

City of Philadelphia



(Bill No. 090777-A)

AN ORDINANCE

Amending Title 9 of The Philadelphia Code, entitled “Regulation Of Businesses, Trades And Professions,” to eliminate and revise various licensing and enforcement requirements, and to revise fees for various licenses and permits, including with respect to commercial vending activities on streets, telephone booths, newsstands, farmer’s markets, solid fuels, garages, parking lots, auto sales lots, auto sales showrooms, valet parking, refuse collection vehicles, self-service laundries, massage businesses, dealers in precious metals, sale of spray paint, indelible markers and etching acid, athletic contests, special assembly occupancies, motion pictures, ticket agents, use of weighing or measuring devices, and the use of electronic scanners for customer check out; and to make technical changes; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 9 of The Philadelphia Code is hereby amended to read as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS.

* * *

CHAPTER 9-200. COMMERCIAL ACTIVITIES ON STREETS.

§ 9-201. Curb Markets.

* * *

(3) Licenses.

(a) No person shall occupy or vend in any space in a curb market unless he has obtained a license from the Department of Licenses and Inspections.

* * *

[(c) The applicant shall pay an application fee of \$25.00 for each space requested.]

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[(d)] (c) The annual fee for a license is [\$125.00] *\$300.00* for each space[, in addition to the application fee.]

[(e)] (d) * * *

[(f)] No license shall be issued to any person who is not a resident of the City.]

[(g)] (e) * * *

[(h)] (f) * * *

§ 9-203. Street Vendors.

* * *

(3) Issuance. No license shall be issued unless:

* * *

(b) The applicant pays the following annual license fee:

(.1) [one hundred twenty-five (\$125.00)] *three hundred* dollars (\$*300.00*) for each person vending on foot;

* * *

(8) A special street vendor district is hereby created on Thirty-second street between Market street and Chestnut street. The following provisions shall apply to such special district:

* * *

(c) To reimburse the City for the loss of parking meter revenue and for the additional cost of regulation occasioned by creation of the special district, street vendors assigned to locations within the special district shall pay an annual fee of [three thousand (3,000) dollars to include the street vendor license fee imposed under § 9-203(3)(b)] *two thousand seven hundred fifty (2,750) dollars*.

* * *

§ 9-204. Sidewalk Vendors in Center City.

* * *

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- (4) License Issuance. Licenses shall be issued upon compliance with the following:

* * *

[(b) The applicant pays a non-refundable application fee of fifty (\$50) dollars; and]

[(c)] (b) The applicant, after being notified by the Department that his application has been provisionally approved:

* * *

(.3) pays the initial license fee of [two hundred fifty (\$250)] *three hundred* dollars (\$300); and

* * *

§ 9-208. Sidewalk Cafés.

* * *

(3) License, Indemnification and Other Conditions. No person shall erect, construct or maintain a sidewalk café, either where permitted by subsection (2) or where permitted pursuant to special ordinance, unless he has obtained a sidewalk café license from the Department of Licenses and Inspections. No license shall be issued unless:

* * *

(g) The licensee pays an annual fee of [\$160] *\$180.00*. Such fee shall be in addition to any fees for other permits and licenses necessary for the operation of the restaurant to which the sidewalk café is accessory. All sidewalk café licenses shall be issued for a one-year period established by the Department of Licenses and Inspections.

- (4) License Applications.

(a) Applications for sidewalk café licenses shall be made on forms provided by the Department of Licenses and Inspections. Applicants must submit the following with the application:

* * *

(.4) A non-refundable application fee of [\$160.00]*\$180.00*. When a license is granted, the application fee shall be credited towards the first year's license fee.

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* * *

§ 9-210. [Telephone Booths.] *Reserved.*

[(1) Prohibited Conduct. No person shall erect, install or maintain a public telephone booth on any sidewalk as defined in § 11-101(4) of this Code except as authorized in this Section.

(2) Permits. No person shall erect, install or maintain a public telephone booth unless he has obtained a permit from the Department of Licenses and Inspections.

(a) No permit shall be issued unless:

(.1) the applicant submits a plan specifying the precise location of the booth and the size, shape, type of construction and materials of such booth;

(.2) the plan has been approved by the Department of Streets and the Police Department as to location of the booth, such approval to be withheld if the maintenance of a booth at the proposed location will tend to obstruct passage or create a pedestrian or other traffic hazard or may otherwise be contrary to the public interest;

(.3) the plan has been approved by the Art Commission as to the design and location of the structure;

(.4) the plan has been approved by the Department of Licenses and Inspections as to electrical connections;

(.5) the consent of the abutting land owner has been obtained;

(.6) the applicant pays an initial fee of \$10.00;

(.7) the applicant agrees that the booth will be removed within 10 days of receipt of notice from the Department of Licenses and Inspections that the Department has determined that the booth tends unduly to obstruct passage or creates a pedestrian or other traffic hazard, or is being used improperly, or its maintenance is found otherwise to be contrary to the public interest;

(.8) the applicant agrees to indemnify and save harmless the City, its officers, employees and agents from and against any and all loss resulting from injury to or death of persons or damage to property arising out of, resulting from or in any manner caused by the presence, location, use, operation, installation, maintenance, repair, replacement or removal of such telephone booth, or by the acts or omissions of the employees or agents of the applicant in connection with such telephone booth, except

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only if such injury, death or damage is caused by the sole act or omissions of the City, its officers, employees or agents.

