



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: Consider amendment to Elk Grove Municipal Code Title 4 Business Regulations

MEETING DATE: February 13, 2013

PREPARED BY: Shane Diller, Code Enforcement Manager

DEPARTMENT HEAD: Richard S. Renfro, Chief Building Official

RECOMMENDED ACTION:

Staff recommends the City Council introduce and waive the full reading, by substitution of title only, an ordinance amending Elk Grove Municipal Code Title 4 relating to Business Regulation.

BACKGROUND INFORMATION:

On July 25, 2012, the City Council directed staff to modify the business licensing process in order to streamline the issuance of General Business Licenses, thereby improving the business climate in the City of Elk Grove. Under the existing Code, before the City will issue a General Business License, Staff will review the applications for compliance with zoning code land use allowances. Once the Planning Department has approved the zoning of the business, the City's Building Department and the Cosumnes Community Services District (CCSD) Fire Department would review that the business activity was consistent with the occupancy requirements under state law. Council specifically directed Staff to exclude that regulatory review and approval from the General Business License application process.

Under the proposed amended Title 4, a business seeking a General Business license would submit its application to the City, and the City would issue a license without conducting a regulatory review of that

business, including verification of the information provided on the application. Business owners will continue to be subject to federal, state and local laws pertaining to their business; this amended process will simply allow the City to issue a General Business license without first conducting a review for compliance with those applicable laws. Prior to the change in procedure to exempt regulatory review of business licenses, a business license fee was \$110.00. With the reduction in staff time spent on business license fee processing and review, the fee has been reduced to \$13.00 (\$1.00 of which is required to be collected by the state for ADA compliance programming).

Following the direction of the July 25 City Council meeting, Staff began to implement the new Business License issuance process. This item is presented as an amendment to the Elk Grove Municipal Code that will bring the ordinances related to Business License issuance into line with the new practices.

ANALYSIS:

This item amends Elk Grove Municipal Code Title 4 by removing language that required regulatory review of General Business licenses by Planning and Building Department staff. This is accomplished in the following ways:

1. Consolidation of language currently existing in EGMC 4.02 and 4.06 into a single 4.02 General Business License section. This is done in an effort to streamline the code.
2. The amended EGMC 4.02 will include procedural requirements currently found in 4.06 that should remain, keeping the receipt of a business license a legal requirement.
3. Repeal of EGMC 4.06 in its entirety.
4. Amendments to EGMC Title 4.10 to clarify the Finance Director's role in Special Business License issuance, while retaining review of applicants by the Chief of Police for businesses that pose significant risk to public safety, peace, or morals.

Additionally, pet stores that sell animals, costumed mascots (such as clowns) and mobile computer repair businesses have been added to the list of businesses required to obtain a Special Business License. These additions of mascots and mobile computer repair businesses are made at the request of the Police Department for public safety reasons, as these businesses are increasing in popularity and, like other specially licensed

businesses, visit citizens at their homes. The addition of pet stores returns the Pet Store category of business to Special Business Licensing as it was prior to the City's incorporation.

FISCAL IMPACT:

The General Fund will see impacts based on the loss of revenue from the receipt of Business Licenses fees under the prior application process. It is estimated that General Business Licenses provided \$180,000 in annual revenue under the regulatory Business License process. Those funds offset the cost of the regulatory reviews performed by Staff for issuance of a General Business License. Annual General Business License revenue is anticipated to generate less than \$40,000. Under the proposed amended process, staff work related to regulatory review will not be necessary, thereby saving the City the cost of staff time for that function. Additionally, some or all of that revenue could be recovered should the new process spur business activity, resulting in a greater number of Business Licenses being sought and issued, and generating additional sales tax revenues as a result of new business activity.

ATTACHMENT:

1. Ordinance

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING ELK GROVE MUNICIPAL CODE TITLE 4 RELATING TO BUSINESS
REGULATION**

WHEREAS, the City desires to maintain information on business activity occurring in Elk Grove; and

WHEREAS, a method to collect, analyze and use this information is necessary to benefit both the business and residential aspects of the community; and

WHEREAS, the best method of collecting this information is through the requirement of a business license to operate in the City; and

WHEREAS, the business license is used for the purpose of collecting and analyzing information on what business activity is occurring in order to assist in serving those businesses better and attracting new business that would be complementary to the City's current business community as well as to City residents.

NOW, THEREFORE, the City Council of the City of Elk Grove does ordain as follows:

Section 1: Amend Chapter 4.02 relating to General Provisions for Business Licenses.

Elk Grove Municipal Code Chapter 4.02 is hereby amended to read:

*Proposed language to be added is shown in **bold**, and language to be removed is shown with strikeouts.*

Chapter 4.02
GENERAL PROVISIONS FOR BUSINESS LICENSES

- Sections:
- 4.02.010 Purposes.
 - 4.02.015 Organization of title.
 - 4.02.020 Definitions – Generally.
 - 4.02.021 Definitions – “Solicitation activity.”
 - 4.02.022 Definitions – “Solicitor.”
 - 4.02.023 Definitions – “Solicitation permit.”
 - 4.02.024 Definitions – “Business.”
 - 4.02.025 Definitions – “Employee permit.”
 - ~~4.02.030 Definitions – “Fixed location.”~~
 - 4.02.035 Definitions – “General business license.”
 - 4.02.040 Definitions – “Person.”
 - 4.02.045 Definitions – “Convicted” or “conviction.”

- 4.02.050 Definitions – “Special business license.”
- 4.02.055 Authority of City officers.
- 4.02.060 License fees. Contents and Posting of Licenses**
- 4.02.065 License required**
- 4.02.070 License fees**
- 4.02.075 Exemptions**
- 4.02.080 Home Occupations**
- 4.02.085 Renewal of license**
- 4.02.090 Grounds for denial**
- 4.02.095 Procedures for denial**
- ~~4.02.065~~ **100 Transferability.**
- ~~4.02.070~~ **105 Transferability – Partial change in ownership – Special business license.**
- ~~4.02.075~~ **110 Transferability – Partial change in ownership – General business license.**
- ~~4.02.076~~ **115 Transferability – Partial change in function – General business license.**
- ~~4.02.080~~ **120 Term.**
- ~~4.02.085~~ **125 Administration.**
- ~~4.02.090~~ **130 Notices.**
- ~~4.02.095~~ **135 Hearing Authority.**
- ~~4.02.100~~**140 Violations.**
- ~~4.02.105~~ **145 Inspection.**
- ~~4.02.110~~ **150 Laws not enforced.**
- ~~4.02.115~~ **155 Statutory references.**
- ~~4.02.120~~ Effective Date

4.02.010 Purposes.

~~The purposes of this title are to regulate businesses and other enterprises within the City in order to ensure compliance with City ordinances and State laws, protect the public, health, safety, and welfare in the event of a disaster, prevent disturbances of neighborhoods and nuisances, and otherwise protect the health, safety and welfare of the residents of the City.~~

~~A vast array of City ordinances and State laws administered and enforced by City officials regulate the location, construction, improvements in, off-street parking for and other aspects of business-associated enterprises with fixed locations. Such regulation is for the purpose of protecting members of the public against building, safety and other hazards, adverse environmental impacts, risks to health and of public nuisance, risks of fire, disasters, and other life-threatening dangers, and other threats to the public peace, health, safety and welfare.~~

~~A purpose of this title and each of its chapters is to license all enterprises within the City’s jurisdiction in order to maintain certain vital information about such enterprises operating within the City that could be detrimentally affected by or could be essential to provide assistance in the event of an extraordinary natural or manmade disaster.~~

~~Additionally, other purposes of this title and each of its chapters are to license enterprises that typically generate significant ordinance enforcement effort, promote improved enforcement of related ordinances, reduced overall enforcement costs,~~

~~provide a higher level of protection of the public, and reduce the risk that well-intentioned business operators are prejudiced by the unexpected enforcement of regulations at a time when compliance is least convenient.~~

~~Additional purposes of this title and each of its chapters are to license enterprises that generate economic activity to promote and protect the economic health and safety of the City by providing an economic database about enterprises operating within the City so as to allow public officials to plan and anticipate economic threats to the well-being of the City.~~

~~The purposes set forth herein are incorporated into every chapter of this title and each chapter may or may not set forth additional specific purposes for regulation of particular types of businesses.~~

~~The City Council does hereby declare that it finds any one (1) of these manifold purposes sufficient in and of itself for justification for the adoption of this title and independently each of its chapters, and it further declares that it would have adopted this title and independently each of its chapters in their entirety based upon any one (1) of the above-stated purposes, and invalidation of any one (1) purpose or more of the above purposes would not have caused the City Council not to adopt the entire title or independently each of its chapters.~~

The purpose of this section is to provide a procedure for the licensing of business activities within the City, pursuant to Section 37101(a) of the California Government Code, so that the City may accumulate data related to the types of business that operate in Elk Grove and use that data to further enhance the city's business environment.

4.02.015 Organization of title.

The provisions of this title are organized as follows:

A. This chapter contains introductory and master provisions governing ~~the application of the balance of the chapters in this title~~ **creation of a business registry through issuance of a business license.**

B. EGMC Chapter 4.04 establishes, defines the applicability of, and proscribes procedures and the basis for issuance, denial, renewal and revocation of the solicitation license and solicitor permits for door-to-door, cold-calling solicitation and similar solicitation methods.

~~C. EGMC Chapter 4.06 establishes, defines the applicability of, and prescribes procedures and the basis for issuance, denial, renewal and revocation of the general business license.~~

~~D. C.~~ **C.** Unless a different or more specific provision is provided for in EGMC Chapters 4.15 through 4.35, EGMC Chapter 4.10 establishes, defines the applicability of, and prescribes procedures and the basis for issuance, denial, renewal and revocation of special business licenses and employee permits.

Ε. D. EGMC Chapters 4.15 through 4.35 establish special procedural and substantive regulations applicable to specified business enterprises required to obtain a special business license and personnel thereof required to obtain employee permits.

