

## **Title 5**

### **BUSINESS LICENSES, TAXES AND REGULATIONS**

Chapters:

**5.02 Business License and Tax Regulations**

**5.04 Utility Occupation Tax**

**5.12 Public Dances**

**5.16 Pawnbrokers and Secondhand Dealers**

**5.20 Taxis**

**5.24 Adult Entertainment**

#### **Chapter 5.02**

#### **BUSINESS LICENSE AND TAX REGULATIONS\***

Sections:

- 5.02.010 Business license or business tax required.**
- 5.02.020 Conclusive presumption of engaging in business or profession.**
- 5.02.030 License--Application.**
- 5.02.040 License--Fee.**
- 5.02.050 Representations considered conclusive evidence.**
- 5.02.060 Person engaged in business or profession.**
- 5.02.070 License--Transferability.**
- 5.02.080 License--Revocation.**
- 5.02.090 Billiard, pool and card table licenses.**
- 5.02.100 Amusement device licenses.**
- 5.02.110 Music machine.**
- 5.02.120 Places of entertainment or amusement--Hours of operation.**
- 5.02.130 Liquor sales--Hours when permitted.**
- 5.02.140 Police inspection rights.**
- 5.02.150 Health inspection rights.**
- 5.02.160 Exemption by law.**
- 5.02.170 Charitable organizations--Exemption.**
- 5.02.180 Licenses in lieu hereof.**
- 5.02.190 Taxes in addition hereto.**
- 5.02.200 Violation--Penalty.**
- 5.02.210 Liability.**

\* Prior ordinance history: Ords. 443, 494, 571, 647, 672, 703, 837, 844 and 885.

#### **5.02.010 Business license or business tax required.**

It is unlawful for any person, firm or corporation, excepting a wholesaler, to conduct or carry on any business or practice any profession in the city, without first securing a license to do so and paying a license fee as provided in this chapter.

For the purpose of this chapter, "wholesaler" means a person, firm or corporation which deals exclusively with retail business establishments and sells them goods, wares and merchandise for resale. Those businesses and professions whose licensing and control is preempted by the state shall not be subject to licensing by the city; however, such businesses for purpose of revenue shall pay to the city a business tax in the sum of twenty-five dollars per calendar year or part thereof during which such business is conducted in the city. It shall not be unlawful to conduct any such preempted business or

profession without paying the tax, the city council stating that it is not the purpose of the city to license or regulate such business or profession. However, any person, firm or corporation failing to pay such tax in advance for the tax period, when due, shall be subject to the penalty provided in Section 5.02.220. (Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.020 Conclusive presumption of engaging in business or profession.**

Every person, firm or corporation who for pay, hire or profit furnishes the materials or machinery or equipment to be used in carrying out any work, business or profession and uses, applies or operates such materials, machinery or equipment therein, whether for wages, unit prices, total job price, or otherwise, in the city, shall be conclusively presumed to be conducting or carrying on a business or practicing a profession in the city for the purpose of this chapter. This conclusive presumption is in addition to, and not in limitation or restriction of, any and all other circumstances or presumptions with respect to conducting, carrying on, or engaging in a business or profession. (Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.030 License--Application.**

Application for the license shall be made in writing to the city clerk upon a form provided by the clerk, and the applicant shall at the same time deposit with the clerk in advance the license fee herein required. The clerk shall thereupon issue a license certificate to the applicant. (Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.040 License--Fee.**

A. Basic License Fee. Unless it is otherwise provided by provision in a section providing for the licensing of a special, named, enumerated or specific business or activity, the annual basic license fee shall be measured by the number of employees of each business, based upon the number of employed individuals on June 1st preceding the license year in which the basic license fee is payable. This license fee is a basic fee for doing and conducting business within the city limits. Any other section of this chapter or any ordinance of the city requiring a license or tax for conducting a specific and named activity shall be in addition to this basic license fee. There shall be no set-off or credit given for this basic license fee unless such ordinance or section of ordinance so allows. The basic license fee rates are as follows:

1. For every business employing one to two persons, twenty-five dollars per annum or any part thereof;
2. For every business employing three to five persons, fifty dollars per annum or any part thereof;
3. For every business employing six to twelve persons, seventy-five dollars per annum or any part thereof;
4. For every business employing thirteen to twenty-five persons, one hundred twenty-five dollars per annum or any part thereof;
5. For every business employing twenty-six to fifty persons, two hundred twenty-five dollars per annum or any part thereof;

6. For every business employing fifty-one or more persons, three hundred twenty-five dollars per annum or any part thereof;
7. Relocation or change fee, twenty-five dollars;
8. Mall/market license, primary manager/owner fifty dollars; each booth or participant, twenty-five dollars.

B. Specialty License Fee. Any person selling or soliciting orders for any commodity or merchandise from house to house, or from address to address; and any person selling any commodity or merchandise from any vehicle, trailer, stand or temporary structure shall pay the following fees:

1. Solicitor's one day license, first day, ten dollars; each day thereafter, seven dollars and fifty cents;
2. Annual solicitor's license, twenty-five dollars;
3. Weekend (booth fee), fifteen dollars per three-day weekend.

(Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.050 Representations considered conclusive evidence.**

In any action arising out of any provision of this chapter, or amendment thereto, the fact that the party thereto represented himself as engaged in any business or calling shall be conclusive evidence of the liability of such party to pay a license fee or business tax as provided in the ordinance codified herein.

(Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.060 Person engaged in business or profession.**

"A person, firm or corporation engaged in a business or profession" means the owner or one primarily beneficially interested therein for profit, and not employees; but where the employer is not licensed as required, it is unlawful for such employee to engage in any business or profession until his employer has first procured the necessary fee.

(Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.070 License--Transferability.**

No license issued under this chapter shall be transferable or assignable.

(Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.080 License--Revocation.**

The city council may at any time for good cause revoke, cancel or suspend any and all licenses issued pursuant to the ordinance codified herein upon a hearing held not less than three days after written notice of the time and place thereof has been served personally upon the licensee or the licensee's duly authorized agent or manager, or by depositing the notice in the United States mail in a sealed envelope, with first class postage prepaid, addressed to the licensee or his duly authorized agent at the last known address of the licensee or agent, respectively, if such licensee or agent cannot be found

in the city; and in such case no part of the unearned portion of such license fee shall be refunded.  
(Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.090 Billiard, pool and card table licenses.**

Every person, firm or corporation who engages in the business of conducting billiard, pool or card tables for hire within the city shall in addition to the license required in Section 5.02.010, secure from the city clerk a license for each such table the fee for which shall be fifteen dollars per table for each calendar year or any part thereof.  
(Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.100 Amusement device licenses.**

Every person, firm or corporation who engages in the business of conducting shuffleboard or miniature bowling tables, music machines, video games or other amusement devices, whether or not any of the devices are coin-operated, for hire or charge within the city, shall in addition to the license required in Section 5.02.010, secure from the city clerk a license for such table, device or machine. The license fee shall be fifteen dollars per table, device or machine for each calendar year or any part thereof.  
(Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.110 Music machine.**

"Music machine" as used in this chapter means and includes any electrical or mechanical machine or device designed to be operated for the recording or reproduction of the human voice or any sound whatsoever by the insertion of a coin, trade check or slug.  
(Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.120 Places of entertainment or amusement--Hours of operation.**

All theaters, shows, taverns, cocktail lounges, pool rooms, billiard rooms, cardrooms, skating rinks, dancehalls, bowling alleys, shooting galleries, and other places where entertainment or amusement is offered to the public, located in the city, shall be closed between the hours of two a.m. and six a.m. of each day, including weekends and Sundays; provided, the city council may by motion or resolution, extend the time during which such places may remain open on a stated special holiday.  
(Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.130 Liquor sales--Hours when permitted.**

Liquor may be sold on weekdays and Sundays in Cle Elum, subject to applicable federal and state laws and regulations and city ordinances.  
(Ord. 1249 (Exh. A (part)), 2006)

#### **5.02.140 Police inspection rights.**

All members of the police force of the city shall have full and free access to any and all performances, shows, entertainments and businesses enumerated in Section 5.02.140, to inspect the same and to enforce the laws.  
(Ord. 1249 (Exh. A (part)), 2006)

**5.02.150 Health inspection rights.**

The city health officer or his representative shall at all times have access to any and all places in the city wherein is sold or manufactured food or drink for human consumption, for purpose of inspection.

(Ord. 1249 (Exh. A (part)), 2006)

**5.02.160 Exemption by law.**

The ordinance codified in this chapter shall not be construed to apply to any person, firm or corporation, or any business who or which the city has precluded from licensing by the laws of the state or of the United States.

(Ord. 1249 (Exh. A (part)), 2006)

**5.02.170 Charitable organizations--Exemption.**

The ordinance codified in this chapter shall not be construed to apply to churches or purely charitable organizations, nor to those engaged in the ministerial or teaching professions.

(Ord. 1249 (Exh. A (part)), 2006)

**5.02.180 Licenses in lieu hereof.**

The ordinances codified in Chapters 5.08 and 5.20 are specifically declared to remain in full force and effect; and payment of the taxes and/or license fees therein required must be made in lieu of the license fees required by this chapter.

(Ord. 1249 (Exh. A (part)), 2006)

**5.02.190 Taxes in addition hereto.**

Chapter 5.12 is specifically declared to remain in full force and effect; and compliance with the terms thereof is required in addition to compliance with the terms of this chapter.

(Ord. 1249 (Exh. A (part)), 2006)

**5.02.200 Violation--Penalty.**

See CEMC Chapter 8.60 (Code Enforcement).

(Ord. 1249 (Exh. A (part)), 2006)

**5.02.210 Liability.**

The express intent of the city of Cle Elum is that the responsibility for compliance with the provisions of this chapter shall rest with the permit applicant and their agents.

(Ord. 1249 (Exh. A (part)), 2006)

**Chapter 5.04  
UTILITY OCCUPATION TAX**

Sections:

**5.04.010 Authority.**

**5.04.020 Definitions.**

**5.04.030 License--Required.**

**5.04.040 Levied.**  
**5.04.050 Taxes due and payable.**  
**5.04.060 Losses.**  
**5.04.070 Records.**  
**5.04.080 Debt.**  
**5.04.090 Refunds.**  
**5.04.100 Penalty for violation.**  
**5.04.110 Annexations.**  
**5.04.120 Administration.**

**5.04.010 Authority.**

The provisions of this chapter shall be deemed to be an exercise of the power of the city to license for revenue.

(Ord. 775 § 1, 1981)

**5.04.020 Definitions.**

A. "Competitive telephone service" means the providing by any person of telephone equipment, apparatus, or service, other than toll service, which is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.

B. "Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll services or coin telephone services, or providing telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or channel, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating an exchange. "Telephone business" does not include the providing of competitive telephone service, nor the providing of cable television.

(Ord. 812 § 1 (part), 1984)

**5.04.030 License--Required.**

From and after January 1, 1982, no person, firm or corporation shall engage in or carry on any business, occupation, act or privilege for which a tax is imposed by Section 5.04.040 without first having obtained, and being the holder of a license so to do, to be known as an occupation license. Each said person, firm or corporation shall promptly apply to the city clerk for such license upon such forms as the clerk shall prescribe, giving such information as the clerk shall deem reasonably necessary to enable the clerk's office to administer and enforce this chapter and, upon acceptance of such application by the clerk, the clerk shall thereupon issue the license to the applicant. The occupation license shall be personal and nontransferable and shall be valid as long as the licensee shall continue in said business and shall comply with this chapter.

(Ord. 775 § 2, 1981)

**5.04.040 Levied.**

From and after May 6, 1984, there is levied upon, and there shall be collected from, every person, firm or corporation engaged in the following business for hire or for sale of a commodity or service within, or partly within, the corporate limits of the city, a tax for the privilege of so doing business as defined in this chapter:

- A. Upon any telephone business, there shall be levied a tax equal to six percent of the total gross operating revenues, including revenues from intrastate tolls, derived from the operation of the business within the city. Gross operating revenues for this purpose shall not include charges which are passed on to the subscribers by a telephone company pursuant to tariffs required by regulatory order to compensate for the cost to the company of the tax imposed by this chapter, nor shall gross operating revenue include any amount paid by the city.
- B. Upon every person or firm engaged in or carrying on the business of selling or furnishing electric light and power, there shall be levied a tax equal to six percent of the total gross operating revenues. The total gross operating revenues shall not include any revenues received by the firm from the city.

(Ord. 872 § 1, 1987; Ord. 812 § 1 (part), 1984)

#### **5.04.050 Taxes due and payable.**

The tax imposed by this chapter shall be due and payable in quarterly installments and remittance shall be made on or before the thirtieth day of the month next succeeding the end of the quarterly period in which the tax accrued. Such quarterly periods are as follows:

- First quarter -- January, February, March
- Second quarter -- April, May, June
- Third quarter -- July, August, September
- Fourth quarter -- October, November, December

The first payment made under this chapter shall be made by April 30, 1982, for the three-month period ending March 31, 1982. On or before the due date, the taxpayer shall file with the city clerk a written return, upon such form and setting forth such information as the clerk shall reasonably require, together with the payment of the amount of the tax.