(3) Annual Renewal. Annually, at such time as may be specified by the Department of Licenses and Inspections after the original permit has been granted, an application for renewal for an additional year shall be made and the applicant shall pay a renewal fee of \$5.00.

(4) Maintenance of Booths. Applicant shall maintain each booth in good, safe and clean condition.

(5) Electrical Connections. No person shall make an electrical connection from a telephone booth to any source of electric current paid for by the City without the approval of the Department of Public Property. The fee for use of electric current from sources paid for by the City shall be the estimated cost of furnishing such electric current as determined by the Department of Public Property. Payment for such use shall be made annually in advance either at the time of the original making of the connection or at the time of the making of application for renewal, as the case may be.

(6) Revocation of Permit. Any permit issued pursuant to this Section may be revoked by the Department of Licenses and Inspections if:

(a) the permit holder violates any of the requirements of this Section;
or

(b) continued maintenance of the booth at its location is found by the Department of Licenses and Inspections to constitute an undue obstruction to passage or a hazard to pedestrian or other traffic; or

(c) the booth is being used improperly; or

(d) continued maintenance of the booth is otherwise contrary to the public interest.

(7) Removal of Booths. Any person who erects, installs or maintains a telephone booth on any sidewalk shall remove the booth and restore the premises to its original condition immediately upon notice that the permit has been revoked or upon expiration of the permit without renewal. If any person fails to remove such telephone booth, then the City, after giving fifteen days' notice in writing mailed to the address of the permit holder as it appears in the application, may cause the booth to be removed and charge the cost of such removal, the storage thereof and the cost of restoring the premises, against the permit holder. The permit holder may recover the booth and equipment upon payment of all such costs, but if he shall fail to do so within sixty days after such removal, title to the booth and equipment shall vest in the City and the permit

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holder's rights therein shall be forfeited without prejudice to the right of the City to recover the difference between the salvage value of the booth and equipment and the costs incurred in its removal, storage and subsequent sale, if any.]

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§ 9-212. Newsstands.

* * *

(2) License Required; Issuance and Renewal.

* * *

(b) Application for a newsstand license shall be made on a form to be supplied by the Department[, and shall be accompanied by a non-refundable application fee of forty dollars (\$40).] No license shall be issued by the Department unless:

* * *

(.6) The applicant pays an [initial] *annual* license fee of [two hundred ten dollars (\$210)] *three hundred dollars (\$300)*.

* * *

[(c) Licenses shall be issued for a period of two years. Licenses may be renewed for additional two year periods. No license shall be renewed unless the applicant pays a renewal license fee of three hundred fifty dollars (\$350), and unless all the requirements for initial license issuance continue to be met.]

* * *

§ 9-213. Farmers' Markets.

* * *

(3) License Issuance. One license shall be issued by the Department to any Farmers' Market entity which is in compliance with the following provisions *in connection with each location at which the entity will operate*:

* * *

[(b) The applicant pays a non-refundable application fee of fifty (\$50) dollars; and]

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[(c)] (b) The applicant, after being notified by the Department that his application has been provisionally approved:

* * *

(.2) pays the annual license fee [as follows:] *of three hundred dollars (\$300) for each license in connection with each approved Farmer's Market location.*

hundred (\$300) dollars; [(i) for one to three Farmers' Market locations – three

hundred (\$500) dollars; [(ii) for four to six Farmers' Market locations – five

hundred (\$700) dollars; [(iii) for seven to nine Farmers' Market locations – seven

hundred (\$900) dollars; [(iv) for ten to twelve Farmers' Market locations – nine

one thousand one hundred (\$1,100) dollars; [(v) for thirteen to fifteen Farmers' Market locations –

the fee set forth in 9-213(3)(c)(.2)(v) shall be increased by \$200 for every increment of three (3) locations over and above fifteen locations;] [(vi) for sixteen or more Farmers' Market locations –

* * *

CHAPTER 9-500. BOILERS, FUEL, HEAT AND REFRIGERATION.

* * *

§ 9-502. [Solid Fuels.] *Reserved.*

[(1) Definitions. In this Section, the following definitions apply:

(a) Solid Fuel. Any anthracite, semi-anthracite, bituminous, semibituminous or lignite coal, briquettes, boulets, coke, gashouse coke, petroleum coke, petroleum carbon, firewood, or any other manufactured or patented fuel not sold by liquid or metered measure.

(b) Equipped Dealer. Any person regularly engaged in the sale, or sale and delivery, of solid fuel who maintains unloading, storage and service facilities

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equipped with wagon or truck scales or other approved weighing or measuring devices, and who maintains an office open to the public, and regularly carries a stock of solid fuel.

(2) Exemptions. This Section does not apply to the sale or delivery of solid fuel in carload or cargo lots, nor to the sale or delivery of solid fuel in loads of less than 100 pounds in closed containers plainly marked with the correct weight of the contents and the name and address of the person who is responsible for packing the solid fuel in the container.