F. E. EGMC Chapter 4.54 contains regulations and prohibitions applicable to specified business enterprises or solicitation activities.

4.02.020 Definitions – Generally, unless the context indicates otherwise, the definitions of terms contained in EGMC Sections 4.02.021 through 4.02.050 shall govern the meaning of those terms as used in 4.02.021 Definitions – “Solicitation activity.”

“Solicitation activity” shall mean actions of any person who attempts to sell, solicit or take orders for goods, wares, merchandise, books, periodicals, subscriptions, photographs, and any personal service by going from private residence to private residence, or by appointment arranged by an unsolicited contact with a resident of the private residence, or by any other similar method and not from a fixed business location within the City.

4.02.022 Definitions – “Solicitor.”

“Solicitor” shall mean a person who engages in solicitation activities as a sole business owner or as an agent, representative, employee, or independent contractor to a person or entity required to obtain a solicitation license.

4.02.023 Definitions – “Solicitation permit.”

“Solicitation permit” shall mean a permit issued by the Chief of Police to a solicitor and required pursuant to the provisions of EGMC Chapter 4.04.

4.02.024 Definitions – “Business.”

“Business” shall mean any enterprise or endeavor by a person operated or conducted for profit or nonprofit purposes.

4.02.025 Definitions – “Employee permit.”

“Employee permit” shall mean a permit issued by the Chief of Police or other designated official to certain personnel retained as employees, independent contractors or otherwise to perform specified duties or functions by particular types of enterprises required by EGMC Chapters 4.10 through 4.35 to possess a special business license for the purpose of ensuring protection of the public health, safety or welfare.

~~4.02.030 Definitions – “Fixed location.”~~

~~“Fixed location” shall mean a particular place where an enterprise is either regularly conducted or kept open, or is conducted or kept open on four (4) or more days during~~

~~any consecutive thirty (30) day period. An enterprise operated from a residence shall be deemed to be conducted at a fixed location.~~

4.02.035 Definitions – “General business license.”

~~“General business license” shall mean a license issued by the **Finance Director**. ~~City Manager and required pursuant to the provisions of EGMC Chapter 4.06, in order to ensure compliance with specified ordinances, prevent disturbances of neighborhoods and nuisances, and prevent safety hazards.~~~~

4.02.040 Definitions – “Person.”

“Person” shall mean a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture or other individual or entity carrying on a business for which a permit or license must first be procured, and shall include any officer, employee, agent or other representative by or through whom the business is operated or conducted.

“Person” shall not include a public agency or any officer, employee or agent thereof while acting in the capacity as such.

4.02.045 Definitions – “Convicted” or “conviction.”

“Convicted” or “conviction,” in relation to the outcome of criminal charges, shall include a plea of *nolo contendere*

4.02.050 Definitions – “Special business license.”

“Special business license” shall mean a license issued by the Chief of Police or other designated official and required pursuant to the provisions of EGMC Chapters 4.10 through 4.35 for specified types of businesses which are potentially injurious to the public interest, are not regulated by the State in such a manner as to preempt local regulation, and which the health, safety and welfare of the community demand be operated by responsible persons in compliance with all laws, including any special regulations applicable to such businesses.

4.02.055 Authority of City officers.

Whenever reference in this title is made to the City Council or any department, office, division, officer or official, the reference shall be deemed to be to, respectively, the City Council, or a department, office, division, officer or official of the City.

Whenever in this title an authority or power is vested in or a duty is imposed upon an officer or official, a City employee subordinate to the officer or official to whom an appropriate delegation has been made shall be entitled to exercise the power or authority and perform the duty.

4.02.060 Contents and posting of licenses.

A. The contents of each Business License shall include, but need not be limited to, the following:

- 1. A complete description of the Business issued the license;**
- 2. The name of the Person licensed;**
- 3. The date of issuance and date of expiration of the license;**

B. The original business license issued to the business or its employees, with any applicable conditions, shall be posted conspicuously on the premises in full public view. Original, for purposes of this section, shall not include photocopies or reproductions of the license issued by the City.

4.02.065 License required.

No person shall engage in, operate or conduct a business within the City, unless under and by the authority of a valid, unexpired and unrevoked Business License issued pursuant to this chapter. A person shall be deemed to operate or conduct a Business in violation of this section if the person, without a required Business License in effect, supervises, directs, organizes, manages or controls or is in any way responsible for or in charge of the Business for which the license is required.

4.02.060 070 License fees.

The City Council may, by resolution and from time to time, prescribe fees for the issuance and renewal of solicitation licenses, solicitor permits, general business licenses, special business licenses and employee permits, fees for special oversight of some special business licenses, and fees for the filing of appeals relating to denial of such permits or licenses or the suspension or revocation thereof. Such fees shall be for the sole purpose of defraying costs incurred in the administration of this title, and shall be prescribed in amounts yielding revenues which do not exceed the costs of administration by each office and department charged with responsibility under this title. To the extent the City Council determines to be practical, such fees may be varied in amounts for different types of permits or licenses, types of businesses, issuance and renewal, and on the basis of other factors, for the sole purpose of apportioning relative regulatory costs to parties regulated. Commercial enterprises subject to unrelated business taxable income under Sections 511 to 515 of the Internal Revenue Code not exempted by EGMC Section ~~4.06.010(A)~~ **4.02.075** and operated by certain types of nonprofit organizations may be exempted from fees authorized herein, if a contribution from the general or another fund supported by tax revenues is made by the City Council to underwrite the costs of regulation.

Fees related to the costs which a department incurs in reviewing and acting upon a particular type of application for a license or permit may be made payable within a general fee chargeable by the City Manager, or may be charged individually by the department reviewing and acting upon the application as a condition precedent to processing of the approval required from that department.

All fees for the issuance and renewal of permits and licenses shall be paid at the time of and with the filing of the application with the City Manager or pursuant to a request for approval by another department charged with the responsibility of reviewing processing the application. All fees for an appeal shall be paid at the time of and with the filing of the appeal. No application or request for approval or appeal shall be deemed valid or complete until all prescribed fees have been paid.

4.02.075 Exemptions.

A Business License shall not be required for, and the provisions of this chapter shall not be otherwise applicable to, those businesses exempted by Federal or California state law from business license processing or from business license fees.. The following types of business described by this section shall be, by the City's authority, required to obtain, but not pay fees for obtaining a business license:

A. Any nonprofit organization exempt from tax as provided in Section 501(c)(3) of the Internal Revenue Code (churches, educational institutions, charitable organizations, and scientific organizations) to the extent of its tax-exempt activities; however, no exemption is granted to any commercial business activity of a Section 501(c)(3) organization for which it has unrelated business taxable income as provided in Sections 511 through 515 of the Internal Revenue Code (bookstores, coffeeshops, child care centers, etc.);

B. Apartments, rooming houses, duplexes, and other residential facilities in which living units are rented or leased solely on a term of thirty (30) days or longer;

C. Agricultural pursuits consisting of the growing of crops, raising of livestock, and dairying, including auxiliary and ancillary uses incidental to the operation of a farm or ranch, consisting of the purchase and storage of substances, materials, supplies, animal feeds and produce, and the marketing of farm products; provided, however, that a General Business License shall be required in connection with any wholesaling, processing, storage or manufacturing use which involves assembly of the products of multiple farms or ranches by a cooperative or other Business for marketing distribution, unless the marketing and sale of crops is done entirely on the property on which the crops sold are grown.

D. Any enterprise that solely manufactures, sells, purchases, possesses or transports alcoholic beverages as provided in Article XX, Section 22 of the California Constitution;

E. Any enterprise operating as a bank or financial corporation subject to the in-lieu taxes payable to the State under Section 23182 of the California Revenue and Taxation Code;

F. Any enterprise operating solely as an intercity transportation business for household goods or other property for hire that is under the jurisdiction of the Public Utilities Commission pursuant to Section 5327 of the Public Utilities Code;

G. Any commercial traveler whose business is limited to goods, wares, and merchandise sold or dealt in at wholesale as provided in Section 16002 of the California Business and Professions Code;

H. Any enterprise operating solely as a real estate auctioneer whose principal place of business is located outside the City as provided in Section 16002.1 of the California Business and Professions Code;

I. Any cafe musician who plays a musical instrument at any retail establishment where food or alcoholic beverages are sold or given away as provided in Section 16000.5 of the California Business and Professions Code;

J. Any enterprise operating solely for the solicitation of donations for the support of veterans by Federally chartered veterans' organizations specified in Title 36 of the United States Code as provided in Section 16001.7 of the California Business and Professions Code;

K. Any person honorably discharged or honorably relieved veteran who is unable to earn a livelihood from manual labor as provided in Section 16001.5 of the California Business and Professions Code;

L. Any blind person operating a vending facility as provided in Section 19633 of the California Welfare and Institutions Code;

M. Any residential care facility or residential day care home of six (6) or less people, or a small family day care of eight (8) children or less as provided in Section 1523.1(b), 1566.2, 1568.05(b), 1569.185, 1596.803 or 1597.45 of the California Health and Safety Code;

N. Any professional services business, not based at a location within the City, whose work in the corporate limits, in the judgment of the City Manager, constitutes such a de minimus contact with the City that the imposition of the regulatory fee would unfairly burden intercity business.

4.02.080 Home occupations.

Unless specifically exempt elsewhere in this chapter, a Business License shall be required for any business or activity operated or conducted as a home occupation, as home occupation is defined by EGMC Chapter 23.82.

4.02.085 Renewal of license.

A. At least thirty (30) days prior to expiration of a Business License, the Finance Director will endeavor to mail the licensee an application for a two (2) year renewal. The application for renewal shall be on such a form, and shall include such information, as prescribed and required by the Finance Director, including the following:

1. A description of any change in the type of business conducted on the premises since the last license was issued; and

2. A description of any and all improvements which the applicant has made upon the premises since the last license was issued.