(Ord. 775 § 4, 1981)

#### **5.04.060 Losses.**

In computing the tax, there shall be deducted from the gross operating revenues the following items:

- A. The amount of credit losses and uncollectibles actually sustained by the taxpayer;
- B. Amounts derived from transactions in interstate or foreign commerce or from any business in which the city is prohibited from taxing under the Constitutions of the United States or the state;
- C. Amounts derived by the taxpayer from the city.

(Ord. 775 § 5, 1981)

#### **5.04.070 Records.**

Each taxpayer shall keep records reflecting the amount of his gross operating revenues, and such records shall be open at all reasonable times to the inspection of the city clerk, or her duly authorized subordinates for verification of the tax returns or for the fixing of the taxpayer who fails to make such returns.

(Ord. 775 § 6, 1981)

#### **5.04.080 Debt.**

If any person, firm or corporation subject to this chapter fails to pay any tax required by this chapter within thirty days after the due date thereof, there shall be added to such tax a penalty of twenty percent of the amount of such tax, and any tax due under this chapter and unpaid, and all penalties thereon, shall constitute a debt to the city, and may be sued on as in other civil actions for debt, which remedy shall be in addition to all other remedies.

(Ord. 775 § 7, 1981)

#### **5.04.090 Refunds.**

Any money paid to the city through error or otherwise not in payment of the tax imposed by this chapter or in excess of such tax shall, upon request of the taxpayer, be credited against any tax due or to become due from such taxpayer under this chapter or, upon the taxpayer ceasing to do business in the city, be refunded to the taxpayer.

(Ord. 775 § 8, 1981)

#### **5.04.100 Penalty for violation.**

Any person subject to this chapter who fails or refuses to apply for an occupational license under this chapter or to make the tax returns required or to pay the tax quarterly when due, or who makes any false statement or representation in or in connection with any return or application for license, or who otherwise violates or refuses to comply with this chapter shall, upon conviction thereof be punished by a fine of not to exceed five hundred dollars.

(Ord. 775 § 9, 1981)

#### **5.04.110 Annexations.**

Whenever the boundaries of the city are extended by annexation, all persons, firms and corporations subject to this chapter will be provided with copies of all annexation ordinances by the city.

(Ord. 775 § 10, 1981)

#### **5.04.120 Administration.**

The city clerk is authorized to adopt, publish and enforce, from time to time, such rules and regulations for the proper administration of this chapter as is necessary, and it is a violation of this chapter to violate or to fail to comply with any such rule or regulation lawfully promulgated under this chapter.

(Ord. 775 § 12, 1981)

## **Chapter 5.12 PUBLIC DANCES\***

Sections:

**5.12.010 License--Required.**

**5.12.020 License--Fees.**

**5.12.030 Penalty for violation.**

**5.12.040 Liability.**

\* Prior ordinance history: Ord. 290.

### **5.12.010 License--Required.**

No person, firm or corporation operating or conducting a place of business in the city, wherein alcoholic beverages are sold, offered at or exposed for sale shall conduct a dance or permit dancing thereat or therein, without first obtaining a license from the city as required in this chapter.

(Ord. 1249 (Exh. A (part)), 2006)

### **5.12.020 License--Fees.**

Every person, firm or corporation, operating or conducting a place of business in the city wherein alcoholic beverages are sold, offered at or exposed for sale which desires to conduct a dance or permit dancing thereat or therein shall pay to the city clerk, a fee of twenty-five dollars for a license to do so, upon which payment such license shall be issued for a period terminating December 31st, next after date of such application and said license may be renewed from year to year thereafter upon the payment of a similar fee.

(Ord. 1249 (Exh. A (part)), 2006)

### **5.12.030 Penalty for violation.**

See CEMC Chapter 8.60 (Code Enforcement).

(Ord. 1249 (Exh. A (part)), 2006)

### **5.12.040 Liability.**

The express intent of the city of Cle Elum is that the responsibility for compliance with the provisions of this chapter shall rest with the permit applicant and their agents.

(Ord. 1249 (Exh. A (part)), 2006)

## **Chapter 5.16 PAWNBROKERS AND SECONDHAND DEALERS**

Sections:

**5.16.010 Definitions.**

**5.16.020 Records to be kept.**

**5.16.030 Inspection.**

**5.16.040 Report to chief law enforcement officer.**

**5.16.050 Violation--Penalty.**

### **5.16.010 Definitions.**

As used in this chapter:

"Pawnbroker" means every person engaged in whole or in part in the business of loaning money

on the security of pledges, deposits, or conditional sales of personal property.

"Precious metals" means gold, silver and platinum.

"Secondhand dealer" means every person engaged in whole or in part in the business of purchasing, selling, trading, consignment selling, or otherwise transferring for value secondhand property, including metal, junk, melted metals, precious metals, whether or not the person maintains a fixed place of business within the city.

"Secondhand property" means any item of personal property offered for sale which is not new, including metals in any form, except postage stamps, coins that are legal tender, bullion in the form of fabricated hallmarked bars, used books, and clothing of a resale value of seventy-five dollars or less, except furs.

"Transaction" means a pledge, purchase or consignment by a pawnbroker or secondhand dealer from a member of the general public.  
(Ord. 965 § 1 (part), 1992)

#### **5.16.020 Records to be kept.**

It shall be the duty of every pawnbroker and secondhand dealer doing business in the city to maintain in his place of business a book or other permanent record in which shall be legibly written in the English language at the time of such loan, purchase or sale, a record thereof containing:

- A. The date of the transaction;
- B. The name of the person or employee conducting the transaction;
- C. The name, age, street and house number, and a general description of the dress, complexion, color of hair and facial appearance of the person with whom the transaction is made;
- D. A complete description of the property pledged, bought, or consigned, including the brand name, serial number, model number, initials, engravings, size, patterns and color, and in the case of firearms, the caliber, barrel length, type of action, and whether it is a pistol, rifle or shotgun;
- E. The price paid or the amount loaned;
- F. Type and identifying number of identification used by the person with whom the transaction is made, which will consist of a valid driver's license or identification card issued by any state, or two pieces of identification issued by a governmental agency, one of which shall be a description of the person identified;
- G. The nature of the transaction, a number identifying the transaction, the name and address of the business conducting the transaction, and the location of the property.

(Ord. 965 § 1 (part), 1992)

### **5.16.030 Inspection.**

Such record, and all goods received, shall at all times during the ordinary hours of business be open to the inspection of the chief of police or any other police officer on his order.  
(Ord. 965 § 1 (part), 1992)

### **5.16.040 Report to chief law enforcement officer.**

A. Upon request, every pawnbroker and secondhand dealer doing business in the city shall furnish or mail within twenty-four hours to the chief of police on such forms as are provided by the chief of police a full, true and correct transcript of the record of all transactions conducted on the preceding day.