(3) Licenses and Permits.

(a) No person shall engage in the business of selling or delivering solid fuel in the City unless he has obtained a license from the Department of Licenses and Inspections or is exempt pursuant to § 9-502(3)(f).

(b) The annual fee for the license is \$200.00.

(c) Upon payment of the license fee and its approval of the application, the Department shall issue to each applicant:

(.1) a license which shall be displayed in the licensee's place of business;

(.2) a permit to operate one vehicle in the business of delivering solid fuel, with a card to be in the possession of the operator of the vehicle and a metal plate to be attached to and prominently displayed on the vehicle.

(d) A licensee who employs more than one vehicle in the business of delivering solid fuel shall obtain a permit from the Department for each additional vehicle and pay \$2.00 for each additional permit issued.

(e) No permit shall be issued for any vehicle unless the applicant is the owner of the vehicle or possesses it under a financing statement and has the right to its exclusive use and control within the Commonwealth. No permit shall be denied because of the existence of any lien or encumbrance on the vehicle.

(f) Any person engaged in the business of selling or delivering solid fuel shall be exempt from the license required by § 9-502(3)(a) if he:

(.1) uses no more than one vehicle in this business; and

(.2) obtains all the solid that he sells and delivers from one licensed equipped dealer who has been in business as such for at least 5 years.

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(g) Any person who loses his exemption under § 9-502(2) or (3)(f) shall obtain a license within 30 days after the exemption is lost.

(h) Any person engaged in the business of selling or delivering solid fuel who is not required to have a license shall obtain a permit from the Department for the vehicle used in such business and pay \$1. for the permit. The application for the permit shall contain the information required by the Department relative to the applicant's business and shall be accompanied by a statement from the equipped dealer who will sell solid fuel to the applicant.

(i) All licenses and permits issued under this Section shall expire at the end of the calendar year and pro rata reductions in fees shall not be granted.

(j) The Department may require the furnishing of information necessary to make a decision as to the issuance or refusal of licenses or permits under this Section.

(k) The Department shall, after hearing, refuse a license or permit to, or revoke the license or permit of, any person convicted of violation of any provisions of this Section upon three separate occasions. Written notice of the refusal or revocation shall be mailed to the person affected.

(4) Regulation of Sale and Delivery.

(a) All solid fuel sold or delivered in the City shall be sold by weight and all solid fuel shall be weighed within the boundaries of the City except as provided in § 9-502(4)(c). A tolerance of 30 pounds per ton of 2000 pounds shall be allowed for wastage and variation in scales.

(b) The Department shall authorize the use of the scales of all licensed equipped dealers within the City, and scales at other convenient places if necessary, for the weighing required by § 9-502(4)(a), subject to the testing and approval of the scales by the Department.

(c) An equipped dealer whose place of business is not more than 15 miles outside of the City and who normally sells and delivers solid fuel within the City may have his scales authorized by the Department for the purpose of weighing the solid fuel sold and delivered by him, by procuring the license required by § 9-502(3)(a) and submitting to the Department satisfactory evidence of the reliability of his scales.

(d) Any person engaged in the sale, or sale and delivery, of solid fuel shall, except as provided in § 9-502(4)(e), pay a fee of \$.65 per load to the owner of the scales on which the load is weighed, and an additional fee of \$.05 for each consignment

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on such load after the first. The owner of scales shall furnish weight certificates signed by his weighmaster for each consignment of solid fuel.

(e) Persons engaged in the sale, or sale and delivery, of solid fuel purchased directly from and weighed at the time of purchase on the scales of an equipped dealer shall pay no fee for such weighing and shall be furnished, without charge, weight certificates signed by the weighmaster of the equipped dealer.

(f) The owner of the scales shall pay to the Department of Collections, from the fees collected pursuant to this Section for weighing \$.10 per load by the 15th day of the month following that in which the load was weighed. The owner of the scales shall keep an accurate record of all fees collected and this record shall be available for inspection by the Department of Collections.

(g) Each separate consignment of solid fuel sold or delivered in the City shall be accompanied by a weight certificate showing the name and address of the person selling or delivering the solid fuel, the name and address of the consignee, the net weight of the consignment, and the signature of the weighmaster. One copy of the weight certificate shall be retained by the person selling the solid fuel and one shall be left with the consignee. These weight certificates shall be retained by the owner of the scales and by the person selling the solid fuel for two years and shall be available for inspection by the Department of Licenses and Inspections and the Department of Collections.

(h) No solid fuel shall be delivered in the City before 7 A.M. or after 7 P.M. or on Sunday without permission from the Department, except that the owner or operator of a vehicle engaged in the delivery of solid fuel after 7 P.M. shall not be in violation of this Section if the vehicle left its point of loading not later than 5 P.M. of the same day or the delivery began before 7 P.M. and the delay was unavoidable.