B. The licensee shall file the application for renewal, and any required fees, with the Finance Director prior to the expiration of the immediately preceding license.

C. Within fifteen (15) days of receiving a complete application, the Finance Director shall issue the renewed Business License unless grounds for denial in this chapter exist.

D. With respect to any application for renewal which is filed on or before the date of expiration of the immediately preceding license, the Finance Director shall extend the term of the immediately preceding license, without charge, during the period of any investigation required to determine whether the license should be renewed.

4.02.090 Grounds for denial.

A. The Finance Director shall deny an initial application or application for renewal of a Business License if the Finance Director finds that the applicant failed to provide sufficient or adequate information as required by this chapter.

4.02.095 Procedures for denial.

A. The Finance Director's denial of an initial application or application for renewal of a Business License, along with the findings for warranting denial, shall be in writing. The Finance Director's written notice of denial shall be provided to the applicant.

B. Denial of an initial application or application for renewal of a Business License shall relate solely to the location at which the Business is proposed and shall not affect the conduct of such Business at another location within the City.

C. With respect to denial of an application for renewal, the immediately preceding Business License shall be deemed to be in full force and effect for a period of fifteen (15) days following the date of denial notice to the applicant. If the holder of the license files an appeal within the time and manner prescribed, the license shall remain in effect during the pendency of the appeal.

4.02.065 **100** Transferability.

A solicitation license, general business license or special business license shall not be transferable or assignable from one (1) person to another.

Each such license shall terminate and be deemed to have no further force or effect upon: 1) a transfer from one (1) person to another of the whole ownership of the business or enterprise; or 2) a change of the whole function or operation for which the permit or license has been issued.

During the term of a general business license or a special business license and within thirty (30) days of the occurrence thereof, the holder shall file in writing with the ~~City Manager~~ **Finance Director** notice of: 1) the transfer from one (1) person to another of the whole ownership of the business or enterprise, or 2) a change of the whole function or operation for which the permit or license has been issued.

4.02.070 **105** Transferability – Partial change in ownership – Special business license.

A. During the term of a special business license, the holder of the permit or license shall file in writing with the Chief of Police notice of each:

1. Addition or deletion of a general or limited partner, when the holder is a partnership;
2. Addition or deletion of a joint venturer, when the holder is a joint venture;
3. Transfer of more than one-half of one (0.5%) percent of the voting shares of stock, when the holder is a commercial corporation;
4. Change of directors, when the holder is either a for-profit or nonprofit corporation;
5. Change of membership in management committee composed of persons holding ownership interests, when the holder is a partnership or joint venture;
6. Change in membership of a governing body or other board or committee to which management is entrusted, when the holder is an unincorporated association; and
7. Change in president or general manager, vice president or chief assistant manager, secretary and treasurer, or any officer with equivalent or similar authority.

B. The holder of a license or permit shall provide in writing such detailed information respecting any such change as the Chief of Police may require.

C. A termination of a special business license shall be deemed to have occurred whenever the Chief of Police determines that effective management or control of the holder has been transferred in significant part to a person whose character or business responsibility was not reviewed at the time the license was issued, and when written notice of the Chief of Police's determination and of termination of the license is served on the holder. The effective date of termination shall be fifteen (15) days following the date of service of the notice of termination, except if an appeal from termination is filed within the time and in the manner prescribed, termination shall occur on the date on which the appeal is finally determined.

4.02.075110 Transferability – Partial change in ownership – General business license.

During the term of a general business license, the holder shall file in writing with the **Finance Director** ~~City Manager~~ notice of each: 1) addition or deletion of a general partner, when the holder is a partnership; 2) addition or deletion of a joint venturer, when the holder is a joint venture; and 3) transfer of more than ten (10%) percent of the voting shares of stock, when the holder is a commercial corporation.

A termination of the license shall be deemed to have occurred whenever the **Finance Director** ~~City Manager~~ determines that a change in ownership has occurred in significant part to another person and when written notice of the determination and of termination is served upon the holder. The effective date of termination shall be fifteen (15) days following the date of service of the notice of termination, except if an appeal from termination is filed within the time and in the manner prescribed, termination shall occur on the date on which the appeal is finally determined.

4.02.076115 Transferability – Partial change in function – General business license.

During the term of a general business license, the holder of the permit or license shall file in writing with the **Finance Director** ~~City Manager~~ notice of any change in the business function, operation, or enterprise for which the permit or license has been issued. The holder shall provide in writing such detailed information relating to any alteration in the business function, operation, or enterprise as the **Finance Director** ~~City Manager~~ may require.

~~A termination of the license shall be deemed to have occurred when the City Manager determines that any such change materially alters the business function, operation, or enterprise for which the license has been issued in a manner which requires a new investigation of the applicability of or compliance with the laws enforced through the license, and when written notice of the determination and of termination is served upon the holder.~~

~~The effective date of termination shall be fifteen (15) days following the date of service of notice of termination, except if an appeal from termination is filed within the time and in the manner prescribed, termination shall occur on the date on which the appeal is finally determined.~~

4.02.080 **120** Term.

General business licenses shall expire when the person to whom the license is issued ceases operations authorized thereby. The term of a general business license shall be two (2) years from the date of issuance. ~~Licenses previously issued under prior provisions of this section prescribing a three (3) year term shall expire three (3) years from the date of issuance and shall then be reissued upon qualification for a two (2) year term.~~

Solicitation licenses and special business licenses shall expire when the person to whom the license is issued ceases operations authorized thereby. The term of a solicitation license, special business license, a solicitor permit, and an employee permit shall be one (1) year from the date of issuance.

4.02.085 **125** Administration.

Except as otherwise provided, the **Finance Director** ~~City Manager~~ is charged with the responsibility of administering general business licenses, and shall be authorized from time to time to promulgate and enforce such rules or regulations consistent with the purposes, intent, and express terms of this title as he or she deems necessary to implement such purposes, intent and express terms. Whenever in this title the **Finance Director** ~~City Manager~~ is charged with responsibility to administer a particular provision, the **Finance Director** ~~City Manager~~ may delegate such responsibility to other departments and subordinate personnel of the City.

Except as otherwise provided, the Chief of Police is charged with the responsibility of administering special business licenses, and shall be authorized from time to time to promulgate and enforce such rules or regulations consistent with the purposes, intent and express terms of this title as he or she deems necessary to implement such purposes, intent and express terms. No rules or regulations promulgated by the **Finance Director** ~~City Manager~~ or Chief of Police, or amendments thereof, shall be enforced or become effective until thirty (30) days following the date on which the proposed rules or regulations are filed with the City Clerk.

4.02.090 **130** Notices.

Any notice or other writing authorized or required by this title shall be deemed served and effective for all purposes on the date when it is reduced to writing and is either personally delivered to the party to whom it is directed or sent by first class certified mail, return receipt requested, and addressed to the party to whom it is directed. Where notice under this provision is mailed, the service is complete at the time of deposit, but any period of notice and any right or duty to do any act or make any response shall be extended five (5) days. When under the provisions of this title any notice or other writing is authorized or required to be filed, it shall not be deemed to have been filed until it is received in the office of the official with whom filing is required.

Whenever a provision in this title requires a public hearing to be conducted, notice of the time, date, place and purpose of the hearing shall be published at least once (1) not later than ten (10) days in advance of the date of commencement of the hearing in a newspaper of general circulation. The same type of notice shall also be served on each licensee whose license would be affected by the action taken at the conclusion of the hearing.

4.02.095 135 Hearing Authority.

~~A. Whenever the term "Hearing Authority" is utilized in this title, it shall be deemed to refer to **the hearing processes set forth in Title 1.11 of the Elk Grove Municipal Code.** a person assigned the responsibility of conducting a hearing by the City Manager. The City Manager shall be authorized to assign hearing responsibilities from time to time to:~~

- ~~1. City management personnel who the City Manager finds are qualified by training and experience to conduct such hearings;~~
- ~~2. Any attorney whom the City may employ for the purpose of conducting administrative hearings;~~
- ~~3. Attorneys engaged in practice within the Elk Grove community who are retained by contract to conduct such hearings; or~~
- ~~4. Administrative Law Judges assigned to the State of California Office of Administrative Hearings.~~

~~B. The City Manager is hereby authorized to contract in the name of the City for the retention of hearing services either by attorneys engaged in private practice or the Office of Administrative Hearings at rates which do not exceed those payable by the City for the legal defense of tort liability claims within financial limitations established by the City's annual budget.~~

4.02.400 140 Violations.

Except as otherwise specifically provided, pursuant to the provisions of Section 36900 of the Government Code, violation of any of the provisions contained in this title shall constitute an infraction which shall be enforced pursuant to EGMC Chapter 1.04, **1.08, and 16.18.**

Violation of any of the following provisions of this title following service at the business of a written notice by an enforcing official advising of the violation and ordering a cessation thereof shall, pursuant to the provisions of EGMC Chapter 1.04, constitute a misdemeanor: EGMC Sections 4.06.005, **4.02.04** ~~04.06.006~~, 4.10.005, 4.15.015, 4.16.010, 4.20.010, 4.21.005, 4.22.020, 4.23.025, 4.25.005, 4.34.200, 4.34.210, 4.35.205, 4.54.010, 4.54.020, 4.54.105, 4.54.220, 4.54.225, 4.54.300, 4.54.330 and 4.54.340. As used in this subsection, an enforcing official includes the Chief of Police, City Manager and any other City officer charged with the responsibility of administering the provisions of this title. Pursuant to the provisions of Section 836.5 of the Penal Code, City personnel acting under the direction and control of the City Manager shall be authorized to enforce and arrest persons without a warrant for violations of those

provisions within those chapters and articles of this title which are assigned, respectively, to the administrative responsibility of the City Manager.

4.02.405 **145** Inspection.