B. If a pawnbroker or secondhand dealer has good cause to believe that any property in his or her possession has been previously lost or stolen, the pawnbroker or secondhand dealer shall promptly report that fact to the chief of police, together with the name of the owner, if known, and the date when it was received, and the name of the person from whom it was received.  
(Ord. 965 § 1 (part), 1992)

### **5.16.050 Violation--Penalty.**

Every pawnbroker or secondhand dealer, and every clerk, agent or employee of such pawnbroker or secondhand dealer who shall:

- A. Fail to make an entry of any material matter in his book or record kept as provided for in Section 5.16.020; or
- B. Make a false entry therein; or
- C. Falsify, obliterate, destroy or remove from his place of business such book or record; or
- D. Refuse to allow the chief of police or any other police officer on his order to inspect the same or any goods in his possession during ordinary hours of business; or
- E. Report any matter falsely to the chief of police; or
- F. Having forms provided therefor, fail upon request of the chief of police to furnish to the chief of police a full, true and correct transcript of the record of all transactions had on the preceding business day, it being the intent of this section that Saturday's business may be reported on Monday; or
- G. Fail to report forthwith to the chief of police the possession of any property which he may have good cause to believe has been lost or stolen, together with the name of the owner, if known, and the date when and the name of the person from whom the same was received by him; or
- H. Receive any property from any known thief or receiver of stolen property, or any known associate of such thief or receiver of stolen property, whether such person is acting in his behalf or as an agent of another, shall, upon conviction thereof, be fined in any sum not

exceeding five thousand dollars for each such offense.  
(Ord. 965 § 1 (part), 1992)

## **Chapter 5.20 TAXIS**

Sections:

- 5.20.010 Definitions.**
- 5.20.020 Owner license--Required.**
- 5.20.030 Owner license--Application--Contents.**
- 5.20.040 Owner license--Application--Investigation.**
- 5.20.050 Owner license--Fee.**
- 5.20.060 Operator license--Required.**
- 5.20.070 Operator license--Application--Contents.**
- 5.20.080 Operator license--Application--Investigation.**
- 5.20.090 Operator license--Fees.**
- 5.20.100 Rate schedule.**
- 5.20.110 License--Revocation.**
- 5.20.120 License--Suspension.**
- 5.20.130 Penalty for violation.**

### **5.20.010 Definitions.**

"Taxi" means any for-hire vehicle used for carrying passengers for hire.  
(Ord. 408 § 1, 1947)

### **5.20.020 Owner license--Required.**

No person or corporation shall own or conduct a taxi business in the city without complying with all the laws of the state regarding the conduct of such business or the operation of for-hire vehicles, and without first having obtained a valid taxi owner's license from the city clerk. Such license shall be effective for the calendar year or from the date of issuance until December 31st of the same year unless sooner suspended or revoked as provided in this chapter.  
(Ord. 408 § 2, 1947)

### **5.20.030 Owner license--Application--Contents.**

Application for such licenses shall be made in writing to the city clerk signed by the owner or responsible officer, if a corporation, shall be accompanied by evidence that all state license fees have been paid, and shall contain the name and address of the owners and make and type of vehicle or vehicles to be operated, the place of business, number of taxis to be operated, the seating capacity of each, the age and qualifications of the operators of the vehicles and shall be accompanied with a copy of public liability and property damage insurance policy, on each vehicle showing coverage for not less than five thousand dollars and ten thousand dollars for public liability and one thousand dollars for property damage, a statement thereon that all the laws of the state regarding the operation of the vehicle have been complied with, and a statement consenting to the revocation of the license for the violation of any provision of this chapter or for the violation of any state or city motor vehicle or liquor law or chapter occurring while licensee or his agent is actually operating the vehicle or vehicles.  
(Ord. 408 § 3, 1947)

### **5.20.040 Owner license--Application--Investigation.**

All applications for taxi owners' licenses shall be referred to the city council for investigation by

a committee and its approval or rejection. Should an application be rejected the applicant shall be given an opportunity to appear before the council in furtherance of the application, before final action on the rejection is taken by the council.  
(Ord. 408 § 5, 1947)

#### **5.20.050 Owner license--Fee.**

The license fee for a taxi owner's license shall be twenty dollars for the first vehicle and ten dollars for each additional vehicle owned and operated in the business if taken out before July 1st of any year, or one-half of this amount if taken out thereafter and such licenses shall expire on December 31st in the year in which they are written. Licenses may be transferred from vehicle to vehicle and shall not be transferable by licensee.  
(Ord. 408 § 4, 1947)

#### **5.20.060 Operator license--Required.**

No person shall operate a taxi upon the streets for any trip or fares of any nature originating within the city without first having obtained a valid taxi operator's license from the city clerk.  
(Ord. 408 § 6, 1947)

#### **5.20.070 Operator license--Application--Contents.**

Application for such license shall be made in writing stating full name, age, residence, length of time he has resided in the city, whether a citizen of the United States, whether he has been convicted of felony or misdemeanor, whether he has been previously licensed as a driver, and if so when and where, whether his license has ever been revoked or suspended and for what cause, which statement shall be signed and sworn to by the applicant and filed with the city clerk as a permanent record.  
(Ord. 408 § 7, 1947)

#### **5.20.080 Operator license--Application--Investigation.**

Applications for taxi operator's license shall be submitted to the city council. The council shall make an investigation by committee of the applicant, his honesty, ability, moral and physical fitness, his experience, and such other matters and conditions as they may deem proper. Upon conclusion of the investigation the committee may approve or reject the application. Should an application be rejected, the applicant shall be given an opportunity to appear before the council in furtherance of his application before final action on the rejection is taken by the council.  
(Ord. 408 § 9, 1947)

#### **5.20.090 Operator license--Fees.**

The license fee for a taxi operator's license shall be five dollars per year, and shall be tendered with the application; provided, that all licenses shall expire on December 31st of the year in which they are written. An operator's license or a receipt from the city clerk showing that the license has been granted must be carried in the vehicle or on the person of the operator. Taxi operators' licenses shall not be transferable. All taxi operators must be at least twenty-one years of age.  
(Ord. 703 § 2, 1975; Ord. 408 § 8, 1947)

### **5.20.100 Rate schedule.**

Every owner or operator of a taxi shall be required at all times to maintain or post in full view of all passengers a printed schedule of prices and rates charged, based upon a zoning system in which case the zones must be clearly defined, or upon a mileage system. A duplicate of the schedule and all charges thereto must be filed with the city clerk before a taxi is used thereunder.

(Ord. 408 § 10, 1947)

### **5.20.110 License--Revocation.**

All licenses granted in accordance with this chapter shall be revocable by the city council upon complaint by the chief of police that the licensee or his agent, while actually operating a vehicle under the license, has been convicted of violating this chapter, or of violating any state or city motor vehicle or liquor law or ordinance.