(i) The Department may inspect the weight of any solid fuel ready for or in process of delivery and may direct the person in charge of the vehicle to convey it to the nearest available scales operated by a weighmaster designated by the Department. The Department shall determine the gross weight of the solid fuel and the vehicle on which it is carried, and shall direct the person in charge of the vehicle to return to the scales immediately after unloading the solid fuel. Upon the return the Department shall determine the weight of the vehicle without load and the net weight of the solid fuel delivered.

(j) Any person in charge of a vehicle containing solid fuel, or from which solid fuel has been unloaded, shall comply with the orders of the department pursuant to this Section.]

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CHAPTER 9-600. SERVICE AND OTHER BUSINESSES.

§ 9-601. Garages, Parking Lots, Sales Lots and Sales Showrooms.

(1) General Provisions.

* * *

(b) No person shall conduct, operate or maintain the following unless he or she has obtained a license from the Department of Licenses and Inspections:

(.1) Public Parking Lot;

(.2) Public Garage[;].

[(.3) Sales Lot;

(.4) Sales Showroom;

(.5) Valet Parking.]

(2) Public Garages.

(a) Licenses. No license shall be issued to conduct, operate or maintain any public garage unless:

* * *

(.5) the applicant pays an annual fee for each suitable public garage of [\$25.00 plus \$2.50 for each car space] \$300.00.

* * *

(3) Public Parking Lots.

(a) Licenses. No license shall be issued to conduct, operate or maintain any public parking lot unless:

* * *

(.5) the applicant pays an annual fee for each parking lot of [\$25.00 plus \$2.50 for each car space] \$300.00.

* * *

[(4) Sales Lots.

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(a) Licenses. No license shall be issued to conduct, operate or maintain any sales lot unless:

(.1) the applicant furnishes a plot or plan of the proposed sales lot showing its location, method of surfacing and entrance and exit facilities;

(.2) such plot or plan has been approved by the Department of Streets, the Fire Department, and the Department of Licenses and Inspections;

(.3) the applicant pays an annual license fee of \$150.00.

(b) All licenses shall be conditioned upon compliance with the requirements of this Section, Title 5 and § 9-601(4)(c) to (f).]

[(5) Sales Showrooms.

(a) Licenses. No license shall be issued to conduct, operate or maintain any sales showroom unless:

(.1) the applicant furnished a plot or plan of the proposed sales showroom showing its location, maximum car capacity, and entrance and exit facilities;

(.2) such plot or plan has been approved by the Department of Streets, the Fire Department, and the Department of Licenses and Inspections;

(.3) the applicant pays an annual fee of \$150.00.

(b) All licenses shall be conditioned upon compliance with the requirements of this Section and the provisions of Title 5.]

[(6)] (4) Valet Parking. [Operator's License.]

(a) No person shall offer to provide or provide the service of valet parking unless the person has [obtained a valet parking operator's license under this Section. A license application shall be made on a form provided by the Department, and shall include the following:

(.1) the name, address and telephone number of the applicant;

(.2) the applicant's current and valid business privilege license number and City tax account number;

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(.3) a statement that the applicant will comply with all applicable laws, rules, and regulations;

(.4) a statement that the applicant is not delinquent in the payment of any taxes or fees due the City, or has entered into and is in compliance with a payment agreement with the City for such taxes or fees; and

(.5) such other information as the Department may require.

(b) The application shall be accompanied by the following:]

[(.1) proof of] insurance in an amount determined by the Office of Risk Management in the following areas:

[(.a)] (.1) liability insurance;

[(.b)] (.2) theft and property insurance; and

[(.c)] (.3) workers' compensation insurance. [; and

(.2) payment of a non-refundable application fee of \$75.

(c) The Department shall issue the license upon determining that the applicant has satisfied the provisions of subsections 8(a) and 8(b).

(d) The license shall be for a term of one year, as determined by the Department, and may be renewed annually upon payment of an annual renewal fee of \$75.

(e) A licensee shall notify the Department within ten (10) days of any change in the information required by subsections 8(a) and 8(b).

(f) A valet parking operator's license may be suspended, revoked or not renewed on the following grounds:

(.1) Suspension under subsection 9(e) of a valet parking permit issued to the valet parking operator;

(.2) Failure to maintain insurance in the types and amounts required by the Office of Risk Management;

(.3) Violation of The Philadelphia Code in the operation of the business; or

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(.4) Violation of the Pennsylvania Vehicle Code (Title 75, Pa.C.S.) by the licensee's employees or agents in the conduct of the licensee's business.]

[(7)] (5) Valet Parking Permit.

(a) No person shall provide valet parking services at a particular location unless the person has obtained a Valet Parking Permit under this Section. A permit application shall be made on a form provided by the Authority, and shall be accompanied by a proposed Valet Parking Plan submitted in the form required by the Authority, which shall include the following:

(.1) The applicant's name and address, [the applicant's valet parking operator's license number,] and the daytime and nighttime telephone number and pager number (if any) of the applicant's agent or employee who will manage the provision of valet parking services at the particular location;

(.2) The name and address of the business or businesses or entities which has contracted with the valet parking operator for valet parking services at a specified location, and the name and address of the owner of the property at that location, if different from the business or businesses; the name and telephone number of the owner or manager of such businesses; and a copy of the agreement (either directly, or through another entity) to operate valet parking at the particular location; [(the information required by this subsection 9(a).(2) shall not be required if the business itself possesses a valet parking operator license, and is itself providing valet parking at a particular location);]

* * *

(.6) The proposed route to and from each off-street parking facility listed pursuant to subsection [9(a).(5)] (5)(a).(5);

* * *

(b) The Authority shall review the Plan in consultation with the Police Department, *and* the Department of Streets. [and the Department of Licenses and Inspections.] The Authority shall approve the Plan if it finds that the Plan contains all information required by subsection [9(a)] (5)(a), and if the Authority finds:

* * *

[(8)] (6) * * *

[(9)] (7) Employer-provider parking facilities.