The City Manager is charged with the responsibility of enforcing the provisions of this title, and to that end may inspect any and all types or classes of businesses which are by this title licensed and regulated. The City Manager, Chief of Police, and their deputies or subordinate personnel may enter **the public area of** any place of business which is subject to the provisions of this title **during hours when the business is open to the public** for the purpose of inspection for compliance with this title.

The City Manager may, during the term of a license, require the licensee to complete a license information update form for the purpose of assuring continued compliance with this title. The licensee shall, within fifteen (15) days of the date of mailing by the City Manager of such an information form, file the completed form with the City Manager.

4.02.440 **150** Laws not enforced.

There are many ordinances and other laws applicable to businesses licensed under EGMC Chapters ~~4.06~~ **4.10** through ~~4.35~~ **4.54** which are not sought to be enforced under ~~that~~ **this** licensing process. Such laws include, but are not limited to, building, fire, electrical, **zoning** and other codes and regulations contained in EGMC Chapter 4.54, and noise control, sewage disposal and other health measures. It has been determined that the administrative costs of enforcing such laws would result in fee levels which are so high as to exceed the benefits produced by such enforcement.

By issuing a business license, the City makes no representation or finding, express or implied, that the business is compliant with applicable laws and regulations, or that the business is otherwise authorized to conduct business in the City of Elk Grove. Business licensees must comply with all federal, state and local laws. Neither the issuance of a general business license nor a special business license shall be deemed to constitute a representation that the business so licensed or the premises upon which it is situated complies with such ordinances or other laws. Nor shall the existence of such an unrevoked license be deemed to preclude any criminal or civil remedy for violation of such ordinances or laws, including, but not limited to, the closure of the business if otherwise warranted under remedies sought to be invoked. The possession of either a general business license or special business license shall not be deemed to relieve the holder of the requirement to apply for or obtain any other license or permit required by ordinance or statute.

4.02.445 **155** Statutory references.

Any reference to a State or Federal statutory or regulatory provision contained in this title shall be interpreted to refer to such provision as it may be amended or renumbered from time to time.

~~4.02.120 Effective date.~~

~~The provisions of this title shall become effective February 1, 2006.~~

Section 2: Amend Chapter 4.04 relating to Solicitation Licenses and Permits.

Elk Grove Municipal Code Chapter 4.04 is hereby amended to read:

*Proposed language to be added is shown in **bold**, and language to be removed is shown with strikeouts.*

4.04.000 Purposes.

The City Council finds that door-to-door solicitation, including appointments arranged through cold calling residents of the City, historically have generated complaints regarding the sale of goods, services, securities, investments, and other products. With unfortunate frequency, many solicitation schemes prey upon the elderly and infirm of the community. Without the requirement that such solicitors obtain a permit from the City, residents are exposed to higher risk of unfair sales and business practices by businesses and organizations with no physical presence in the City and therefore less accountability for their business practices. For these reasons, the City Council licensing of such businesses and their solicitor agents is required to protect the public, safety, and welfare.

4.04.010 Solicitation license and solicitor permit required.

It is unlawful for any person or entity to engage in, conduct or carry on any business, exhibition, occupation or service that is based upon solicitation activities as defined in EGMC Section 4.02.021, without first having, upon written application, procured a solicitation license from the **Chief of Police** ~~City Manager~~.

It is unlawful for any person employed or working on behalf of a business engaged in a solicitation business to engage in the solicitation activities as defined in EGMC Section 4.02.021 without first having, upon written application, procured a solicitor permit from the **Chief of Police** ~~City Manager~~.

4.04.015 Exemptions.

This chapter does not apply to:

A. Girl Scouts, Camp Fire Girls, Boy Scouts, Little League members and members of similar organizations when soliciting on behalf of such organizations;

B. Persons who represent a fixed place of business in the City who regularly make deliveries, normally not involving personal contact with customers for the purpose of making sales or obtaining orders, over an established route and who only occasionally

make calls on persons residing within the area covered by such route for the purpose of obtaining additional customers for such regular deliveries. The foregoing provisions are intended to cover only such persons as milk delivery persons, newspaper delivery persons and other persons engaged in substantially similar activities;

C. Persons soliciting charitable contributions on behalf of any nonprofit corporation or nonprofit voluntary unincorporated association organized for charitable purposes;

D. Persons who go from private residence to private residence for political purposes or for the purpose of influencing legislation.

4.04.020 Statement of exemption.

A. Every person claiming to be entitled to exemption from the payment of any license fee or from any other requirement provided for in this chapter upon the ground that such license casts a burden upon his or her right to engage in commerce with foreign nations or among the several states, or conflicts with the laws of the United States respecting interstate commerce, shall file a verified statement with the **Chief of Police City Manager**, disclosing the interstate or other character of his or her business entitling such exemption. The statement shall contain the name and location of the company or firm for which the orders are to be solicited or secured, the name of the nearest local or State manager, if any, and his or her address, the kinds of goods, wares or merchandise to be delivered, the place from which the same are to be shipped or forwarded, the method of solicitation or taking orders, the location of any warehouse, factory or plant within the State, the method of delivery, the name and location of the residence of the applicant, and any other facts necessary to establish such claim of exemption. A copy of the order blank, contract form or other papers used by such person in taking orders shall be attached to the affidavit. The affidavit may be filed by a firm on behalf of one (1) or more employees or representatives of the firm who are subject to the requirements of this chapter.

B. If the **Chief of Police City Manager** determines that a license fee is not applicable with respect to any person because of interstate commerce requirements, a license fee shall not be required and the person may be issued an exempt license. Such license shall be valid only for the purpose of authorizing solicitation of orders to be filled directly from another state. Any person who is eligible for a license pursuant to this section shall be subject to all applicable provisions of this chapter.

4.04.025 Solicitation license application.

A person may apply for a solicitation license by filing an application with the **Finance Director City Manager** and paying the required fees. The Finance Director **City Manager** shall forward the application for the solicitation license to the Chief of Police for investigation in the same manner as provided for a special business license under EGMC Section 4.10.035.

4.04.030 Solicitation license issuance.

The **Finance Director** ~~City Manager~~ shall issue a solicitation license unless:

A. The **Finance Director** ~~City Manager~~ finds in writing that the application is not complete despite requests for supplemental information;

B. The **Finance Director** ~~City Manager~~ finds in writing that the application or any supplementary material contains false information;

C. The **Chief of Police** ~~City Manager~~ finds in writing that any of the following persons has been convicted of a crime and the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under Section 1203.4 of the California Penal Code, or has done any act involving dishonesty, fraud or deceit with intent to substantially injure another, and the **Chief of Police** ~~City Manager~~ concludes that by reason of the crime or act there is a substantial risk that the applicant would not conduct the enterprise in a law-abiding manner or in a manner which does not subject patrons of the enterprise to risk of harm or criminal, deceitful or otherwise unethical practices:

1. A general or limited partner of a partnership which possesses an ownership interest in the enterprise;

2. A joint venturer in a joint venture which possesses an ownership interest in the enterprise and if one (1) or more of the joint venturers is a partnership or corporation, those partners, directors or stockholders to whom the requirements of this section would apply if the partnership or corporation were the sole owner of the enterprise;

3. A sole proprietor when the enterprise is a sole proprietorship;

4. An owner of more than one-half of one (0.5%) percent of the voting shares of stock when a commercial corporation possesses an ownership in the enterprise;

5. A director, when either a commercial or nonprofit corporation possesses an ownership in the enterprise;

6. A member of a management committee when a partnership or joint venture possesses an ownership interest in the enterprise;

7. A member of a governing body or other board or committee to which management is entrusted, when an unincorporated association possesses an ownership interest in the enterprise; or

8. A president, general manager, vice president, chief assistant manager, secretary, treasurer or any officer with equivalent or similar authority employed or retained by the firm possessing an ownership interest in the enterprise.

Notwithstanding the foregoing, an application shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under Section 4852.01, et seq., of the California Penal Code, or that the person has been convicted of a misdemeanor, if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under Section 4852.01, et seq., of the California Penal Code.

D. The **Chief of Police** ~~City Manager~~ finds in writing that when the applicant or enterprise is a “contractor,” as that term “contractor” is defined in Division 3, Chapter 9, Article 2, Section 7026, et seq., of the Business and Professions Code, the applicant has failed to provide sufficient proof, as determined by the **Chief of Police** ~~City Manager~~, that the applicant is licensed to engage in the business as a contractor by the State of California Contractors State License Board, and that the license is presently valid, effective, not suspended, and in good standing.

4.04.035 Conditions on solicitation license and permit:

Every solicitation license issued by the **Finance Director** ~~City Manager~~ shall include the following conditions:

A. Solicitation activities shall not be conducted by any license holder or any solicitor between the hours of 9:00 p.m. to 8:00 a.m. the following day on weekdays, 9:00 p.m. on Fridays to 9:00 a.m. on Saturdays, and 9:00 p.m. on Saturdays to 10:00 a.m. on Sundays;

B. Every solicitor shall ~~carry~~ **display** on his or her person the City-issued solicitor permit at all times when conducting solicitation activities and shall produce such permit to any law enforcement officer upon demand; and

C. Any other condition reasonably related to protection of the public interest in solicitation activities.

4.04.040 Solicitors.

The employees, agents, solicitors or representatives of any firm, irrespective of the form of organization, may be covered under a single license obtained by and issued in the name of the firm as long as each such person holds a valid solicitor permit issued pursuant to EGMC Section 4.04.045.

4.04.045 Solicitor permit.

A. It is unlawful for any solicitor to conduct solicitation activities within the City without having first obtained a solicitor permit pursuant to this section.

For the purposes of this section, the word “solicitor” includes all employees, agents, solicitors or representatives of any firm, irrespective of the form of organization, subject to the solicitation license requirement of this chapter.

B. A solicitor may file a written application for a solicitor’s permit with the **Finance Director** ~~City Manager~~, giving the name and address of the applicant, the firm or organization which he represents, a description of the purpose for which the applicant proposes to conduct solicitation activities and such other information the **Finance Director** ~~City Manager~~ and Chief of Police may require.