(Ord. 408 § 11 (part), 1947)

### **5.20.120 License--Suspension.**

Licenses may be suspended on complaint by the chief of police of an alleged violation pending adjudication of such complaint, providing such adjudication is pending in a court of law.

(Ord. 408 § 11 (part), 1947)

### **5.20.130 Penalty for violation.**

Each operation of a taxi within the city, without there being in existence a currently valid owner's license and operator's license therefor, required as prescribed herein, shall be a separate violation of this chapter, shall be deemed guilty of every violation of this chapter by any employee or agent. Any person owning or conducting a taxi business or operating a taxi in violation of this chapter, shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine not exceeding one hundred dollars.

(Ord. 408 § 11 (part), 1947)

## **Chapter 5.24 ADULT ENTERTAINMENT**

### **Sections:**

**5.24.010 Definitions.**

**5.24.020 License required.**

**5.24.030 License prohibited to certain classes.**

**5.24.040 Application.**

**5.24.050 Live adult entertainment establishment license fees.**

**5.24.060 Appeal.**

**5.24.070 Standards of conduct and operation--Live adult entertainment establishment.**

**5.24.080 License term--Assignment--Renewals.**

**5.24.090 License suspension and revocation--Hearing.**

**5.24.100 Liquor regulations.**

**5.24.110 Violation is a misdemeanor.**

**5.24.120 Nuisance declared.**

**5.24.130 Additional enforcement.**

**5.24.140 Severability.**

## 5.24.010 Definitions.

- A. "Adult entertainment" means:
1. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance involves a person who is unclothed or in such costume, attire or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
  2. Any exhibition, performance or dance of any type conducted in a premise where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:
    - a. Human genitals in a state of sexual stimulation or arousal,
    - b. Acts of human masturbation, sexual intercourse or sodomy, or
    - c. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or
  3. Any exhibition, performance or dance which is intended to sexually stimulate any member of the public and which includes, but is not limited to, any such exhibition, performance or dance performed for, arranged with or engaged in with fewer than all members of the public on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance and which is commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.
- B. "Applicant" means the individual or entity seeking a live adult entertainment license in the city of Cle Elum.
- C. "Applicant control persons" means all partners, corporate officers and directors and any other individuals in the applicant's business organization who hold a significant interest in the live adult entertainment business, based on responsibility for management of the live adult entertainment business.
- D. "Clerk" means such the city of Cle Elum or city employees or agents as the city administrator shall designate to administer this chapter or any designee thereof.
- E. "Employee" means any and all persons, including managers, entertainers and independent contractors who work in or at or render any services directly to the operation of any live adult entertainment establishment.
- F. "Entertainer" means any person who provides adult entertainment within a live adult entertainment establishment as defined in this section, whether or not a fee is charged or accepted for

entertainment.

G. "Liquor" means all beverages defined in RCW 66.04.200.

H. "Live adult entertainment establishment" means any commercial premises to which any member of the public is invited or admitted and where an entertainer provides adult entertainment to any member of the public.

I. "Manager" means any person who manages, directs, administers or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at a live adult entertainment establishment, and includes assistant managers working with or under the direction of a manager to carry out such purposes.

J. "Member of the public" means a customer, patron, club member or person other than an employee, who is invited or admitted to a live adult entertainment establishment.

K. "Nude or seminude" means a state of complete or partial undress in such costume, attire or clothing so as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or human genitals in a discernibly turgid state, even if completely and opaquely covered.

L. "Operator" means a person operating, conducting or maintaining a live adult entertainment establishment.

M. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity or other entity or group of persons, however, organized.

N. "Sexual conduct" means act of:

1. Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight; or
2. Any penetration of the vagina or anus, however slight, by an object; or
3. Any contact between persons involving the sex organs of one person and the mouth or anus of another; or
4. Masturbation, manual or instrumental, of oneself or of one person by another; or
5. Touching of the sex organs or anus, whether clothed or unclothed, of oneself or of one person by another.

(Ord. 1248 § 1 (part), 2006)

#### **5.24.020 License required.**

A. It is unlawful for any person to conduct, manage or operate a live adult entertainment establishment unless such person is the holder of a valid and subsisting license from the city to do so, obtained in the manner provided in this chapter.

B. It is unlawful for any entertainer, employee or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of an unlicensed live adult entertainment establishment.

C. It is unlawful for any entertainer to perform in a live adult entertainment establishment unless such person is the holder of a valid and subsisting license from the city to do so.

D. It is unlawful for any manager to work in a live adult entertainment establishment unless such person is the holder of a valid and subsisting license from the city to do so.

(Ord. 1248 § 1 (part), 2006)

#### **5.24.030 License prohibited to certain classes.**

No license shall be issued to:

A. A natural person who has not attained the age of twenty-one years of age, except that license may be issued to persons who have attained the age of eighteen years with respect to live adult entertainment establishments where no intoxicating liquors are served and provided.

B. A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the license, or in the case of a manager or a live adult entertainment establishment, the manager has obtained a manager's license.

C. A co-partnership, unless all the members thereof are qualified to obtain a license as provided in this chapter. Such license shall be issued to the manager or agent thereof.

D. A corporation, unless all the officers and directors thereof are qualified to obtain a license as provided herein. Such license shall be issued to the manager or agent thereof.

(Ord. 1248 § 1 (part), 2006)

#### **5.24.040 Application.**

A. Live Adult Entertainment Establishment License.

1. All applications for a live adult entertainment establishment shall be submitted to the clerk in the name of the person or entity proposing to conduct a live adult entertainment establishment on the business premises and shall be signed by such person and certified as true under penalty of perjury. All applications shall be submitted on a form supplied by the city, which shall require the following information:

a. For the applicant and for each applicant control person, provide: names, any aliases or previous names, driver's license number, if any, social security number, if any, and business, mailing and residential address and business telephone number;

b. If a partnership, whether general or limited, and if a corporation, date and place of

incorporation, evidence that is in good standing under the laws of Washington, and name and address of any registered agent for service of process;