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(b) An employer may choose not to invoke the provisions of subsection [(8)(a)] (7)(a), in which case the employer may charge employees for parking and be subject to all applicable provisions of this Section relating to public parking lots and public garages.

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§ 9-604. Refuse Collection.

* * *

(8) Collection Vehicle License.

* * *

(c) One or more Collection Vehicle Licenses may be issued to a single applicant for a fee of [sixty (60)] *seventy-five (75)* dollars per vehicle.

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§ 9-606. Ammunition.

* * *

(4) Licenses.

* * *

(b) No person shall receive a license unless he:

* * *

(.2) pays an annual fee of [\$20] \$75.

§ 9-607. Firearms.

* * *

(5) Permits. No dealer shall receive a permit to store firearms unless he:

* * *

(b) Pays an annual fee of [\$35] \$75.

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§ 9-609. Self-Service Laundries.

[(1)] No person shall operate a self-service laundry unless he has obtained a license for each establishment from the Department of Licenses and Inspections.

(2) Each application for a license shall set forth:

- (a) the name and address of the applicant;
- (b) the physical description of the premises where the self-service laundry will be located;
- (c) the number of washing machines and dryers to be used on the premises;
- (d) a certification that the premises to be used are properly zoned for the intended use;
- (e) such other information as the Department of Licenses and Inspections may require.

(3) Each applicant shall pay a yearly license fee of \$40.00 for each premises, and \$4.00 for each washing machine and for each dryer on the premises.

(4) Each license issued shall show the name and address of the licensee, the number of machines on the premises, and the date of issuance and expiration. The license shall be prominently posted on the premises.]

[(5)] (1) There shall be prominently posted [in the premises] *at all self-service laundries* the name, address and telephone number of the owner or operator of the laundry, and there shall be a public telephone on the premises in a conspicuous location.

[(6)] (2) Any dryer located on the premises for use in connection with such [washing machines] *laundries* shall be so constructed that it may be opened from the inside as well as from the outside.

[(7)] (3) No [licensee] *person* shall:

- (a) operate *a self service laundry* during the hours of 1:00 A.M. and 6:00 A.M.;
- (b) permit lights outside of the *laundry* premises to remain lighted after 12:00 o'clock midnight;

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(c) use more than 2,500 square feet of gross floor area *of any particular premises* for the operation of a self-service laundry.

§ 9-610. Massage Businesses.

(1) Licenses.

[(a) No person shall operate any premises used in the massage business unless he has obtained a premises license for each establishment from the Department of Licenses and Inspections.]

[(b)] No person shall engage in the business of, or be employed as, a masseur or masseuse unless he has obtained an operator's license from the Department of Licenses and Inspections.

(2) Information. Each applicant for [a premises license or] an operator's license shall set forth on forms provided by the Department:

(a) the name and address of the applicant and former addresses for a period of three years;

[(b) a physical description of the premises used in the massage business if the applicant desires a premises license;]

[(c)](b) a statement of past employers for three years if the applicant desires an operator's license;

[(d)](c) such other information that the Department may require.

(3) Fee. [The applicant for a licensed establishment shall pay an annual license fee of \$70.00.] The applicant for an operator's license shall pay an annual license fee of \$40.00.

* * *

§ 9-615. Dealers in Precious Metals.

* * *

(2) [Licenses] *Registration*. No person shall engage in the business of, or be employed as a dealer in precious metals unless [he or she first obtains a license from] *the business location is registered with* the Department of Licenses and Inspections.

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(a) No [license] *registration* shall be [issued] *accepted* unless the applicant furnishes the Department with an application setting forth:

* * *

(b) The [licensee] *registrant* shall notify the Department, in writing, within seventy-two (72) hours, of any changes in the information supplied to the Department.

(c) The applicant for a [license] *registration* hereunder shall pay an annual [license] *registration* fee of [\$45.00] *\$25.00 to register each location.*

[(d) The license shall be prominently displayed on the premises.]

(e) All [licenses] *registrations* shall be conditioned upon continued compliance with the provisions of this Section.

[(f) Employees of a dealer in precious metals purchasing precious metals on the business premises exclusively for their employer shall not be required to obtain a separate license, provided that the employer has a valid dealer's license from the Department of Licenses and Inspections. Any persons exempted from licensing under this subsection shall comply in all other respects with the provisions of this Section.]

(3) Weighing Devices. All scales or other devices used by dealers to weigh precious metals must be of a type approved for commercial use in the Commonwealth of Pennsylvania. [and must be inspected and sealed by the Bureau of Weights and Measures.]