~~C. The City Manager shall refer the applicant to the Chief of Police who shall fingerprint and photograph the applicant and obtain reports from the State Department of Justice of any record regarding the applicant which is available from those agencies. After an applicant has been fingerprinted and photographed by the Chief of Police, the applicant shall be issued a temporary permit by the City Manager, valid for forty five (45) days, unless the Chief of Police, based on a check of any immediately available record or source of information regarding the character of the applicant or the business responsibility of the firm which he represents, disapproves the issuance of a temporary permit. If the Chief of Police disapproves, his reasons for disapproval shall be specified in writing, a copy of which shall be delivered to the applicant. When he or she receives the reports, the Chief of Police shall forward them to the City Manager together with any other relevant information from the Chief of Police's files regarding the applicant and the firm which the applicant plans to represent in the City.~~

~~D.C. On the face of each permit, including temporary permits there shall be placed each of the following:~~

- ~~1. The solicitor's permit number;~~
- ~~2. The solicitor permit holder's name and address;~~
- ~~3. The name and address of the firm or organization which the holder represents;~~
- ~~4. A physical description of the holder or a photo ID;~~
- ~~5. The expiration date of the permit.~~

~~E. D. While engaged in solicitation activities, the solicitor's permit shall be carried **displayed** on the person of the solicitor **at all times while engaged in soliciting activities.**~~

4.04.050 Renewal.

Not later than forty-five (45) days prior to expiration of the term of a solicitation license or a solicitor's permit, the **Finance Director** ~~City Manager~~ shall transmit to the licensee or permit holder by mail an application for renewal. The application for renewal shall be on such a form, and include such information, as prescribed and required by the **Finance Director** ~~City Manager~~.

The application for renewal shall be filed with the **Finance Director** ~~City Manager~~ not later than the date of expiration of the immediately preceding license. The **Finance Director** ~~City Manager~~ may provide an option for businesses to renew and pay license and permit fees on the City's website in a manner consistent with the process specified herein for paper-based transactions. As a condition of processing a solicitation license or solicitor's permit renewal electronically, the licensee consents to the use of electronic means of notice and expressly acknowledges that his or her submission of his electronic signature shall be enforceable in any proceeding as if the renewal was submitted with a manual signature consistent with Section 1633.1, et seq., of the Civil Code.

4.04.055 Suspension or revocation.

A solicitation license issued pursuant to this chapter may be immediately suspended or revoked during its term if the **Finance Director** ~~City Manager~~ finds in writing that one (1) or more of the following grounds exists:

A. That information in the latest application was untrue;

B. That the **Finance Director** ~~City Manager~~ or the Chief of Police has acquired information supporting a finding that one (1) of the persons listed in EGMC Section 4.04.045(A) has a new criminal conviction or a criminal conviction previously undisclosed;

C. That the licensee or any one (1) of the licensee's solicitors has violated one (1) or more conditions imposed; or

D. That the licensee or any one (1) of the licensee's solicitors has violated any term, condition or requirement or prohibition established by EGMC Chapter 4.02 or this chapter which are applicable to the license or the holder, or any administrative regulation promulgated thereunder, or any other applicable law.

4.04.060 Appeal.

Any person aggrieved by any decision or action of any City officer or employee may file a written notice of appeal pursuant to EGMC Chapter 1.11.

Section 3: Repeal of Chapter 4.06 related to General Business Licenses.

Elk Grove Municipal Code Chapter 4.06 titled General Business Licenses is repealed in its entirety.

~~Chapter 4.06~~

~~GENERAL BUSINESS LICENSES~~

~~Sections:~~

~~Article I. Applicability and Issuance~~

~~4.06.000 Purposes.~~

~~4.06.005 License required.~~

~~4.06.006 Temporary concessions.~~

~~4.06.010 Exemptions.~~

~~4.06.055 Home occupations.~~

~~4.06.060 Zoning enforcement.~~

~~4.06.065 Number of licenses.~~

~~4.06.070 Application filing.~~

~~4.06.075 Application contents.~~

~~4.06.080 Investigation.~~

~~4.06.085~~ Issuance.
~~4.06.090~~ Conditions.
~~4.06.095~~ Procedure for imposition.
~~4.06.100~~ Contents and display of licenses.
~~4.06.105~~ Application for renewal.
~~4.06.110~~ Processing and issuance — Renewal.
~~4.06.115~~ Undetected violations.
Article II. Denial and Revocation
~~4.06.200~~ Grounds for denial.
~~4.06.205~~ Method of denial.
~~4.06.206~~ Request for extension.
~~4.06.210~~ Appeals.
~~4.06.230~~ Grounds for revocation.
~~4.06.235~~ Method of revocation.
~~4.06.240~~ Appeal of revocation.
~~4.06.245~~ Effect of revocation.
~~4.06.250~~ Other procedures.
~~4.06.255~~ Judicial review of administrative determination.

Article I. Applicability and Issuance

~~4.06.000~~ Purposes.

The purposes of this chapter are set forth in EGMC Section ~~4.02.010~~.

~~4.06.005~~ License required.

Except as provided by EGMC Section ~~4.06.010~~, no person shall operate or conduct at a fixed location within the City any enterprise whatsoever, including, but not limited to, a manufacturing, fabricating, processing, assembly or repair; wholesaling or storage; lodging, rental housing, or other temporary or permanent housing; entertainment; service; retailing; educational; hospital or other medical care; or business or professional office enterprise; home occupation or family contractor's business; or other facility to which members of the general public are invited; or adult-related uses as defined in this title; unless under and by authority of a valid, unexpired and unrevoked general business license authorizing the enterprise issued pursuant to the provisions of this chapter. It is intended by this chapter to license, unless expressly exempted, every enterprise operated at a fixed location which is of a type described by this section, whether the enterprise is operated for commercial, nonprofit, charitable or other purposes, and whether the enterprise is operated or conducted independently or in association with or at the same location as an enterprise or activity for which a license is not required.

A person shall be deemed to operate or conduct an enterprise and violate this section if the person, without a required general business license in effect, supervises, inspects, directs, organizes, manages or controls or is in any way responsible for or in charge of the enterprise for which the license is required.

4.06.006 Temporary concessions.

~~A. No person shall operate or conduct within the City a temporary concession, whether or not the temporary concession is conducted at a fixed location, unless under and by authority of a valid, unexpired and unrevoked general business license issued pursuant to the provisions of this chapter authorizing the temporary concession at the location where it operates.~~

~~B. As used in this section, and except as hereinafter expressly provided, a “temporary concession” is any out of doors retail sales operation, whether conducted for an hour or less, a day, or longer, established for the purpose of selling flowers, produce, Christmas trees or greens, clothing, paintings or other artistic products, books or other written materials, or other goods from a table, stand, temporary sheltered enclosure, cart, motor vehicle or similar equipment.~~

~~C. A “temporary concession” shall not be deemed to include:~~

~~1. The sale of Christmas trees or greens in connection with and on the same premises as a supermarket, hardware or home maintenance or repair store, or other established business, if a temporary structure and electrical wiring are not employed in connection with such sales;~~

~~2. Residential “garage sales” conducted for the purpose of disposing household goods formerly utilized in a home which have become surplus, where such garage sale is conducted on the residential premises where the goods to be sold were utilized;~~

~~3. The sale from stands of fireworks preceding and in connection with the celebration of the Fourth (4th) of July as such temporary sales are permitted as provided in EGMC Chapter ~~4.54~~;~~

~~4. The sale of agricultural products on the site where the product is grown; and~~

~~5. The sale or offering for sale or distribution from public sidewalks or pedestrian circulation areas of shopping centers or malls of products to pedestrians who are traversing such areas or patrons of retail stores.~~

~~D. The exemption of the above activities from the temporary concessions licensing requirement shall not be deemed to authorize any activity which is illegal under other laws or to exempt any such activities from other applicable laws; or to deprive the owner or occupant of private property of any otherwise applicable right to consent to such activity.~~

~~E. Notwithstanding the provisions of EGMC Section ~~4.02.085~~, the Chief of Police shall enforce the provisions of this section by citing and charging pursuant to the provisions of EGMC Section ~~4.02.100~~ such persons who violate this section.~~

4.06.010 Exemptions.

~~A business license shall be issued to the following enterprises at no charge and marked as “EXEMPT” upon the completion of an application that demonstrates to the satisfaction of the City Manager that the business qualifies for an exemption provided in law including, but not limited to, the following California constitutional or statutory exemptions:~~

~~A. Any nonprofit organization exempt from tax as provided in Section 501(c)(3) of the Internal Revenue Code (churches, educational institutions, charitable organizations, and scientific organizations) to the extent of its tax exempt activities; however, no exemption is granted to any commercial business activity of a Section 501(c)(3) organization for~~

~~which it has unrelated business taxable income as provided in Sections 511 through 515 of the Internal Revenue Code (bookstores, coffeeshops, child care centers, etc.);~~

~~B. Any apartment, rooming house, duplex, and other residential facility in which living units are rented or leased solely on a term of thirty (30) days and longer;~~

~~C. Any agricultural activities such as the growing of crops or raising of livestock and all the auxiliary and ancillary uses incidental to operation of a farm or ranch; however, no exemption is granted to any wholesaling, processing or storage of products of multiple farms or other cooperative marketing arrangement;~~

~~D. Any sale of produce (vegetables, nuts, fruits, etc.) raised on the same parcel of land from a roadside stand served by no public utility services on a seasonable basis not to exceed four (4) months;~~

~~E. Any enterprise that solely manufactures, sells, purchases, possesses or transports alcoholic beverages as provided in Article XX, Section 22 of the California Constitution;~~

~~F. Any enterprise operating as a bank or financial corporation subject to the in-lieu taxes payable to the State under Section 23182 of the California Revenue and Taxation Code;~~

