



Economic Development Board
Meeting Agenda
June 16, 2023

Agenda

1. Receive the Minutes of the April 21, 2023 Meeting
2. SIP: Amendments
3. Code Update: Title 5 Amendments
4. Business License Analytics
5. Discover Stanwood Camano Analytics
6. EDB Next Meeting on July 21, 2023

ZOOM MEETING INVITATION

Topic: Economic Development Board Meeting

Time: June 16, 2023 7:30 AM

10220 270th ST NW

Stanwood, WA 98292

Join the zoom meeting with the link below:

<https://us02web.zoom.us/j/83386362913>

Webinar ID: 833 8636 2913

Join by telephone: (253) 215-8782



CITY OF STANWOOD ECONOMIC DEVELOPMENT BOARD AGENDA STAFF REPORT

MEETING DATES: June 16, 2023
SUBJECT: June EDB Agenda Topics
CONTACT PERSON: Patricia Love, Community Development Director
Sarah Cho, Economic Development and Marketing Manager
ATTACHMENTS: Exhibit A: Title 5 Amendments

April 21, 2023 Meeting Minutes

Economic Development Board Members Present: Les Anderson, Kristine Birkenkopf, Randy Heagle, Ashley Palmer

Staff Present: Sarah Cho, Patricia Love, Scott Black

Others Present: Mark Siegel (online), Teresa LaFluer (online), John Markezinis (online), Jeffrey Kroft, Mike Kmet, Chantel Keller

Les Anderson called the meeting to order at 7:30 a.m.

- 1. Receive the Minutes of the March 17, 2023 Meeting**
The minutes of the March 17, 2023 meeting were approved unanimously.
- 2. Storefront Improvement Program (SIP): Mark Siegel and Teresa LaFleur / On the Brick Road, LLC**
Business owners Mark Siegel & Teresa LaFleur spoke about the following changes they would like to make to their building: add a new sign to say "On the Brick Road". Add planters with flowers and small trees, a seating area, replace light fixtures, and new trim paint, and install light posts on the side of the building. The owners would like to dress up west Stanwood while staying true to the style of the area.
- 3. SIP: John Markezinis / Jimmy's Pizza and Pasta**
Business owner John Markezinis would like to add wrought iron doors to replace existing doors, crown molding above the doors, and potentially a security system.
- 4. SIP: Chantel Keller / Granary, LLC**
Granary building owner Chantel Keller would like to add new signs and lights with corresponding electrical work. For the entryway, she would like to sandblast the cement

and repaint it and add new commercial doors for the hallway that connects the rear parking lot to Main Street. She would also like to replace the two windows on second floor, repaint the trim, add three bistro tables to the sidewalk, and planters with low maintenance plants.

5. SIP: Jeffrey Kroft / Scattered Deck Games

Business owner Jeffery Kroft would like to remove the two garage doors on the front of the building and replace them with a regular door that can be used as a second entrance/emergency exit. He will also add one window. Currently the only entry/exit is the front door and the area with the garage doors can only be used for storage. Adding a second entry/exit door would allow Jeffrey to create more usable space for tournaments and triple his retail space.

6. SIP: Mike Kmet / Michael Kmet, LLC

Property owner Michael Kmet would like to paint the street side of the building and trim. He would also like to replace the windows at Patini's and the windows and doors at Sahara Pizza.

- The Economic Development Board members are very happy with how the program has turned out.
- Randy Heagle made a motion to approve all projects presented in today's meeting. All members approved moving these applications forward to the City Council meeting on May 11, 2023.

7. Business License Analytics

For the month of March 2023, 36 business licenses were processed. 25 of the licenses were non-resident business licenses, 9 of the licenses were home occupation licenses, and 2 of the licenses were city business licenses.

8. Discover Stanwood Camano Analytics

For the month of March 2023, Discover Stanwood Camano had 1,595 users visit the website and there was a total of 2, 619 pageviews. 64.6% of the audience found the website through organic search, 27% found the website through direct search, 6.7% found the website through a referral, and 1.7% found the website through social. The top five states for audience locations were Washington, California, Wyoming, Oregon, and Texas.