- c. Whether the applicant or any partner, corporate officer or director of the applicant holds any other licenses under this chapter or any license for similar adult entertainment or sexually oriented business, including motion picture theaters and panoramas, from the city or another city, county or state, and if so, the names and addresses of each other licensed business;
  - d. A summary of the business history of the applicant control persons in owning or operating the adult entertainment or other sexually oriented businesses, providing names, addresses and dates of operation for such businesses, and whether any business license or adult entertainment license has been revoked or suspended, and the reason therefor;
  - e. For the applicant and all applicant control persons, any and all criminal convictions or forfeitures within five years immediately preceding the date of the application, other than parking offenses or minor traffic infractions including the dates of conviction, nature of the crime, name and location of court and disposition;
  - f. For the applicant and all applicant control persons, a description of business, occupation or employment history for the three years immediately preceding the date of the application;
  - g. Authorization for the city, its agents and employees to seek information to confirm any statements set forth in the application;
  - h. The location and doing-business-as name of the proposed live adult entertainment establishment, including a legal description of the property, street address and telephone number, together with the name and address of each owner and lessee of the property;
  - i. Two two-inch by two-inch color photographs of the applicant and applicant control persons, taken within six months of the date of the application showing only the full face;
  - j. A complete set of fingerprints for the applicant or each applicant control person, by Cle Elum police department employees;
  - k. A scale drawing or diagram showing the configuration of the premises for the proposed live adult entertainment establishment, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing. An application for a license for a live adult entertainment establishment shall include building plans which demonstrate conformance with CEMC Section 5.24.070.
2. An application shall be deemed complete upon the applicant's provision of all

- information requested above, including identification of "none" where that is the correct response, and the applicant's verification that the application is complete. The clerk may request other information or clarification in addition to that provided in a complete application where necessary to determine the compliance with this chapter.
3. A nonrefundable application fee must be paid at the time of filing an application in order to defray the costs of processing the application.
  4. Each application shall verify, under penalty of perjury, that the information contained in the application is true.
  5. If any person or entity acquires, subsequent to the issuance of a live adult entertainment establishment license, a significant interest based on responsibility for management or operation of the licensed premises or the licensed business, notice of such acquisition shall be provided in writing to the city clerk, no later than twenty-one days following such acquisition. The notice required shall include the information required for the original live adult entertainment establishment license application.
  6. The live adult entertainment establishment license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, the doing-business-as name and the address of the licensed live adult entertainment establishment. The permit shall be posted in a conspicuous place at or near the entrance to the live adult entertainment establishment so that it can be easily read at any time the business is open.
  7. No person granted a live adult entertainment establishment license pursuant to this chapter shall operate the live adult entertainment establishment under a name not specified on the license, nor shall any person operate a live adult entertainment establishment under any designation or at any location not specified on the license.
  8. Upon receipt of the complete application and fee, the clerk shall provide copies to the police, fire and planning departments for their investigation and review to determine compliance of the proposed live adult entertainment establishment with the laws and regulations which each department administers. Each department shall, within thirty days of the date of such application, inspect the application and premises and shall make a written report to the clerk whether such application and premises comply with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the premises are not yet constructed, the departments shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. Any live adult entertainment establishment license approved prior to premises construction shall contain a condition that the premises may not open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application. A department shall recommend denial of a license under this subsection if it finds that the proposed live adult entertainment establishment is not in conformance with the requirements of this chapter or other law in effect in the city. A recommendation for denial shall cite the specific reason therefor, including applicable laws.

9. A live adult entertainment establishment license shall be issued by the clerk within thirty days of the date of filing a complete license application and fee, unless the clerk determines that the applicant has failed to meet any of the requirements of this chapter or provide any information required under this subsection or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. The clerk shall grant an extension of time in which to provide all information required for a complete license application upon the request of the applicant. If the clerk finds that the application has failed to meet any of the requirements for issuance of a live adult entertainment establishment license, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable law. If the clerk fails to issue or deny the license within thirty days of the date of filing a complete application fee, the applicant shall be permitted, subject to all other applicable law, to operate the business for which license was sought until notification by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional twenty days.

C. Live Adult Entertainment Establishment Manager and Entertainer Licenses.

1. No person shall work as manager, assistant manager or entertainer at a live adult entertainment establishment without an entertainer's or manager's license from the city. Each applicant for an entertainer's or manager's license shall complete an application on forms provided by the city containing the information identified below. A nonrefundable fee of three hundred dollars shall accompany the application. A copy of the application shall be provided to the police department for its review, investigation and recommendation. All applications for a manager's or entertainer's license shall be signed by the applicant and certified to be true under penalty of perjury. The manager's or entertainer's license application shall require the following information:
  - a. The applicant's name, home address, home telephone number, date and place of birth, fingerprints taken by Cle Elum police department employees, social security number and any stage names or nicknames used in entertaining;
  - b. The name and address of each business at which applicant intends to work;
  - c. Documentation that the applicant has attained the age of eighteen years. Any two of the following shall be accepted as documentation of age:
    - i. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth,
    - ii. A state-issued identification card bearing the applicant's photograph and date of birth,
    - iii. An official passport issued by the United States of America,
    - iv. An immigration card issued by the United States of America,
    - v. Any other identification that the city determines to be acceptable;

- d. A complete statement of all convictions of the applicant for any misdemeanor or felony violations in this or any other city, county or state within five years immediately preceding the date of the application, except parking violations or minor traffic infractions;
  - e. A description of the applicant's principal activities or services to be rendered;
  - f. Two two-inch by two-inch color photographs of applicant, taken within six months of the date of application showing only full face;
  - g. Authorization for the city, its agents and employees to investigate and confirm any statements set forth in the application;
  - h. Every adult entertainer shall provide his or her license to the live adult entertainment establishment manager on duty on the premises prior to his or her performance. The manager shall retain the licenses of the adult entertainers readily available for inspection by the city at any time during business hours of the live adult entertainment establishment.
2. The clerk may request additional information or clarification when necessary to determine compliance with this chapter.
  3. A live adult entertainment establishment manager's or entertainer's license shall be issued by the clerk within fourteen days from the date the complete application and fee are received unless the clerk determines that the application has failed to provide any information required to be supplied according to this chapter, has made any false, misleading or fraudulent statement of material fact in the application, or has failed to meet any of the requirements for issuance of a license under this chapter. If the clerk determines that the applicant has failed to qualify for the license applied for, the clerk shall deny the application in writing and shall cite the specific reasons therefor, including applicable laws. If the clerk fails to approve or deny an application for a live adult entertainment establishment manager's license within fourteen days of filing a complete application, the applicant may, subject to all other applicable laws, commence work as a live adult entertainment establishment manager in a duly licensed live adult entertainment establishment until notified by the clerk that the license has been denied, but in no event may the clerk extend the application review time for more than an additional twenty days.

(Ord. 1248 § 1 (part), 2006)

#### **5.24.050 Live adult entertainment establishment license fees.**

A. Any person desiring to obtain a live adult entertainment establishment license shall first pay a license fee of one thousand five hundred dollars per year.

B. Any person desiring to obtain a live adult entertainment establishment manager's license shall first pay a license fee of three hundred dollars per year.

C. Any person desiring to obtain a live adult entertainment establishment entertainer's license shall pay a license fee of three hundred dollars per year.