~~G. Any enterprise operating solely as an intercity transportation business for household goods or other property for hire that is under the jurisdiction of the Public Utilities Commission pursuant to Section 5327 of the Public Utilities Code;~~

~~H. Any commercial traveler whose business is limited to goods, wares, and merchandise sold or dealt in at wholesale as provided in Section 16002 of the California Business and Professions Code;~~

~~I. Any enterprise operating solely as a real estate auctioneer whose principal place of business is located outside the City as provided in Section 16002.1 of the California Business and Professions Code;~~

~~J. Any cafe musician who plays a musical instrument at any retail establishment where food or alcoholic beverages are sold or given away as provided in Section 16000.5 of the California Business and Professions Code;~~

~~K. Any enterprise operating solely for the solicitation of donations for the support of veterans by Federally chartered veterans' organizations specified in Title 36 of the United States Code as provided in Section 16001.7 of the California Business and Professions Code;~~

~~L. Any person honorably discharged or honorably relieved veteran who is unable to earn a livelihood from manual labor as provided in Section 16001.5 of the California Business and Professions Code;~~

~~M. Any blind person operating a vending facility as provided in Section 19633 of the California Welfare and Institutions Code;~~

~~N. Any residential care facility or residential day care home of six (6) or less people, or a small family day care of eight (8) children or less as provided in Section 1523.1(b), 1566.2, 1568.05(b), 1569.185, 1596.803 or 1597.45 of the California Health and Safety Code;~~

~~O. Any professional services business, not based at a location within the City, whose work in the corporate limits, in the judgment of the City Manager, constitutes such a *de minimus* contact with the City that the imposition of the regulatory fee would unfairly burden intercity business as provided in City of San Jose v. Ruthroff & Englekirk Consulting Structural Engineers, Inc. (1982) 131 Cal.App.3d 462; and~~

~~P. Any adult-oriented business as defined and regulated in EGMC Chapter 4.31.~~

~~4.06.055 Home occupations.~~

~~Unless exempt under EGMC Section 4.06.010, a general business license shall be required for any business, enterprise or activity which is operated or conducted as a home occupation. A general business license shall also be required for a family contractor's business.~~

~~As used in this chapter, a "home occupation" shall mean and include any commercial use conducted in a dwelling unit which is also utilized for residential purposes. The terms "family contractor's business" shall mean a business operated at or from a residence which employs only members of the resident's family, and which may include the storage of contractor's equipment or supplies at the residence of one (1) of the family members engaged in the business.~~

~~4.06.060 Zoning enforcement.~~

~~The administration of the general business license under the provisions of this chapter shall assist the City Manager or his or her designee to enforce the provisions of the Zoning Code, as those provisions may hereafter be amended, and the terms, conditions and requirements of rezoning ordinances and any and all contracts associated therewith, variances, conditional use permits and other legislative and administrative approvals issued pursuant to the Zoning Code.~~

~~4.06.065 Number of licenses.~~

~~In instances where space within an office building, shopping center, warehouse, department store or other structure or property is leased for business or commercial use, each tenant of the premises operating an enterprise required to be licensed hereunder shall apply for and obtain a general business license.~~

~~When a particular enterprise has more than one (1) fixed location or branch within the City, a separate general business license shall be required for each location or branch.~~

~~Certain types of persons required to obtain general business licenses hereunder are also required to obtain a special business license or other license or permit under this or other titles. The issuance of a special business license or other license or permit for an enterprise shall not be deemed to excuse the requirement that a general business license be obtained, and the provisions of this chapter are declared to be independently applicable to each enterprise to which the provisions of this chapter apply.~~

~~The provisions of this chapter shall also be deemed to be independently applicable to any enterprise required to be licensed hereunder which is also required by any state or other law to obtain a license, permit or certificate.~~

~~4.06.070 Application filing.~~

~~All applications for general business licenses shall be filed in the office of the City Manager, or in the office of his or her designee.~~

~~4.06.075 Application contents.~~

~~The application for a general business license shall be filed on a form and contain such information as is prescribed by the City Manager, including the following:~~

~~A. The name and address of the person or entity who owns the enterprise for which application is made;~~

- ~~B. A complete description of the enterprise to be conducted at the location for which the license is sought;~~
- ~~C. The address of the location for which the license is sought;~~
- ~~D. The assessor's parcel number;~~
- ~~E. The number of employees reporting to and/or located at the business site. If the business is seasonal, the highest and lowest number of employees reporting to and/or located at the business site with the corresponding month or months of the year for each period;~~
- ~~F. The number of electronic, mechanical and video games to be operated in the business;~~
- ~~G. Whether or not the applicant or enterprise is a contractor, as that term is defined in Division 3, Chapter 9, Article 2, Section 7026, et seq., of the Business and Professions Code, and if such contractor is licensed as a contractor by the State of California Contractors' State License Board, with a license in good standing, and the license number and class thereof; and~~
- ~~H. Such other and further information as is deemed necessary to enforce the Zoning Code, and administer the provisions of this chapter.~~

~~The City Manager may provide an option for businesses to initially apply and pay business license fees on the City's website in a manner consistent with the process specified herein for paper based transactions. As a condition of processing a business license application electronically, the applicant consents to the use of electronic means of notice and expressly acknowledges that his or her submission of his or her electronic signature shall be enforceable in any proceeding as if the application was submitted with a manual signature consistent with Section 1633.1, et seq., of the Civil Code.~~

~~4.06.080 Investigation.~~

~~The City Manager shall refer the application for review by:~~

- ~~A. The City Manager or his or her designee; and~~
- ~~B. The Chief of Police, if the enterprise requires a special business license.~~

~~The City Manager or his or her designee shall examine the application for the purpose of determining whether the enterprise complies with the Zoning Code, and whether any conditions should be attached to issuance of the license. Inspection of the site shall be conducted as necessary to determine applicability, compliance with, or the adequacy of corrections to achieve compliance with such laws.~~

~~4.06.085 Issuance.~~

~~A. The City Manager shall act upon an application not later than forty-five (45) days after the date a complete application is validly filed except where EGMC Section 4.06.206 is applicable. An application is complete and deemed validly filed when all information requested on the application form is provided by the applicant and any associated fees paid. The City Manager shall act upon the application by issuing the license unless one (1) of the following occurs:~~

- ~~1. The City Manager or his or her designee finds in writing that the applicant has failed to provide sufficient or adequate plans, information or other data necessary to permit determinations respecting compliance with the Zoning Code;~~

~~2. The City Manager or his or her designee finds in writing that the enterprise at the location proposed would violate the Zoning Code, and that such violation or violations must be corrected in advance of the conduct of the enterprise; or~~

~~3. With respect to an enterprise required by EGMC Chapter 4.10 to obtain a special business license, the special business license has not been issued; or~~

~~4. Pursuant to Section 16100 Subdivision (c) of the Business and Professions Code, when the applicant or enterprise is a “contractor,” as that term is defined in Section 7026, et seq., of the Business and Professions Code, and as determined by the City Manager the applicant has failed to provide sufficient proof that he or she holds a State of California contractor’s license presently valid, effective, not suspended, and in good standing.~~

~~B. Unless issued to a temporary concession not operated from a fixed location, a general business license issued under this chapter shall authorize the holder thereof to operate or conduct a business enterprise only on such property the address of which is stated on the license. In the event the licensee ceases to use the property for the business, activity or enterprise listed, the license shall have no further force or effect and becomes void.~~

~~4.06.090 Conditions:~~

~~A. Upon recommendation by the City Manager or his or her designee, the City Manager may issue the general business license upon such conditions as are necessary to ensure safety and prevent the enterprise from disturbing the peace and tranquility of the neighborhood in which it is located. Such conditions may include the following:~~

~~1. With respect to minor and correctable violations of the Zoning Code, that the holder of the license correct the violation within a prescribed period of time;~~

~~2. Limitations upon hours or days of operation when required in order to prevent disturbance of the peace and quiet of a neighborhood caused by the enterprise or the patrons thereof at a particular location;~~

~~3. The provision of adequate off street parking to prevent the enterprise from inconveniencing neighbors or causing traffic disruptions at a particular location;~~

~~4. The installation of on-site improvements required to prevent operation of the enterprise from disturbing its neighbors at a particular location; or~~

~~5. Other conditions related to operations or improvements demonstrated under the particular circumstances to be necessary in order to prevent hazards, disturbances of the peace, quiet or safety of the neighborhood or other nuisances.~~

~~B. Such conditions may be imposed at the time a general business license is initially issued, upon renewal of the license, or at any time during the term of the license.~~

~~4.06.095 Procedure for imposition:~~

~~Any condition imposed pursuant to the provisions of EGMC Section 4.06.090, together with the written reasons therefor, whether established at the time of issuance, at the time of renewal or during the term of a general business license, shall be served upon the applicant or holder in a written notice.~~

~~The conditions shall become effective fifteen (15) days following the date of service of the notice thereof except if an appeal is filed within the time and in the manner prescribed, the conditions shall not become effective until the appeal is finally determined.~~

~~4.06.100 Contents and display of licenses.~~

~~The general business license shall include but not be limited to a complete description of the enterprise for which it is issued, the date of issuance and date of expiration, and a description of any and all conditions upon which the license has been issued. The license shall be conspicuously posted at the place of business in full public view.~~

~~4.06.105 Application for renewal.~~

~~A. Not later than forty five (45) days prior to expiration of the term of a general business license, the City Manager shall transmit to the licensee by mail an application for renewal. The application for renewal shall be on such a form, and include such information, as prescribed and required by the City Manager, including the following:~~

~~1. A description of any change in the type of business conducted on the premises since the last license was issued; and~~

~~2. A description of any and all improvements which the applicant has made upon the premises since the last license was issued.~~