(a) The dealer in precious metals must notify the Department of Licenses and Inspections, [Bureau of Weights and Measures] whenever a weighing device is moved from one location to another.

[(b)] (a) All weighing devices shall be so positioned that their indications may be accurately read and the weighing operation observed by the seller.

* * *

(5) Records Required. All dealers in precious metals shall maintain records of each transaction in which they purchase precious metals from the public or give a statement of appraisal. Such records shall be retained for a period of two (2) years from the date of the transaction. [and shall be available at the place of issuance for inspection by Weights and Measures during reasonable working hours.] These records shall include:

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(7) Penalties and Cease Operations Orders. In addition to the penalties provided in Section 9-105, any dealer in precious metals who violates any provisions of this Section shall have his [license] *registration* [revoked] *suspended* for ninety (90) days for the first offense and for a period of one (1) year upon each succeeding offense.

(a) During any period of [license revocation] *suspension*, the business shall cease operation as a dealer in precious metals. The Department shall issue a Cease Operations Order for the business location of [the revoked license] *a suspended registration* in accordance with [the same procedures as set out in Section 6-103 of the Health Code] *The Philadelphia Administrative Code*, provided that the Cease Operations Order shall identify the prohibited operations and shall state that the applicable [license has been revoked] *registration has been suspended* for violation(s) of the Code. The Cease Operations Order shall be in force for the full period of any [license revocation] *suspension*, and shall set forth this period in the Order. The Department shall not remove any posted Cease Operations Order until the Department is satisfied that all [revoked licenses] *suspended registrations* have been restored, or the property interests in the location have changed so that neither the person under [a license revocation] *registration suspension* nor any member of his immediate family retains a pecuniary interest therein.

(b) No new dealer in precious metals [license] shall [be issued for] *register* a business location *that has been* posted with a Cease Operation Order, so long as any person [under a license revocation] *with a suspended registration*, or any member of such person's immediate family, retains a pecuniary interest in the property at that location.

§ 9-616. Retail Sale of Motor Fuels.

* * *

(6) Enforcement. The provisions of this Section shall be enforced by the Department of Licenses and Inspections. [, Bureau of Weights and Measures.] Any person who violates subsection 9-616(3), relating to prohibitions applicable to signs where retail motor fuel is sold, shall have committed a Class III offense and be subject to the fines set forth in subsection 1-109(3) of The Philadelphia Code.

* * *

§ 9-618. Sale of Spray Paint Containers, Indelible Markers and Etching Acid.

* * *

[(2) License.

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(a) No person shall sell or offer for sale, transfer or offer for transfer any spray paint container or indelible marker unless that person has obtained a license from the Department of Licenses and Inspections.

(b) Application for such license shall be made on forms provided by the Department of Licenses and Inspections.

(c) The fee for such license is fifty (50) dollars.

(d) No license shall be issued unless the applicant submits proof in form satisfactory to the Department that (.1) any electronic scanner used by the applicant is programmed to comply with the requirements of subsection (3)(c), regarding entry of birth date of purchaser; and that, (.2) with respect to any applicant who makes any sales other than by electronic scanner, the applicant has in place a system, satisfactory to the Department, to ensure that no sales or transfers occur without compliance with subsection (3)(c).]

[(3)] (2) Prohibited Conduct.

(a) No person shall sell or offer for sale, transfer or offer for transfer any etching acid.

(b) No person shall sell or offer for sale, transfer or offer for transfer any spray paint container or indelible marker unless such spray paint container or indelible marker is held for sale or transfer in an enclosed device which is constructed to prevent removal of the merchandise except by authorized attendants or is stored, out of sight, in such a way as to prevent free access to the merchandise by the public.

(c) Sales to minors.

(.1) No person shall sell or otherwise transfer any spray paint container or indelible marker to a minor, unless said minor is accompanied by a parent or legal guardian at the time of purchase or transfer.

(.2) No person shall sell or otherwise transfer any spray paint container or indelible marker unless:

(A) The purchaser or transferee shall have supplied photo identification as proof of lawful age.

(B) Any electronic scanner system, or other system deemed satisfactory to the Department, is programmed, *or is in place* to reject the sale unless a birth date is entered into a cash register or computer, *or retained in a log in order to record the transaction.*

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(d) No minor shall, at the time of purchase of items specified in Section 9-618[(3)](2)(c), knowingly furnish fraudulent evidence of majority including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, an identification card issued to a member of the Armed Forces, or any document issued by a federal, state, county or municipal government.

[(4)] (3) Enforcement. The Department of Licenses and Inspections shall enforce the provisions of this Section.

[(5)] (4) Penalties.

(a) Any person who violates the provisions of this Section or any minor who violates the provisions of Section 9-618[(3)](2)(d) shall be subject to a fine or penalty for a violation of a Class III offense, as set forth in Section 1-109(3) of the Code, and/or imprisonment not exceeding ninety (90) days.

(b) In addition to the penalties outlined in Section 9-105, the Department of Licenses and Inspections may revoke the *business privilege* license.