The Facebook page reached 2,099 people with 151 page visits. The Instagram account reached 1,121 people with 99 profile visits. The top 5 search terms were Camano Island, Stanwood Senior Center, Camano Island Washington, Stanwood WA, and Stanwood.

9. EDB Next Meeting: May 19, 2023

Adjourn: 8:40 am

Storefront Improvement Program Amendments

The first five applicants for the Storefront Improvement Program (SIP) were approved at the May 11, 2023 City Council meeting. Throughout the application process, several questions were brought to staff, including:

1. Should the school district be allowed to apply?
2. What should the labor match be capped at?
3. Can security cameras be an allowed use for the program?

City Council also provided feedback about the SIP, including:

1. What qualifies as maintenance vs improvement? Should doors not be included as an allowed use?
2. Should the downtown revitalization improvement district map be more restrictive?
3. Should we emphasize and prioritize main street?
4. Should we limit applicants from reapplying next year or future years?

The Community Development Committee met on June 1, 2023 to discuss possible amendments to the program and had the following discussions.

1. Should the school district be allowed to apply?
No. This program should focus on storefronts.
2. What should the labor match be capped at?
Is there a way to set a standard rate for labor? What do other cities do? What happens if the applicant does a poor job on the improvements? City commented that applicants are not eligible for reimbursement until they complete an inspection with city staff for final approval of completion.
3. Can security cameras be an allowed use for the program?
No.
4. What qualifies as maintenance vs improvement? Should doors not be included as an allowed use?
We should prioritize visual improvements and changes on more visible businesses. We need to better define visual improvements.
5. Should the downtown revitalization improvement district map be more restrictive?
6. Should we emphasize and prioritize main street?
7. Should we limit applicants from reapplying next year or future years?
Some sort of lifetime cap per property or business owner should be implemented. Maybe consider a yearly cap for grant dollars awarded, over a lifetime of the program.
8. Are there any other amendments that should be included in the SIP?

The current program guidelines allow the following:

Grant Amount:	Up to \$20,000
Matching Funds	1:1 match, up to the maximum grant amount of \$20,000
Allowed Matching Funds:	▪ Cash: Must be paid up front to all parties involved with the project ▪ Loan: Evidence of the loan must be provided to the City ▪ In-kind contributions: Labor/materials that are contributed by the business owner, property owner, or an agent of either party may be proposed and are subject to review from the City. These contributions should correspond to an item on the quote/budget and must not require professional-level skill or expertise. Under no circumstances will a property or business owner be paid directly for labor costs ▪ Architectural design costs: Evidence of payment made toward design costs must be provided to the City
Eligible Applicants:	▪ Business/building must be located in the Downtown Revitalization Improvement District (refer to map) ▪ Allowed business types: Office, retail, mixed use, commercial service ▪ Business must have continuous pedestrian activity and mixed-use buildings with retail must have street frontage ▪ Business owner(s) and property owner(s) (if different individuals) must agree in writing to the project and improvements ▪ Business owner(s) and property owner(s) (if different individuals) shall agree to maintain the improvements to the property for a minimum of a five-year period
Eligible Uses:	Eligible façade expenses may include but are not limited to rehabilitation, reconstruction, or restoration to existing commercial building facades, including: 1. Signage ▪ Main frontage signs ▪ Pedestrian signs 2. Paint (color palette provided) 3. Streetscapes ▪ Seating ▪ Lighting ▪ Tables and chairs ▪ Landscaping ▪ Other: public art, signs, etc. 4. Awnings ▪ Vinyl, metal, synthetic, acrylic 5. Doors and windows 6. Creative and imaginative exterior elements ▪ Murals ▪ Historic building features ▪ Maintenance of historic features

Façade improvements must be adjacent from the right-of-way, priority will be given to 270th, 271st, Camano Street, 102nd, 88th, 92nd, 99th and SR 532. If your business or building has rear public access, projects may be considered.

*Certain restrictions may apply on eligible uses based on business and/or building type. Any deviations from the eligible uses are subject to approval from the City.