(Ord. 1248 § 1 (part), 2006)

### **5.24.060 Appeal.**

A. Denial of a License. Any person aggrieved by the action of the clerk in refusing to issue or renew any license issued under this chapter shall have the right to appeal such action to the city council, by filing a notice of appeal with the clerk within ten days of notice of the refusal to issue or renew. The city council shall set a date for hearing such appeal, to take place within thirty days of the date of receipt of the notice of appeal. At such hearing the appellant and other interested persons may appear and be heard, subject to rules and regulations of the city council. The city council shall render its decision on the appeal within ten working days following the close of the appeal hearing.

B. Appeal to Superior Court. Any person aggrieved by the decision of the hearing examiner or other hearing body may appeal to the superior court for a writ of certiorari, prohibition or mandamus within ten days of the date the decision of the city council is mailed to the applicant.  
(Ord. 1248 § 1 (part), 2006)

### **5.24.070 Standards of conduct and operation--Live adult entertainment establishment.**

A. The following standards of conduct must be adhered to by employees of any live adult entertainment establishment while in any area in which members of the public are allowed to be present:

1. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen inches above the immediate floor level and removed at least eight feet from the nearest member of public.
2. No employee or entertainer mingling with members of the public shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subsection (A)(1) of this section, nor shall any male employee or entertainer at any time appear with his genitals in a discernibly turgid state, even if completely and opaquely covered, or wear or use any device or covering which simulates the same.
3. No employee or entertainer mingling with members of the public shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva, genitals, anus, and any portion of the pubic region or buttocks.
4. No employee or entertainer shall caress, fondle or erotically touch any member of the public. No employee or entertainer shall encourage or permit any member of the public to caress, fondle or erotically touch any employee or entertainer.
5. No employee or entertainer shall perform actual or simulated acts of sexual conduct as defined in this chapter, or any act which constitutes a violation of Chapter 7.48A RCW, the Washington Moral Nuisances Statute.
6. No employee or entertainer mingling with members of the public shall conduct any dance, performance or exhibition in or about the nonstage area of the live adult entertainment establishment unless that dance, performance or exhibition is performed at a distance of no less than eight feet from any member of the public.

7. No tip or gratuity offered to or accepted by an adult entertainer may be offered or accepted prior to any performance, dance or exhibition provided by the entertainer. No entertainer performing upon stage area shall be permitted to accept any form of gratuity offered directly to the entertainer by any member of the public. Any gratuity offered to any entertainer performing upon any stage area must be placed into a receptacle provided for receipt of gratuities by the live adult entertainment establishment or provided through a manager on duty on the premises. Any gratuity or tip offered to any adult entertainer conducting any performance, dance or exhibition in or about the nonstage area of the live adult entertainment establishment shall be placed into the hand of the adult entertainer or into a receptacle provided by the adult entertainer, and not upon the person or into the clothing of the adult entertainer.

B. At any live adult entertainment establishment, the following are required:

1. Admission must be restricted to persons of the age of eighteen years or more. It is unlawful for any owner, operator, manager or other person in charge of a live adult entertainment establishment to knowingly permit or allow any person under the minimum age specified to be in or upon such premises.
2. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any portion of the breast below the top of the areola or any portion of the pubic hair, buttocks, genitals and/or anus may be visible outside of the live adult entertainment establishment.
3. No member of the public shall be permitted at any time to enter any of the nonpublic portions of the live adult entertainment establishment, which shall include but are not limited to: the dressing rooms of the entertainers or other rooms provided for the benefit of employees, and the kitchen and storage areas; except the persons delivering goods and materials, food and beverages or performing maintenance or repairs to the premises or equipment on the premises may be permitted into nonpublic areas to the extent required to perform their job duties.

C. The responsibilities of the manager of a live adult entertainment establishment shall include but are not limited to:

1. A licensed manager shall be on duty at a live adult entertainment establishment at all times adult entertainment is being provided or members of the public are present on the premises. The name and license of the manager shall be prominently posted during business hours. The manager shall be responsible for verifying that any person who provides adult entertainment within the premises possesses a current and valid entertainer's license.
2. The licensed manager on duty shall not be an entertainer.
3. The manager or an assistant manager licensed under this chapter shall maintain visual observation of each member of the public at all times any entertainer is present in the public or performance areas of the live adult entertainment establishment. Where there is more than one performance area, or the performance area is such of size or configuration that one manager or assistant manager is unable to visually observe, at all times, each

adult entertainer, each employee, and each member of the public, a manager or assistant manager licensed under this chapter shall be provided for each public or performance area or portion of a public or performance area visually separated from other portions of the live adult entertainment establishment.

4. The manager shall be responsible for and shall assure that the actions of members of the public, the adult entertainers and all other employees shall comply with all requirements of this chapter.

D. Premises--Specifications.

1. Performance Area. The performance area of the live adult entertainment establishment where adult entertainment as described in subsection (A)(1) of this section is provided shall be a stage or platform at least eighteen inches in elevation above the level of the patron seating areas, and shall be separated by a distance of at least eight feet from all areas of the premises to which members of the public have access. A continuous railing affixed to the floor and measuring at least three feet in height and located at least eight feet from all points of the performance area shall separate the performance area and the patron seating areas. The stage and the entire interior portion of cubicles, rooms or stalls wherein adult entertainment is provided must be visible from the common areas of the premises and at least one manager's station. Visibility shall not be blocked or obstructed by doors, curtains, drapes or any other obstruction whatsoever.
2. Lighting. Sufficient lighting shall be provided and equally distributed throughout the public areas of the premises so that all objects are plainly visible at all times. A minimum lighting level of thirty lux horizontal, measured at thirty inches from the floor and on ten-foot centers is hereby established for all areas of the live adult entertainment establishment where members of the public are admitted.
3. Signs. A sign at least two feet by two feet, with letters at least one inch high shall be conspicuously displayed in the public area(s) of the premises stating the following:

THIS LIVE ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED BY  
THE CITY OF CLE ELUM ENTERTAINERS ARE:

A. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT

B. NOT PERMITTED TO APPEAR SEMI-NUDE OR NUDE, EXCEPT ON STAGE

C. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES IN ADVANCE OF THEIR  
PERFORMANCE

D. NOT PERMITTED TO ACCEPT TIPS DIRECTLY FROM PATRONS WHILE  
PERFORMING UPON ANY STAGE AREA

4. Recordkeeping Requirements.
  - a. All papers, records and things required to be kept pursuant to this chapter shall be open to inspection by the clerk during the hours when licensed premises are open

for business, upon two days' written notice. The purpose of such inspections shall be to determine whether the papers, records and things meet the requirements of this chapter.