In addition, the Department may confiscate the entire inventory of spray paint containers, indelible markers and etching acid from a business for a second or repeated violation of this Section. [or for failure to obtain the license required in Section 9-618(2).] The business proprietor may reclaim the spray paint containers, indelible markers and etching acid upon payment of a three hundred (300) dollar confiscation fee.

* * *

§ 9-630. Sale of Used Cars.

* * *

(7) Administration and Enforcement.

* * *

(b) In addition to the penalties set forth in Section 9-105, any dealer found to be in violation of this Section shall be subject to reprimand, suspension or revocation of his or her [automobile seller's license in accordance with Section 9-601(4) and (5) and/or] business privilege license. The Department shall revoke or suspend a license pursuant to this subsection if, after due process, it determines that the violation was willful or repetitive. Upon good cause shown, the Department shall reinstate any such license.

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CHAPTER 9-700. AMUSEMENT BUSINESSES.

§ 9-701. [Athletic Contests.] *Reserved.*

[(1) Definitions. In this Section the following definitions apply:

(a) Admission Charge. Any charge made to view any sport, athletic contests or exhibition, including contributions solicited, directly or indirectly, at or in connection with the sport, athletic contest or exhibition.

(2) Licenses.

(a) No person shall conduct, stage, manage, permit or present any sport, athletic contest or exhibition to which an admission charge is made or is incidental, unless he has obtained a license from the Department of Licenses and Inspections, pursuant to § 9-701(2)(b) or (c).

(b) No license for athletic contests other than as provided in § 9-701(2)(c) shall be issued unless the applicant:

(.1) furnishes the information required by the Department concerning the athletic contest with respect to its nature, location and anticipated attendance;

(.2) pays a license fee for each athletic contest based on a reasonable estimate made by the Police and Fire Departments of the number of policemen and firemen necessary to protect the public safety at the premises of such contest, at the daily rate of \$70.00 per man; provided, that where all of the proceeds of any athletic contest, less the actual cost of necessary operating expenses, inure directly to the benefit of any bona fide religious, educational or charitable institution, society or organization, the applicant shall pay a license fee not in excess of \$70.00.

(c) License for Sunday Activities. No license shall be issued to any person who conducts, stages, manages or presents any baseball or football game to which an admission fee is charged or is incidental, to be held on Sunday between 1 P.M. and 7 P.M. unless the applicant:

(.1) furnishes the information required by the Department concerning the athletic contest with respect to the kind of game to be played, the date, time and place, whether the place is equipped with stands or other accommodations for seating spectators, and the seating capacity;

(.2) pays a license fee consistent with Section 9-701(2)(b)(.2).

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(d) The Department, the Police Department, or the Fire Department may prevent the holding of any athletic contest or exhibition to which an admission fee is charged or is incidental, when the license required by this Section has not been obtained.

(e) When the holding of any licensed sport, athletic contest or exhibition is postponed, a substituted license may be issued for amusement or entertainment which is operated by the insertion of a later date without additional payment.]

* * *

§ 9-703. Special Assembly Occupancies.

* * *

(2) Licenses.

(a) No person shall operate a special assembly occupancy without first obtaining a special assembly occupancy license from the Department.

* * *

(.3) Special assembly occupancy licenses shall be *annually* renewed [every two years] upon payment of the renewal fee of one hundred (100) dollars, subject to the conditions set forth in subsection (2)(b) herein.

* * *

§ 9-704. Motion Pictures.

(1) Definitions.

(a) Obscene. That which, to the average person applying contemporary community standards, has, as its dominant theme, taken as a whole, an appeal to prurient interest.

(2) Prohibited Conduct.

[(a) Operating without a license. No person shall exhibit any motion picture within the City unless he has obtained a license from the Department of Licenses and Inspections.]

[(b)] (a) Obscene, false or misleading advertising. No person shall permit the display of any picture or other form of advertising on premises used to exhibit

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any motion picture, which is obscene or which is false or misleading as to the nature of the motion picture being exhibited. Each day that a person permits the display of any obscene, or any false or misleading picture or other form of advertising shall constitute a separate violation.

[(3) License.

(a) No license shall be issued unless:

(.1) the applicant's facilities for the exhibition of motion pictures comply with Title 5;

(.2) the applicant has paid a license fee of \$150. per motion picture screen.

(b) All licenses shall be conditioned on continued compliance with Title 5.

(4) Exemptions. Section 9-704(2)(a) shall not apply to any motion picture exhibitions at a church or other place not devoted to the business of such exhibitions, but compliance with Chapters 5-2300 and 5-2400 is nevertheless required.]

* * *

CHAPTER 9-1400. WEIGHTS AND MEASURES.

* * *

§ 9-1401. Definitions.

* * *

[(3) Capacity. Measure of capacity as rated by the manufacturer.

(4) Crane Scale. A weighing device having a nominal capacity of 5,000 pounds or more and designed to weigh loads which are freely suspended from an overhead, track-mounted crane.

(5) Hopper scale. A weighing device designed for weighing bulk commodities and whose load-receiving element is a tank, box or hopper mounted on a weighing element.]