- National franchises
- Residential/Multifamily buildings
- Government occupied space
- Businesses with more than 25 full time employees

- Roof repair/restoration/replacement
- Foundation repair/restoration/replacement
- Sidewalk repair/restoration/replacement
- Interior improvements
- Non-street facing entrances
- Temporary or non-permanent structures or signage

STANWOOD TWIN CITY MILE DOWNTOWN REVITALIZATION

Downtown Revitalization Improvement District

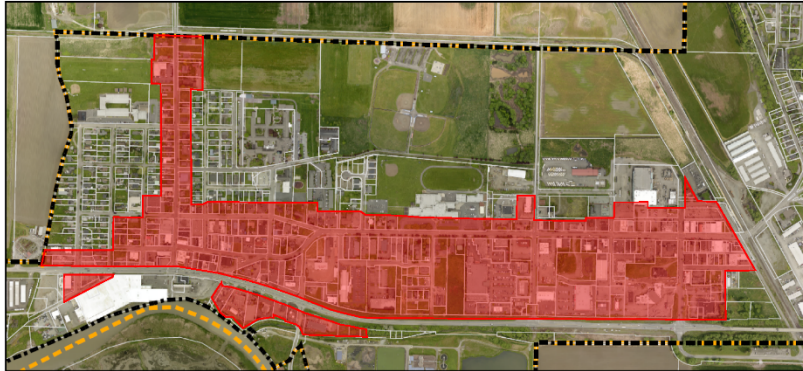
The City of Stanwood hopes to develop the Storefront Improvement Program to preserve and enhance the charm of the downtown commercial retail area, while also encouraging private investment in downtown, through visual and physical improvements to storefront buildings. This program will assist with our economic development efforts, city beautification efforts, and follow our comprehensive plan goals.

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Downtown Revitalization Improvement District

The City of Stanwood hopes to develop the Storefront Improvement Program to preserve and enhance the charm of the downtown commercial retail area, while also encouraging private investment in downtown, through visual and physical improvements to storefront buildings. This program will assist with our economic development efforts, city beautification efforts, and follow our comprehensive plan goals.



Staff is currently working with several potential applicants for the SIP. As we are currently in the middle of the first application year, staff recommends that any changes or amendments to the SIP be applied for 2024 to avoid any delays to applicants this year. If the Community Development Committee recommends restricting the improvement district, this would impact several businesses that are interested in applying, including Just James Boutique, Sollid Real Estate and Coastal Vie Espresso.

Staff will share comments and recommendations from the Economic Development Board back to the Community Development Committee. Final comments and recommendations will then be presented to City Council for approval.

Code Update: Title 5 Amendments

The next batch of Municipal Code Amendments included Title 5 - Business Licenses and Regulations. This title focuses on business licenses, fireworks, special events, merchants, taxicabs, cable system regulations, and sexually oriented businesses. Staff have reviewed the amendments and provided additional comments and questions in Exhibit A.

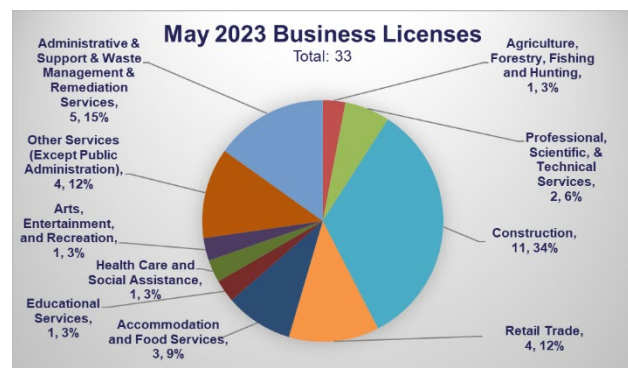
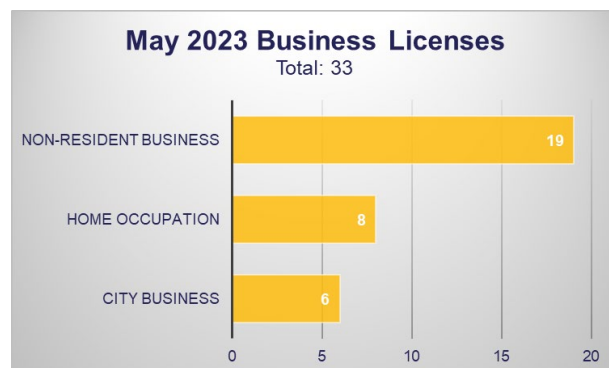
Notable changes in this title include:

- Defining a purpose for the special events chapter
- Expand special event definition to private property
- Peddlers, vendors and temporary merchants have been moved into a new chapter, Merchants without a Fixed Location
- Eliminates a local taxi license, relies on the city business license and state's licensing

Business License Analytics for May 2023

For the month of May 2023, 33 business licenses were processed. 19 of the licenses were non-resident business licenses, 8 of the licenses were home occupation licenses, and of the 6 of the licenses were city business licenses. According to the NAICS codes for each business:

Industry	Percentage of Businesses
Retail Trade	12%
Construction	34%
Professional, Scientific, and Technical Services	6%
Agriculture, Forestry, Fishing and Hunting	3%
Administrative and Support and Waste Management and Remediation Services	15%
Arts, Entertainment, and Recreation	3%
Health Care and Social Assistance	3%
Educational Services	3%
Accommodation and Food Services	9%
Other Services	12%



Discover Stanwood Camano Analytics for May 2023

For the month of May 2023, Discover Stanwood Camano had 1,796 users (+9.31%) visit the website for at least one session. There was a total of 3,041 pageviews (+6.40%). 73% of the audience found the website through organic search, 19.6% of the audience found the website through direct search, 6.5% of the audience found the website through a referral, and 0.9% of the audience found the website through social.

The top five states for audience location were Washington with 1,093 visitors, California with 201 visitors, Wyoming with 71 visitors, Oregon with 64 visitors and Texas with 41 visitors. In Washington State, the audience location breakdown was Seattle with 391 visitors, not set (no known location) with 222 visitors, Camano with 84 visitors, Marysville with 33 visitors, Everett with 32 visitors, Mount Vernon with 30 visitors and Stanwood with 21 visitors.

The Facebook page reached over 4,267 people (+111.9%) and had 513 page visits (+123%). The Instagram account reached over 1,121 people (+10.9%) and had 100 profile visits (-16%)

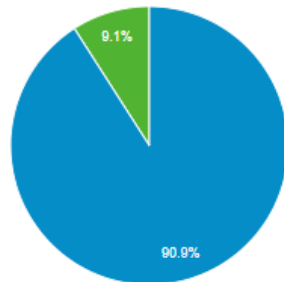
The top 5 search terms were Camano Island, Camano Island Washington, Camano Island Art Tour 2023, Stanwood Senior Center, and Stanwood.

Discover Stanwood Camano Analytics

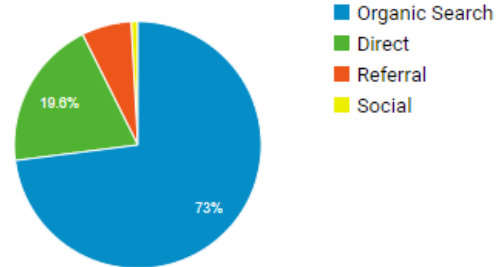
May 2023

Audience Overview

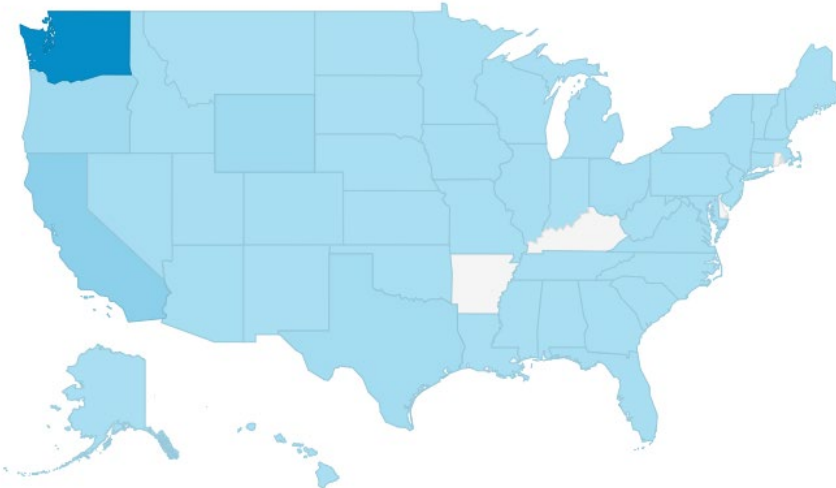
Users: 1,796
Page views: 3,041
■ New Visitor ■ Returning Visitor
May 1, 2023 - May 31, 2023