- b. Each live adult entertainment establishment shall maintain and retain for a period of two years the name, address and age of each person employed or otherwise retained or allowed to perform on the premises as an adult entertainer, including independent contractors and their employees, as an entertainer. This information shall be open to inspection by the clerk during business hours of operation of the business upon twenty-four hours' notice to the licensee.
5. Inspections. In order to insure compliance with this chapter, all areas of licensed live adult entertainment establishment which are open to members of the public shall be open to inspection by city agents and employees during the hours when the premises are open for business. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with the requirements of this chapter. It is hereby expressly declared that unannounced inspections are necessary to insure compliance with this chapter.

E. It is unlawful for any live adult entertainment establishment to be operated or otherwise open to the public between the hours of two a.m. and eight a.m.

F. This chapter shall not be constructed to prohibit:

- 1. Plays, operas, musicals or other dramatic works that are not obscene;
- 2. Classes, seminars and lectures which are held for serious scientific or educational purposes and which are not obscene; or
- 3. Exhibitions, performances, expressions or dances that are not obscene.

These exceptions shall not apply to the sexual conduct defined in Section 5.24.010(N), or the sexual conduct described in RCW 7.48A.010(2)(b)(ii) and (iii) as amended.

G. Whether or not activity is obscene shall be judged by consideration of the following factors:

- 1. Whether the average person, applying contemporary community standards, would find that the activity taken as a whole appeals to a prurient interest in sex; and
- 2. Whether the activity depicts or describes in a patently offensive way, as measured against community standards, sexual conduct as described in RCW 7.48A.010(2)(b); and
- 3. Whether the activity taken as a whole lacks serious literary, artistic, political or scientific value.

(Ord. 1248 § 1 (part), 2006)

#### **5.24.080 License term--Assignment--Renewals.**

A. There shall be no prorating of license fees set out in CEMC Section 5.24.050 and such licenses shall expire on the thirty-first day of December of each year. Licenses issued under this chapter shall not be assignable.

B. Application for renewal of licenses issued hereunder shall be made to the clerk no later than thirty days prior to the expiration date of live adult entertainment establishment licenses and no later than fourteen days prior to the expiration date of live adult entertainment establishment manager and entertainer licenses. The renewal license shall be issued in the same manner and on payment of the same fees as for an original application under this chapter.

C. The clerk shall renew all license upon application unless the clerk is aware of facts that would disqualify the applicant from being issued the license for which he or she seeks renewal, and further provided that the application complies with all provisions of this chapter as now enacted or as the same may hereafter be amended.

(Ord. 1248 § 1 (part), 2006)

#### **5.24.090 License suspension and revocation--Hearing.**

A. The clerk may, upon the recommendation of the chief of police or his designee and as provided in subsection B below, suspend or revoke any license issued under the provisions of this chapter at any time where the same was procured by fraud or false representation of fact; or for the violation of, or failure to comply with, the provisions of this chapter or any other similar local or state law by licensee or by any of his servants, agents or employees when the licensee knew or should have known of the violations committed by his servants, agents or employees; or for the conviction of the licensee of any crime or offense involving prostitution, promoting prostitution or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises, or the conviction of any of his servants, agents or employees of any crime or offense involving prostitution, promoting prostitution or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises in which his live adult entertainment establishment is conducted when the licensee knew or should have known the violations committed by his servants, agents or employees.

B. A license procured by fraud or misrepresentation shall be revoked. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the license shall be suspended for a period of thirty days upon the first such violation, ninety days upon the second violation within a twenty-four month period, and revoked for the third and subsequent violations within a twenty-four month period, not including periods of suspension.

C. The clerk shall provide at least ten days' prior written notice to the licensee of the decision to suspend or revoke the license. Such notice shall inform the licensee of the right to appeal the decision to the city counsel and shall state the effective date of such revocation or suspension and the grounds for revocation or suspension. The hearing must be conducted within thirty days of the filing of the notice of appeal. The city counsel shall render its decision within ten working days following the close of the appeal hearing. Any person aggrieved by the decision of the city counsel shall have the right to appeal the decision to the superior court by writ of certiorari or mandamus within ten days of the date the decision was mailed to the applicant. The decision of the clerk shall be stayed during the pendency of any appeal except as provided in subsection D below.

D. Where the Cle Elum building official or fire marshal or their designees or the Kittitas County health department find that any condition exists upon the premises of a live adult entertainment establishment which constitutes a threat of immediate serious injury or damage to persons or property, said official may immediately suspend any license issued under this chapter pending a hearing in accordance with subsection C above. The official shall issue notice setting forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage to persons or property, and informing the licensee of the right to appeal the suspension to the city counsel under the same appeal provisions set forth in subsection C above; provided, however, that a suspension based on threat of immediate serious injury or damage shall not be stayed during the pendency of the appeal. (Ord. 1248 § 1 (part), 2006)

#### **5.24.100 Liquor regulations.**

Any license issued pursuant to this chapter shall be subject to any rules or regulations of the Washington State Liquor Control Board relating to the sale of intoxicating liquor. In the event of a conflict between the provisions of this chapter and the applicable rules and regulations of the Washington State Liquor Control Board, the rules and regulations of the Washington State Liquor Control Board shall control. (Ord. 1248 § 1 (part), 2006)

#### **5.24.110 Violation is a misdemeanor.**

Any person violating any of the provisions of this chapter is guilty of a misdemeanor. (Ord. 1248 § 1 (part), 2006)

#### **5.24.120 Nuisance declared.**

A. Public Nuisance. Any live adult entertainment establishment operated, conducted or maintained in violation of this chapter or any law of the city of Cle Elum or the state of Washington shall be, and the same is, declared to be unlawful and a public nuisance. The city attorney may, in addition to or in lieu of any other remedies set forth in this chapter, commence an action to enjoin, remove or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance and restrain and enjoin any person from operating, conduction or maintaining a live adult entertainment establishment contrary to the provision of this chapter.

B. Moral Nuisance. Any live adult entertainment establishment operated, conducted or maintained contrary to the provisions of Chapter 7.48 RCW, Moral Nuisance, shall be, and the same is declared to be, unlawful and a public and moral nuisance and the city attorney may, in addition to or in lieu of any other remedies set forth herein, commence an action or actions, to abate, remove and enjoin such public and moral nuisance, or impose a civil penalty, in the manner provided by Chapter 7.48A RCW. (Ord. 1248 § 1 (part), 2006)

#### **5.24.130 Additional enforcement.**

The remedies found in this chapter are not exclusive, and, the city may seek any other legal or equitable relief, including but not limited to enjoining any acts or practices which constitute or will

constitute a violation of any business license ordinance or other regulations herein adopted.  
(Ord. 1248 § 1 (part), 2006)

**5.24.140 Severability.**

If any portion of this chapter, or its application to any person or its circumstances, is held invalid, the validity of the chapter as a whole, or any other portion thereof, and its application to other persons or circumstances, shall not be affected.

(Ord. 1248 § 1 (part), 2006)