[(6)] (3) * * *

[(7)] (4) * * *

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[(8)] (5) * * *

[(9)] (6) * * *

(7) *Weighing or measuring device.* A motor fuel dispenser, a vehicle tank or load rack meter, or a scale.

* * *

§ 9-1403. Prohibited Conduct.

(1) No person shall operate or maintain a weighing or measuring device for commercial purposes unless he *or she* has [obtained a license from] *registered the business utilizing the device with* the Department.

§ 9-1404. [License] *Registration* Requirements.

The Department shall not [issue] *register a business utilizing* a weighing and measuring device [license] unless:

[(1)] such device has been inspected and approved by the Department's Bureau of Weights and Measures within six (6) months of the date of application;]

[(2)] (1) [each applicant] *the registrant* furnishes such information relative to the [application for a weighing and measuring device license] *registration* as the Department shall require; and

[(3)] (2) [each applicant] *the registrant* pays [the following] *an* annual [license] fee of *twenty-five (25) dollars*.

(a) retail motor fuel dispenser : thirty-five (35) dollars per fueling point;

(.1) a fueling point is defined as a location where a single vehicle is fueled at one time;

(b) vehicle tank and load rack meters : \$90. per meter;

(c) Scales:

(.1) 0 – 50 lb. capacity : \$25.00 per device;

(.2) over 50 – 3,000 lb. capacity : \$125.00 per device;

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(.3) over 3,000 lb. capacity : \$200.00 per device;

(.4) hopper or crane scale capacity : \$250.00 per device.]

* * *

CHAPTER 9-1800. USE OF ELECTRONIC SCANNERS FOR CUSTOMER CHECKOUT.

§ 9-1801. Definitions.

* * *

(6) Scanner Overcharge Ratio. [For each survey conducted pursuant to subsection 9-1802(3),] [t]The higher of the following two (2) ratios: (a) the ratio of the number of items for which the electronic scanner overcharged to the number of items for which the scanner undercharged; and (b) the ratio of the total dollar amount which the scanner overcharged for all overcharged items to the total dollar amount which the scanner undercharged for all undercharged items.

§ 9-1802. Use of Electronic Scanners.

(1) No retail food or mercantile establishment shall use an electronic scanner or similar automated device to ascertain the price of an item presented for checkout unless the establishment has [obtained a license from] *registered with* the Department. Application for such [licenses] *registration* shall be made on forms supplied by the Department. [Licenses shall be issued for a license year to be determined by the Department] *Registrations shall be valid for one year*, and may be renewed for similar one-year periods. No [license] *registration* shall be [issued] *processed* or renewed until the [retail food] establishment has paid an annual [license issuance or renewal] *registration fee of twenty-five dollars (\$25)*. [five hundred twenty-five (\$525) dollars for retail food establishments that use six (6) or more electronic scanners or similar automated devices, and two hundred fifty (\$250) dollars for retail food establishments that use one (1) or more but less than six (6) electronic scanners or similar automated scanners. The license fee for a retail mercantile establishment (other than a retail food establishment) that uses six (6) or more electronic scanners or similar automated devices shall be one hundred sixty (\$160) dollars, and eighty (\$80) for an establishment that uses one (1) or more but less than six (6) electronic scanners or similar automated devices for customer checkout. The Department shall promulgate as necessary regulations regarding the issuance, revocation and renewal of licenses.]

(2) As a condition of [holding the license] *registration as* required by subsection 9-1802(1), a retail food establishment shall comply with the following:

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* * *

[(3) The Department shall, four (4) times each year, conduct a random survey of the accuracy of at least one (1) of the electronic scanners or similar automated devices used at each retail food establishment licensed pursuant to subsection 9-1802(1). Following each such survey, the Department shall compute the Scanner Overcharge Ratio. It shall be a violation of this Section if such Scanner Overcharge Ratio is 3:1 or greater. If a retail food establishment's survey results show a Scanner Overcharge Ratio of 3:1 or greater for three (3) consecutive surveys, then such retail food establishment, after notification by the Department, must have the price of each item individually marked on each item. Such retail food establishment must continue such individual item pricing until its survey results show a Scanner Overcharge Ratio of less than 3:1 for four (4) consecutive surveys. The Department shall provide each retail food establishment with the result of each survey and shall release publicly the survey results for each retail food establishment surveyed during such quarter. Such survey results shall also be made available by the Department for public inspection.]

§ 9-1803. Violations and Penalties.

* * *

(3) Violations of subsection 9-1802(1), or any of the standards set forth in subsection 9-1802(2), [or of subsection 9-1802(3),] shall be "Class III" offenses and shall be subject to the fines set forth in subsection 1-109(3) of The Philadelphia Code.

* * *

SECTION 2. No change in a license fee or application fee made by this Ordinance shall be effective with respect to any particular license until one week after the Commissioner of Licenses and Inspections certifies to the Chief Clerk of Council, and provides notice on the City's website, that the technology to appropriately implement such particular change is in place. All other provisions of this Ordinance shall be effective immediately.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on February 4, 2010. The Bill was Signed by the Mayor on February 17, 2010.

A handwritten signature in cursive script, reading "Michael A. Decker".

Michael A. Decker
Chief Clerk of the City Council