Acquisition Overview



Audience Location



United States:
Washington: 1,093
California: 201
Wyoming: 71
Oregon: 64
Texas: 41

Washington:
Seattle: 391
Not Set: 222
Camano: 84
Marysville: 33
Everett: 32
Mount Vernon: 30
Stanwood: 21

Facebook

Page Reach: 4,267
Page Visits: 513

Instagram

Page Reach: 1,121
Profile Visits: 100

Exhibit A - Title 5 Amendments

**CITY OF STANWOOD
WASHINGTON**

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, AMENDING
STANWOOD MUNICIPAL CODE (SMC) TITLE 5, BUSINESS LICENSES AND
REGULATIONS, AND ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, the City of Stanwood has begun a process to comprehensively update its municipal code to conform to current law and practice; and

WHEREAS, the purpose of this code amendment is to eliminate conflicts, improve clarity and overall function of the municipal code, and reflect current city and best practices; and

WHEREAS, the name of Title 13, Code Enforcement, is being changed to Civil Enforcement to more accurately reflect that Title 13 applies to more than just zoning enforcement issues; and

WHEREAS, amendments include ____; and

WHEREAS, the City of Stanwood SEPA Responsible Official has reviewed the proposed amendments to the Stanwood Municipal Code, determined that the amendments are categorically exempt from SEPA, and memorialized those conclusions under file number ____; and

WHEREAS, the Stanwood Advisory Group reviewed the ordinance scoping memo and draft ordinance at their ____ and ____ meetings respectively, and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the Stanwood Planning Commission reviewed the ordinance scoping memo and draft ordinance at their ____ and ____ meetings respectively and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the Stanwood Council Community Development Committee reviewed the ordinance scoping memo and draft ordinance at their ____ and ____ meetings respectively, and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the City Council held a public meeting and first reading of the draft code amendment on ____, a second reading on ____, and accepted public comment; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD,
WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Exhibit A - Title 5 Amendments

Section 1. Stanwood Municipal Code Chapter 5.50, Damages Claims Against the City, is recodified as SMC Chapter 1.50.

Section 2. Stanwood Municipal Code Title 5, Business Licenses and Regulations, is repealed in its entirety and replaced with the new Title 5, Business Licenses and Regulations, as provided in Exhibit "A" attached to this ordinance and incorporated herein by reference as if set forth in full.

Section 3. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 4. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 5. Effective Date. This Ordinance shall take effect five days after its passage and publication as required by law.

PASSED and APPROVED this ____ day of _____, 2023.

CITY OF STANWOOD:

Sid Roberts, Mayor

Attest:

Lisa Sokolik, City Clerk

Approved as to Form:

Nikki Thompson, City Attorney

Date of Publication: _____

Effective Date: _____

Exhibit A - Title 5 Amendments

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Title 5 Business Licenses and Regulations

i This title is a complete rewrite of existing SMC Title 5.

- Existing Chapter 5.01, Utility Tax, is being recodified into Title 3 through concurrent adoption of an ordinance re-adopting the entirety of Title 3.
- Existing SMC Chapter 5.50, Damage Claims Against the City, is proposed for recodification into SMC Title 1 through the adopting provisions of this ordinance.
- Existing SMC Chapter 5.24, Utility Pole Attachment Permit, is proposed for repeal through this readoption, given that the Legislature through RCW Chapter 80.54 has given the WUTC the authority to articulate rules for pole attachment (which it did through rules adopted in WAC Chapter 480-54 in 2015).

Commented [SC1]: Patricia's comments: Are proposed changes?

Chapter 5.02 Business Licenses

i This chapter is based on existing chapter 5.03.

