, whether as owner, agent, consignee, or employee who sells or attempts to sell, or who offers to the public free of charge any services, goods, wares, or merchandise, including, but not limited to, food or beverage, from any outdoor location, except that *outdoor vendor* shall not include a person who:

- (1) Vends from property owned by the City, if such vending is pursuant to a concession agreement or other agreement with the City.
- (2) Vends at a yard sale; provided, however, that this exception shall not apply to a person who has vended at four (4) or more previous yard sales in the current calendar year.

Public right-of-way shall mean all streets, roadways, bikeways, sidewalks, and all other areas reserved for present or future use by the public, as matter of right, for the purpose of vehicular or pedestrian travel.

Vend (or vending) shall mean the sale, attempt to sell, or offering to the public of any services, goods, wares, or merchandise.

Vending unit shall mean any motorized or non-motorized vehicle, trailer, kiosk, pushcart, or other nonpermanent structure or device from which outdoor vending occurs.

Yard sale shall mean the offering of goods for sale from an informal stand or display on an individual lot whose primary land use is residential in nature by or with consent of the owner or resident of the lot, provided that such owner or resident is not in the business of selling at retail or wholesale the goods offered at the yard sale. *Yard sale* shall include, but is not be limited to, yard sales, garage sales, lemonade stands, and bake sales. Any additional sales of food items prepared in a private home are prohibited by law with the exception of those allowed under the Colorado Cottage Food Act.

Sec. 5-98-20. - ~~License and/or p~~**Permit** required.

(a) It is unlawful for any person to engage in the business of an outdoor vendor, as defined in this Article, within the corporate limits of the City, without first obtaining a **temporary use permit** ~~license~~ as provided in this Article.

(b) ~~In addition to a license, a~~**All** outdoor vending on property not considered public right-of-way, including, but not limited to, private property, public parks, and schools, is required to obtain a location specific permit as provided in this Article, except for outdoor vending within a City park or other City facility as a concessionaire approved by the City pursuant to a facility-specific permit issued by the City, or at a special event for which a ~~vendor license and special event permit have~~ **temporary use permit has** been issued.

(c) Any person who arranges for, or allows, one (1) or more outdoor vendors to operate at a special event must obtain ~~an outdoor vendor license and a~~ **temporary use** permit under this Article. Upon issuance of such ~~license and~~ permit, the outdoor vendor(s) vending at said special event shall be relieved of the obligation to obtain individual ~~licenses~~ **permits** under this Article in order to operate as part of said event.

(d) Each ~~licensee or~~ permittee shall prominently display the ~~license and/or~~ permit issued hereunder in a location readily visible to the public on each vending unit or at the special event.

(e) For the vending of food, documentation of regulatory approval as a retail food establishment by the Tri County Health Department is required. The Community Development Director may request and require such additional information or documentation as he/she deems necessary in order to consider the application and make the required determinations as set forth in this Article. The timeframe for review of any application shall be extended during the pendency of any such request for additional information.

Sec. 5-98-30. - Application for ~~license and/or~~ permit; ~~license and/or~~ permit modifications.

(a) An application for a ~~license and/or~~ permit under this Article shall be submitted to the Community Development Department no less than twelve (12) business days prior to the first day of the proposed operation.

~~(b) A license issued under this Article is valid for the calendar year in which it is issued.~~

(be) A permit issued under this Article is valid for a time period not to exceed thirty (30) days. Any extensions to this maximum time period shall be reviewed by the Community Development Director based on the specific circumstances of the proposed vending permit application.

(cd) Applications for ~~an outdoor vendor license or special event~~ **temporary use** permit will not be accepted or thereafter processed unless all required supporting documents and submissions have been received by the Community Development Director. The Director, in the Director's sole discretion, may waive the submission of any document upon the prior request of the applicant.