~~B. The application for renewal shall be filed with the City Manager not later than the date of expiration of the immediately preceding license. The City Manager may provide an option for businesses to renew and pay business license fees on the City's website in a manner consistent with the process specified herein for paper based transactions. As a condition of processing a business license renewal electronically, the licensee consents to the use of electronic means of notice and expressly acknowledges that his or her submission of his or her electronic signature shall be enforceable in any proceeding as if the renewal was submitted with a manual signature consistent with Section 1633.1, et seq., of the Civil Code.~~

~~4.06.110 Processing and issuance — Renewal.~~

~~A. An application for renewal shall be investigated and processed in the manner prescribed by EGMC Section 4.06.080. The City Manager shall act upon the application for renewal not later than thirty (30) days after the date a valid application is filed unless the applicant has filed with him or her, before expiration of the thirty (30) days, written notice of a request for extension of the time within which action is taken on the application for renewal by the City Manager on grounds that such additional time is required by the applicant to prepare and present plans or other information, obtain zoning variances or other permits, remodel the premises or make other corrections necessary to comply with the Zoning Code or for other similar reasons. The City Manager may, pursuant to such a notice request, extend the time within which action is required by the City Manager on the application to such a period as he or she deems reasonable and appropriate to accomplish the corrections. The City Manager shall act upon the application for renewal within the thirty (30) day period, or the extended period of time, as applicable, by issuing the renewed license unless:~~

~~1. One (1) or more of the conditions identified in EGMC Section 4.06.085 apply; or~~

~~2. The City Manager finds in writing that one (1) or more conditions applicable to the preceding license at the same location have been violated, and it is determined pursuant to the provisions of EGMC Section 4.06.090 that such conditions shall also be applicable to the renewed license.~~

~~With respect to any application for renewal which is filed on or before the date of expiration of the immediately preceding license, the City Manager shall extend the term of the immediately preceding license, without charge, during the period of any investigation required in order to determine whether the license should be renewed.~~

~~4.06.115 Undetected violations.~~

~~Under EGMC Sections [4.06.085](#) and [4.06.110](#), the City Manager is required to issue new and renewed general business licenses in the absence of any identified deficiencies or violations of law. Such action is required within limited time periods in order to promote expeditious processing of applications and reduce damaging delays to applicants in awaiting administrative determinations.~~

~~The mandates of EGMC Sections [4.06.085](#) and [4.06.110](#) may result in the issuance of general business licenses notwithstanding the existence of violations of the laws sought to be enforced. Therefore, neither the issuance nor receipt of a general business license shall constitute evidence of compliance with the Zoning Code, or, as required pursuant to Section 16100 of the Business and Professions Code, evidence of compliance with the licensing provisions of contractors, as contractors are defined in Section 7026 of the Business and Professions Code, or valid licensure by the Contractors State License Board, or a representation or assurance to the recipient upon which reliance is authorized or intended by the City that the enterprise for which the license is issued or the property or premises upon or in which it is housed complies with such laws.~~

~~Article II. Denial and Revocation~~

~~4.06.200 Grounds for denial.~~

~~The City Manager shall deny an initial application for or application for renewal of a general business license if any written finding of EGMC Section [4.06.085](#) applies.~~

~~The City Manager shall also deny an application for renewal upon a finding that one (1) or more conditions applicable to the preceding license at the same location have been violated, if, pursuant to the provisions of EGMC Section [4.06.090](#), it is determined that such conditions should also be applicable to the renewed license.~~

~~4.06.205 Method of denial.~~

~~A denial of an initial application or application for renewal of a general business license by the City Manager shall be in writing, with the reasons stated therefor. Written notice of the denial, together with a copy of the provisions of this chapter, shall be served upon the applicant pursuant to the provisions of EGMC Section [4.02.090](#).~~

~~Denial of an initial application or application for renewal of a general business license shall relate solely to the location at which the enterprise is proposed, and shall not affect the conduct of such enterprise at another location within the City.~~

~~With respect to denial of an application for renewal or termination, the immediately preceding general business license shall be deemed to be in full force and effect for a period of fifteen (15) days following the date of service upon the applicant of the notice of denial or of termination. In the event the applicant files an appeal from the denial or termination in the manner and within the time prescribed by EGMC Section [4.06.210](#), the immediately preceding general business license shall continue in full force and effect during the pendency of the appeal, until the date of final decision by the appellate authority.~~

~~4.06.206 Request for extension.~~

~~The denial of an initial application or application for renewal of a general business license shall be set aside by the City Manager if the applicant has filed with him or her a timely written notice of a request for extension of time within which action is taken on grounds that additional time is required to prepare and present plans or other information, obtain zoning variances or other permits, remodel the premises or make other corrections for the purpose of remedying violations of the Zoning Code or for other similar reasons. Such written request for extension shall be filed with the City Manager not later than fifteen (15) days after the date of service of the notice of denial prescribed in EGMC Section 4.06.205. The City Manager shall by regulation establish reasonable periods of time to grant a licensee or applicant extension in order for the licensee or applicant to complete the tasks enumerated above in this section.~~

~~If the period of extension elapses without correction of the deficiencies for which the extension was granted, within fifteen (15) days from the last day of that period of extension, the City Manager shall deny the application pursuant to the procedure set forth in EGMC Section 4.06.205. If the deficiency for which the extension was granted is corrected, the City Manager shall issue the general business license no later than fifteen (15) days from the last day of the period of extension as provided in EGMC Section 4.06.085 or 4.06.110.~~

~~4.06.210 Appeals.~~

~~A. The holder of a general business license or applicant therefor may file an appeal from the following:~~

- ~~1. The denial of an initial application for or application for renewal of a general business license pursuant to the provisions of EGMC Section 4.06.200;~~
- ~~2. The imposition of conditions at the time of issuance of an initial or renewed general business license or during the term thereof, pursuant to the provisions of EGMC Section 4.06.095; or~~
- ~~3. The termination of a general business license as a result of a change in ownership or a business function pursuant to the provisions of EGMC Section 4.02.075 or 4.02.076.~~

~~B. Any such appeal shall be filed not later than thirty (30) days after the date of service of the notices pursuant to EGMC Chapter 1.11.~~

~~4.06.230 Grounds for revocation.~~

~~Any general business license issued pursuant to this chapter may be revoked during its term upon one (1) or more of the following grounds:~~

- ~~A. That the enterprise is operated in a manner or is housed on premises or within a building which violates or is in violation of the Zoning Code;~~
- ~~B. That the holder of the license has violated one (1) or more conditions upon which the license has been issued; or~~
- ~~C. That the enterprise is that of contractor as defined in Section 7026, et seq., of the Business and Professions Code, and the City Manager finds that the licensee possesses no State of California contractor's license presently valid, effective, not suspended, and in good standing.~~

~~4.06.235 Method of revocation.~~

~~The City Manager may revoke a general business license by issuing a written notice of revocation, stating the reasons therefor, and serving same, together with a copy of the provisions of this chapter, upon the holder of the license. The revocation shall become effective thirty (30) days after the date of service unless the holder of the license files an appeal within the time and in accordance with the provisions of EGMC Chapter 1.11. If such an appeal is filed, the revocation shall not become effective until a final decision on the appeal is issued.~~

~~4.06.240 Appeal of revocation.~~

~~Following the date on which the notice of revocation is served, the holder of the license may file a written appeal pursuant to EGMC Chapter 1.11.~~

~~4.06.245 Effect of revocation.~~

~~With respect to any enterprise required by the provisions of EGMC Chapter 4.10 to possess a special business license, revocation of the special business license shall automatically and without notice also revoke each general business license issued for the same business at each location at which the enterprise is located.~~

~~With the foregoing exception, revocation of a general business license shall terminate only the privilege of doing business at the location to which the license relates.~~

~~4.06.250 Other procedures.~~

~~Any administrative remedy, including an appeal procedure, applicable to the interpretation, administration or enforcement of this title and the Zoning Code shall be exhausted. The failure to exhaust such a remedy shall constitute grounds for denial of an appeal under this article.~~

~~4.06.255 Judicial review of administrative determination.~~

~~An applicant for, or holder of, a general business license may seek immediate judicial review in any court of competent jurisdiction as provided by law of any determination rendered by the City Council pursuant to EGMC Section 4.06.225 upon such determination becoming final.~~

Section 4: Amend Particular Sections of Chapter 4.10 relating to Special Business Licenses and Employee Permits.

Under Elk Grove Municipal Code Chapter 4.10, EGMC Sections 4.10.005, 4.10.020, 4.10.025, 4.10.030, 4.10.040, 4.10.060, and 4.10.155 are hereby amended to read:

*Proposed language to be added is shown in **bold**, and language to be removed is shown with strikeouts.*

...

4.10.005 License required.

A. No person shall, unless under and by authority of a valid unexpired and unrevoked special business license, conduct or operate within the City, whether singularly or in connection with another type of enterprise, the following:

1. Any enterprise or activity for which a special business license is required by EGMC Chapters 4.15 through 4.35, inclusive;
2. Antique dealers in firearms, jewelry, art objects, furniture or other valuables;
3. Automobile dismantlers and marketers of used parts for automobiles;
4. Automobile repairs, when the person or firm makes calls at the home or business of the customer to make repairs;
5. Circuses and carnivals, including the maintenance of animals for display to, riding by or petting by children;
6. Sales of concealable firearms, including gunpowder;
7. Home repair services consisting of services related to the repair or maintenance of single-family residential dwellings, mobile homes, or gardens by persons who are not licensed to perform such services by the State of California, including businesses offering energy-saving appliances, equipment, or services, whether in connection with solar, wind or other power;
8. Purchase or sale of metals, including precious and scrap metals;
9. Auto towing, consisting of persons who engage in the business of towing automobiles which require repair, are abandoned on public rights-of-way, or are parked illegally;
10. Repossession or storage of automobiles or any other thing of value;
11. The operator of each booth in a bazaar, flea market, farmer's market, or other similar type of auction established for the purpose of selling merchandise, including food, for private gain;
12. Private security companies;
13. Tree trimmers;
14. Motorcycle sales, including the sale of new and used parts;
15. Wrecking yards, including automobile dismantling and the buying and selling of automobiles for scrap metal or parts;
16. Dating and introduction services;
17. Swimming pool cleaning services;
19. Janitorial, maid, or carpet cleaning services;
20. Pool halls; one (1) pool table or more is a pool hall;
21. Mobile food vendors;
22. Movie and television productions;
23. Dance clubs, halls, and public dances.
- 24. Clowns, mascots or legal adults with facial disguise engaged in business at or in relation to events tailored to minors**
- 25. Massage establishments and massage technicians;**
- 26. Mobile computer repair;**
- 27. Solicitors;**
- 28. Smoking Lounges;**
- 29. Pet Stores who engage in the selling of animals as defined in Section 122350 of the California Health and Safety Code;**

30. Any Business for which a Special Business License is required by this Code.

4.10.020 Special regulations.

Certain of the types of enterprises described by EGMC Section 4.10.005 are subjected to special regulations governing their operations. These regulations are set forth in EGMC Chapters 4.15 through 4.35. Except as otherwise provided, the provisions of this chapter shall be fully applicable to the enterprises identified by EGMC Chapters 4.15 through 4.35.