5.02.010 Applicability.

This chapter applies to:

- (1) persons engaging in business within the City of Stanwood; and
- (2) business licenses issued by the City of Stanwood, including those issued through the state Master License Service.

5.02.020 Definitions—Generally

i This section is based on existing SMC 5.03.010. "Stuffed definitions" in which a substantive rule is contained within the definition, have been removed.

i Added a general definition of clerk for the entire title that allows designation of someone other than the clerk.

- (1) "Clerk" means the city clerk or such city employee or agent as the city administrator may designate to administer this title.+
- (2) "Engaging in business" has the meaning found in SMC 5.02.030.
- (3) "Person" includes the terms company, corporation, individual, owner, partnership, proprietorship and sole proprietorship and shall mean any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, joint venture, club, business trust, association, society, or group of individuals acting as a unit, whether mutual, cooperative, fraternal, religious, profit, nonprofit, or otherwise.

Exhibit A - Title 5 Amendments

5.02.030 Definition—"Engaging in Business"

i RCW 35.90.080 requires the city to use the model ordinance, developed by the Association of Washington Cities, to describe what constitutes "engaging in business." This definition is from the June 2018 definition. This section should not be modified.

- (1) The term "engaging in business" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
- (2) This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the City without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1). If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.
- (3) Without being all-inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.
 - (a) Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.
 - (b) Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.
 - (c) Soliciting sales.
 - (d) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.
 - (e) Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.
 - (f) Installing, constructing, or supervising installation or construction of, real or tangible personal property.
 - (g) Soliciting, negotiating, or approving franchise, license, or other similar agreements.
 - (h) Collecting current or delinquent accounts.
 - (i) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
 - (j) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system

Exhibit A - Title 5 Amendments

services, surveying, and real estate services including the listing of homes and managing real property.

- (k) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.
 - (l) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
 - (m) Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.
 - (n) Investigating, resolving, or otherwise assisting in resolving customer complaints.
 - (o) In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.
 - (p) Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.
- (4) If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license.
- (a) Meeting with suppliers of goods and services as a customer.
 - (b) Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
 - (c) Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.
 - (d) Renting tangible or intangible property as a customer when the property is not used in the City.
 - (e) Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.
 - (f) Conducting advertising through the mail.
 - (g) Soliciting sales by phone from a location outside the City.

Exhibit A - Title 5 Amendments

- (5) A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (4).
- (6) The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent **contacts**.

Commented [SC2]: Patricia's comments: Potential section - actions not considered - engaging in business or exceptions= Tim Schmitt's concerns with what is business? What is not?

5.02.040 Business License—When Required—Penalty for Violation.

i RCW 35.90.060 allows the city to require a business license only of those persons or entities that are "engaging in business" within the city.

- (1) All entities "engaging in business" as defined in SMC 5.03.030 within the City of Stanwood require a city business license.

i The next subsection is based on existing SMC 5.03.025 and portions of existing SMC 5.03.030.

- (a) A subcontractor engaging in business within the City of Stanwood must obtain a city business license. The license of a general contractor does not satisfy the licensing requirements for a subcontractor.

i The following subsections are based on existing SMC 5.03.030.

- (b) If business is transacted by one person at two or more separate locations within the city, each business location requires a separate license.
- (c) If more than one business is conducted or operated on a single premises, a separate license is required for each business.

i State law requires the City to adopt the AWC model ordinance "uniform minimum licensing threshold," and allows the city to either exempt businesses outside the city that are below the minimum licensing threshold from obtaining a business license entirely, or may require them to obtain a fee-free license. The City adopted the first option in 2018 in SMC 5.03.027.

i The minimum threshold is \$2000 annual business, but the City may set it higher.

! If the City changes the threshold option or amount, it must notify WA DOR Business Licensing Services. BLS requires a 75-day notice of changes to business licenses.

- (2) Exemption for businesses located outside the city.

- (a) Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than \$2,000 and who does not maintain a place of

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business within the city is exempt from the general business license requirements in this chapter.

- (b) Such a business is not exempt from the regulatory special permits requirements of this title.

i Next subsection is based on existing SMC 5.03.030(6).