(de) A completed application, the form of which shall be furnished by the Community Development Department (as may be updated from time to time), shall **be submitted in accordance with 5-98-30(a) above** ~~include the following and such other information as required:~~

- ~~(1) Name, address, and telephone number of the applicant and, if other than the applicant, name, address and telephone number of the person managing or supervising the applicant's business during the proposed period of operation;~~
- ~~(2) Type of operation to be conducted, including the particular type of service, goods, ware or merchandise to be sold;~~
- ~~(3) A description of the design of any vending unit, vehicle, pushcart, kiosk, table, chair, stand, box, container or other structure or display device to be used in the operation by the applicant, including the size and color, together with any logo, printing or sign which will be utilized by the applicant, and the license plate and registration information for any vehicle to be used;~~
- ~~(4) The proposed period of operation, if less than the entire calendar year license period, or less than the thirty (30) day permit period;~~
- ~~(5) The proposed hours and days of operation;~~
- ~~(6) An address or legal description for each location on private property where the vending unit will be operated, acceptable to the Community Development Director;~~
- ~~(7) Written consent of the property owner if the location for which the application is made is on property that is not public right of way;~~
- ~~(8) Proof of liability insurance as required by the Community Development Director, based on established City requirements published by the City's Procurement Department;~~
- ~~(9) Such fees as shall be set forth in the City's Annual Fee Resolution in effect at the time of application. No fees shall be refunded in whole or in part should the application be denied or withdrawn;~~
- ~~(10) Documentation of a current sales and use tax license in good standing issued by the City;~~

(ef) The fees to be paid to the City ~~under Section (e)(9) above~~ for the issuance, modification, or renewal of any ~~license or~~ **temporary use** permit pursuant to this Article shall be set by the resolution of the City Council and shall remain in effect until such resolution is amended by action of the City Council.

~~(g) The transfer of a license to a new or different licensee, or the modification of a location, shall not be allowed under an approved application. A new application will be required.~~

(fh) A request for a modification of a ~~license and/or~~ **temporary use** permit to add vehicles, individuals, operations, or locations, or to modify other license restrictions or conditions, as applicable, shall be submitted to the Community Development Department and shall meet all of the requirements and be reviewed in the same manner as an application for a new ~~license and/or~~ permit.

Sec. 5-98-40. - Specific procedures.

Applications shall be considered individually and in chronological order as established by the date of receipt of a properly completed application.

An application for a ~~license and/or~~ **temporary use** permit for outdoor vending has the following specific procedures:

- (1) *Application review.* Upon receipt of a formal application, the Community Development Director or designee will conduct an internal review and may forward copies of the application to any pertinent internal and external agencies for review and comment.
 - a. *Complete application.* Within two (2) business days of the filing of an application, a determination shall be made whether the application is complete according to the application requirements. The applicant shall be notified of any deficiencies in incomplete applications, and shall be granted a reasonable time in which to cure said deficiencies.
 - b. *Review by applicable departments and agencies.* Upon determination of a complete application, the application shall be dispersed for review to the applicable departments and agencies. Any comments from the City shall be returned to the applicant within ten (10) business days of a complete application determination.
 - c. *Decision.* If no revisions to the application are required by the reviewing departments or agencies, the Community Development Director or designee shall grant approval or denial of the application within ten (10) business days after a complete application determination. A delay in decision, for any reason, shall not be deemed grounds for approval of the application.

Sec. 5-98-50. - Restrictions for operation within the public right-of-way.

All outdoor vendors operating within the public right-of-way within the City of Brighton shall adhere to the following restrictions:

- (1) All posted parking requirements or restrictions shall be adhered to.
- (2) No ~~licensee or~~ permittee shall operate for more than five (5) hours in one (1) location within a twenty-four (24) hour time period, unless otherwise granted approval by the Community Development Director.
- (3) Each ~~licensee or~~ permittee shall provide for waste collection and shall pick up and dispose of any paper, cardboard, wood or plastic containers, wrappers, or any litter that is deposited within twenty-five (25) feet of the vending unit, permitted location, or within twenty-five (25) feet of the point of any sale or transaction, including litter that is not a direct result of the outdoor vending. The ~~licensee/~~permittee shall carry a suitable container for the placement of such litter by customers or other persons.
- (4) Other than a suitable container for placement of litter, no ~~licensee or~~ permittee shall set up any structures, canopies, tables, chairs, or other equipment that is not attached to the vending unit.
- (5) Each ~~licensee/~~permittee shall maintain in safe condition any vending unit, vehicle, structure, device, or any other similar item described in the **temporary use permit license**, so as not to create an unreasonable risk of harm to the person or property of others.
- (6) No ~~licensee or~~ permittee shall leave unattended any vending unit while in the public right-of-way.
- (7) A vending unit shall not obstruct the movement of pedestrians or other vehicles and shall not be:
 - a. Parked or placed within fifty (50) feet of any intersection;
 - b. Parked or placed within twenty (20) feet of any marked crosswalk.
- (8) Each ~~licensee or~~ permittee may only operate in areas where parallel parking is allowed and must serve the public from the sidewalk and not from the street or adjacent parking spaces.
- (9) No ~~licensee or~~ permittee shall operate within two hundred (200) feet of a City Park without first obtaining written approval from the Parks and Recreation Department Director. Said written approval must be available for inspection at any time during vending operations.
- (10) In the Downtown zone district, the following additional restrictions shall apply:
 - a. Vendors must be associated with an existing business in the Downtown zone district, and must be able to present written proof of that association at any time.

- b. Vendors must be located on the same city block as the business with which they are associated.
 - c. Vending units cannot operate within the extension of any building entranceway, doorway, or driveway.
- (11) In residential zone districts, the following additional restrictions shall apply:
- a. Vendors are only allowed to operate where parallel parking is allowed.
 - b. Vendors of food may only serve commissary-prepared, packaged and ready-to-eat, or commercially pre-packaged food in individual servings. Food is not allowed to be cooked from the vending unit.
 - c. Vendors cannot stop to vend for more than fifteen (15) minutes in any particular cul-de-sac or on any particular city block.
 - d. Vendors may only operate between the hours of 10:00 a.m. and 8:00 p.m.

Sec. 5-98-60. - Restrictions for operations outside the public right-of-way.

All outdoor vendors operating on land that is not considered public right-of-way, including, but not limited to, private property, public parks, and school district property, shall adhere to the following restrictions:

- (1) All ~~licensees~~/permittees must have written permission from the property owner for the parcel on which the vending will take place. Said written permission must be submitted with the application and be available for inspection at any time while vending operations are taking place.
- (2) All vending units shall be required to apply for and be approved for a ~~license~~ and **temporary use** permit for vending.
 - a. All permits will define the location and allowed operating time for vending.
- (3) All vendors operating in public parks must receive written permission from the Parks and Recreation Director, to be submitted with the corresponding permit application and be available for inspection at any time while vending operations are taking place.
- (4) All vendors operating on school district land must receive written permission from the school district, to be submitted with the corresponding permit application and available for inspection at any time while vending operations are taking place.
- (5) In residential zone districts:
 - a. No property may host a vending unit more than one (1) day per calendar month.
 - b. Vendors may only operate between the hours of 10:00 a.m. and 8:00 p.m.
 - c. Yard sales shall not operate for a period longer than three (3) consecutive days.

Sec. 5-98-70. - Suspension or revocation.

Licenses and permits issued pursuant to the provisions of this Article may be revoked or suspended by the City Council after notice for any of the following causes:

- (1) Fraud, misrepresentation, or false statement(s) contained in the application ~~for license or permit~~;
- (2) Fraud, misrepresentation, or false statement(s) made in the course of carrying on the business for which the ~~license or permit~~ is issued;
- (3) Any violation of a City ordinance or state statute; and
- (4) Conduct of the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace or danger to the health, safety or general welfare of the public.

Section 39. The purpose of this Ordinance is to provide for the health, safety, and welfare of the people.

INTRODUCED, PASSED ON FIRST READING AND ORDERED PUBLISHED this 17th day of December, 2019.

PASSED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY this 7th day of January, 2020.

CITY OF BRIGHTON, COLORADO

GREGORY MILLS, Mayor

ATTEST:

NATALIE HOEL, City Clerk

Published in the *Brighton Standard Blade*

First Publication: December 25, 2019

Final Publication: January 15, 2019

APPROVED AS TO FORM:

JACK D. BAJOREK, City Attorney