The provisions of this chapter shall be independently applicable to any enterprise described by EGMC Section 4.10.005 which are also regulated under the provisions of EGMC Chapter 4.06 ~~02~~. The issuance of a general business license to an enterprise described by EGMC Section 4.10.005 shall not excuse the enterprise from the requirement that a special business license be obtained pursuant to the provisions of this chapter. The issuance of a special business license shall not be deemed to relieve the holders of a requirement, under EGMC Chapter 4.06~~02~~, that a general business license be obtained. A special business license shall not be deemed to authorize operation of an enterprise business at a particular location, if a general business license is required and there is no such license in full force and effect.

4.10.025 Application filing.

All applications for special business licenses shall be filed with the **Finance Director** ~~City Manager~~. The **Finance Director** ~~City Manager~~ shall receive any fee required for the application, assure that the application is complete, and refer the application to the Chief of Police for processing, investigation, review and action. The **Finance Director** ~~City Manager~~ shall verify pursuant to Section 16100 of the Business and Professions Code that before the City issues a special business license to an enterprise as a "contractor," as that term is defined in Division 3, Chapter 9, Article 2, Section 7026 of the Business and Professions Code, that the applicant or licensee is licensed by the State of California Contractors' State License Board. [

4.10.030 Application contents.

The application for a special business license shall be filed on a form and contain such information as is prescribed by the **Finance Director** ~~City Manager~~ and the Chief of Police, including the following:

- A. A complete description of the type, nature and extent of the enterprise to be conducted and for which application is made;
- B. The address of each location from which the enterprise for which application is made will be operated;

C. The name and address of the person who owns the enterprise for which application is made;

D. Such information as is necessary to permit the determinations prescribed by EGMC Section 4.10.040(A)(3);

E. Identification of each type and location of enterprise conducted by the owner within the City;

F. Whether or not the applicant or enterprise is a “contractor,” as that term is defined in Division 3, Chapter 9, Article 2, Section 7026, et seq., of the Business and Professions Code, and if such contractor is licensed as a contractor by the State of California Contractors’ State License Board, with a license in good standing, and the license number and class thereof;

G. Such other and further information as is deemed necessary to administer the provisions of this chapter; and

H. An affirmation under penalty of perjury that the information contained in the application is true and correct.

4.10.040 Issuance.

A. The Chief of Police shall ~~issue~~ **approve the issuance of** the special business license **by the Finance Director** within ninety (90) days after the date of application unless either:

1. The Chief of Police finds in writing that the applicant fails to provide information in connection with the application requested by the Chief of Police as a basis for enabling the Chief of Police to make his or her determination;

2. The Chief of Police finds in writing that any of the material statements made in the application or any information submitted supplementary thereto is incorrect or untrue;

3. The Chief of Police finds in writing that any of the following persons has been convicted of a crime and the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of the entry of a subsequent order under Section 1203.4 of the California Penal Code; or has done any act involving dishonesty, fraud or deceit with intent to substantially injure another; and the Chief of Police concludes that by reason of the crime or act there is a substantial risk that the applicant would not conduct the enterprise in a law-abiding manner or in a manner which does not subject patrons of the enterprise to risk of harm or criminal, deceitful or otherwise unethical practices:

a. A general or limited partner of a partnership which possesses an ownership interest in the enterprise;

b. A joint venturer in a joint venture which possesses an ownership interest in the enterprise and if one (1) or more of the joint venturers is a partnership or

corporation, those partners, directors or stockholders to whom the requirements of this section would apply if the partnership or corporation were the sole owner of the enterprise;

- c. A sole proprietor when the enterprise is a sole proprietorship;
- d. An owner of more than one-half of one (0.5%) percent of the voting shares of stock when a commercial corporation possesses an ownership in the enterprise;
- e. A director, when either a commercial or nonprofit corporation possesses an ownership in the enterprise;
- f. A member of a management committee when a partnership or joint venture possesses an ownership interest in the enterprise;
- g. A member of a governing body or other board or committee to which management is entrusted, when an unincorporated association possesses an ownership interest in the enterprise; or
- h. A president, general manager, vice president, chief assistant manager, secretary, treasurer or any officer with equivalent or similar authority employed or retained by the firm possessing an ownership interest in the enterprise.

Notwithstanding the foregoing, an application shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under Section 4852.01, et seq., of the California Penal Code, or that the person has been convicted of a misdemeanor, if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under Section 4852.01, et seq., of the California Penal Code;

4. The Chief of Police makes any finding in writing authorized as a basis for denial of the license by EGMC Chapters 4.15 through 4.35, or finds in writing that the applicant does not satisfy any requirement applicable to the enterprise for which application is made established by EGMC Chapters 4.15 through 4.35; or

5. The Chief of Police finds in writing that when the applicant or enterprise is a "contractor," as that term "contractor" is defined in Division 3, Chapter 9, Article 2, Section 7026, et seq., of the Business and Professions Code, the applicant has failed to provide sufficient proof, as determined by the Chief of Police, that the applicant is licensed to engage in the business as a contractor by the State of California Contractors' State License Board, and that the license is presently valid, effective, not suspended, and in good standing.

B. If an application does not show on its face a basis for denial, the Chief of Police may, in his or her sole discretion, issue a temporary special business license for a period not to exceed ninety (90) days, pending processing and investigation of the application and final determination thereof.

...

4.10.060 Renewal of licenses.

A. Not later than forty-five (45) days prior to expiration of the term of a special business license, the **Finance Director** ~~City Manager~~ shall transmit to the licensee by mail an application for renewal. The application for renewal shall be in such form and include

such information as is prescribed and required by the **Finance Director City Manager** and the Chief of Police.

B. The application for renewal shall be filed with the **Finance Director City Manager** not later than the date of expiration of the term of the immediately preceding license. The Chief of Police shall perform such investigation and examination of the applicant as he or she deems appropriate. The Chief of Police shall extend the term of the immediately preceding license during the period of any investigation or examination required in order to determine whether the license should be issued.

C. The Chief of Police shall act upon the application for renewal not later than thirty (30) days after the date a valid application is filed. The renewed license shall be issued unless:

1. The Chief of Police finds in writing that one (1) or more of the conditions identified in EGMC Section 4.10.040 apply;
2. The Chief of Police finds in writing that the licensee has violated any term, condition, requirement, or prohibition imposed by this chapter, EGMC Chapter 4.02, or Chapters 4.15 through 4.54 which are applicable to the license or the holder, or any administrative regulations promulgated thereunder, or any other applicable law; or
3. The Chief of Police finds in writing that one (1) or more conditions applicable to the preceding license have been violated.

...

4.10.155 Effect of revocation or suspension.

The revocation of a special business license or employee permit shall terminate the right of the holder of the license or permit to engage in the enterprise authorized by the license or perform the service authorized by the permit, as the case may be, anywhere within the City for a period of five (5) years following the effective date of revocation. At the conclusion of such period, the former holder may file a written application for issuance of a new license or permit with the **Finance Director City Manager**. Upon investigation by the Chief of Police and a new recommendation that must be reviewed by the City Council, the license or permit may be granted or denied by the City Council. The City Council may, in its sole discretion, grant or deny the application pursuant to such terms and conditions as it may prescribe, and may, in addition to other matters, consider factors relating to the rehabilitation of the applicant in making its determination.

In the event of revocation of a special business license, neither the spouse, domestic partner, child, brother, sister or parent of the holder of the revoked license, nor a person possessing an ownership interest in the enterprise for which the license was revoked or who was an employee thereof, shall be entitled to issuance of a special business license for the enterprise except upon filing and review of a new written application filed with the **Finance Director City Manager**, investigation by the Chief of Police, and a new recommendation of the Chief of Police that must be reviewed by the City Council. The Chief of Police may recommend grant of the application to the City Council with such conditions in order to ensure that the person whose conduct constituted the basis for

the revocation does not exercise any control or influence over the enterprise or the person to whom the license is issued or the Chief of Police may recommend denial of the application. The City Council may deny the application or grant it with such conditions, in its sole discretion, it deems necessary to protect the public health, safety, and welfare.

The suspension of a special business license or employee permit shall terminate the right of the holder of the license or permit to engage in the enterprise authorized by the license or perform the service authorized by the permit, as the case may be, anywhere within the City for a period of up to one (1) year following the effective date of the suspension. At the conclusion of the suspension, the license or permit is subject to the normal applicable renewal process.

Section 5: Severability.

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 6: No Mandatory Duty of Care

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 7: Effective Date and Publication

This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the Office of the City Clerk, pursuant to GC 36933(c)(1).

INTRODUCED: February 13, 2013
ADOPTED:
EFFECTIVE:

GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN, CITY CLERK

JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: _____