- (3) A business license is not transferable.

- (a) No licensee may allow another person to operate a business under or display the license issued to their business, nor may another person operate under or display the license issued to another business.
- (b) A person who acquires an existing business must apply for a city business license before commencing business within the city with that business.
- (c) A licensee must report a change of location of the business to the Master License Service, in coordination with the city clerk.
- (d) A change of the location of a business requires approval by the city before business may commence at the new location, and may require submitting a new master application and payment of fees.

i The following two subsections are based on existing SMC 5.03.030(7)-(8).

- (4) A city business license does not convey the City's permission to conduct a prohibited activity or other violation. The city may not be held liable for the actions of any licensed business by virtue of having issued a license to conduct business.
- (5) An applicant or licensee must permit reasonable inspections of the business premises by governmental authorities for the purpose of enforcing the provisions of this chapter.

i This following line is based on existing SMC 5.03.090.

- (6) A violation of this section is a **misdemeanor** and may also be enforced pursuant to SMC Title 13.

5.02.050 Application and Renewal

i This section is based on existing SMC 5.03.030(1)-(2).

- (1) An application for a city business license or renewal must be filed via a master application through the State Department of Licensing's Master License Service.
 - (a) An application may only be for a single city business license. Each license requires a separate application.

Commented [SC3]: Patricia's comments: Verify, can this be a fine?

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- (b) The applicant must pay the filing fee described in the City's Consolidated Fee Schedule and any State Master License Service's handling fees.

(2) A business may not start operation within the city prior to city approval of its city business license.

5.02.060 Application Fees

i This section is based on existing SMC 5.03.050. Deleted references to SMC 3.30.080 and .090, which are being repealed and have been subordinated by the City's Consolidated Fee Schedule.

- (1) The fee for the business license required by this chapter is established by resolution of the city council. The fee may be pro-rated as necessary to conform to SMC 5.03.080.
- (2) The business license fee is in addition to any license fee or tax imposed or levied under any law or other ordinance or resolution of the city except as otherwise expressly provided.

! The following is existing language. Does the city mean to exempt these activities from the business license application fee, or from the licensing requirement altogether?

- (3) The following are exempt from payment of the city business license fee:
 - (a) Nonprofit and not-for-profit activities and fundraising sales carried on by a corporation registered as a nonprofit with the Secretary of State's Office;
 - (b) Garage sales, lawn sales, rummage sales, or any other similar casual sale of tangible personal property conducted on an infrequent basis not to exceed three times per each calendar year and not to exceed two consecutive days at one time;
 - (c) Persons selling personal property or providing a service pursuant to an order or process of a court of competent jurisdiction;
 - (d) Persons acting in accordance with their powers and duties as public officials.

Commented [SC4]: The fee, we do have a nonprofit license which is \$0. For items b, c, and d, unsure

Commented [SC5]: Patricia's comments: Fee and application

5.02.070 Review of Application—Approval or Denial

i Next line based on existing SMC 5.03.030(3).

- (1) The clerk must, when appropriate, refer applications to the planning department, the police department, or other governmental agencies for their review.
- (2) The clerk must approve an application for a business license that complies with this chapter and other provisions of the Stanwood Municipal Code.

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i The next line is based on a portion of existing SMC 5.03.080(2).

- (3) **If** the Clerk denies an application, the Clerk must, by certified mail, give written notice to the applicant of the denial of their license. The notice must include a summary of the information considered by the clerk, the reason(s) for the action, and the opportunity for appeal provided by SMC 5.02.110.

Commented [SC6]: When an application is currently denied or withdrawn, it gets processed through the state. Can we remove this section to match language about the state master license service or are we required to keep this?

5.02.080 License Expiration

i Based on existing SMC 5.03.070.

Each city business license must include an expiration date as determined by the Master License Service in coordination with the city. The city license may be prorated to coordinate with the expiration date assigned by the State Master License Service.

5.02.090 Penalty for Late Application or Renewal

i This section is based on existing SMC 5.03.060.

- (1) Licenses must be renewed annually on or before the expiration date, or expiration of any prorated period. Failure to renew a business license by the license expiration date may result in the assessment of a late renewal penalty, and may lead to the revocation of the city license.
- (2) Revocation of a license due to nonrenewal requires reapplication for the city license, and approval by the city before the revoked business may continue operation within the city.

5.02.100 License Suspension or Revocation

i This section is based on existing SMC 5.03.080(1).

- (1) The Clerk may suspend or revoke a business license when the licensee or any of its officers, directors, agents, owners, or employees fails or have failed to:
- (a) maintain the licensed premises or business activity in compliance with applicable health, building, fire, zoning (including legal nonconforming uses) or safety laws, ordinances, or regulations;
 - (b) comply with the requirements of this chapter. Any suspension shall remain in effect until the conditions causing the suspension are cured and reasonable measures are taken to ensure that those conditions will not recur; or
 - (c) renew a business license within 120 days after the expiration date of the license.

i The next line is based on a portion of existing SMC 5.03.080(2).

- (2) **The** Clerk must, by certified mail, give written notice to the license-holder of the suspension or revocation of their license. The notice must include a summary of the complaints, objections, and information considered

Commented [SC7]: Same comment as above, are we required to issue a written notice?

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by the clerk; the effective date of the suspension or revocation; the reason(s) for the action; and the opportunity for appeal provided by SMC 5.02.110.

5.02.110 Appeals

i This section is based on existing SMC 5.03.080(2). Separated from suspension/revocation because it also applies to appeal of denials of initial applications.

- (1) Notice mailed to the mailing address on the application or most recent renewal shall be deemed received three days after mailing.
- (2) The applicant or license-holder may appeal the clerk's decision to the **city hearing examiner** by:
 - (a) filing written notice of appeal to the Clerk within seven calendar days; and
 - (b) paying the appropriate fee.

Commented [SC8]: Patricia's comments: Do we need to include hearing timelines and criteria?

5.03.120 Penalty for violation.

i This section is based on existing SMC 5.03.090.

! Existing code provides for a misdemeanor penalty. Does the City want to revise to a civil infraction?

Violation of any requirement of this chapter not otherwise specified is a Class 1 civil infraction and may also be enforced pursuant to SMC Title 13.

Chapter 5.04 Fireworks

Commented [SC9]: Patricia's comments: Send to fire and BO for review

i This chapter is based on existing SMC Chapter 5.04.

i Existing SMC 5.04.050 and SMC 5.04.060 is proposed for deletion as part of the Title 9 update.

5.04.010 Purpose.

i Existing SMC 5.04.010.

It is the intent of this chapter to provide a procedure for the granting of licenses, and the possession, sale, and discharge of fireworks.

5.04.020 Applicability

i This is a new section.

This Chapter applies to:

- (1) licenses for the public display of fireworks;

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- (2) licenses for the sale of consumer fireworks.

5.04.030 State law adopted.

i Existing SMC 5.04.020.

Chapter 70.77 RCW pertaining to fireworks is adopted by this chapter by reference as though stated in its entirety in this chapter.

5.04.040 Public Display of Fireworks—License Required.

i Based on existing SMC 5.04.030, with additional provisions to describe application process.

- (1) A license is required for the public display of fireworks per RCW 70.77.
- (2) An application for a license for the public display of fireworks must conform to the requirements of RCW 70.77 and be submitted to the clerk prior to June 1.
- (3) Per RCW 70.77.280, after investigation and report by the fire marshal, a license for a public display of fireworks may be issued by the city council if the application demonstrates compliance with the standards of Chapter 70.77 RCW.

Commented [SC10]: Patricia's comments: Deleted or moved? Section 5.04.080

Commented [SC11]: Patricia's comments: CDD

5.04.050 Fireworks Stand—License Required.

i Based on existing SMC 5.04.030.

A license is required for the public display of fireworks, or the sale of consumer fireworks, consistent with SMC Chapter 9.42.

5.04.070 Fireworks Stand License—Who May Apply.

i Existing SMC 5.04.070. Title has changed to delete "insurance prerequisite," which was not contained within this section.

A fireworks license may be issued only to such applicants who meet the following qualifications:

- (1) Nonprofit, charitable, religious, or eleemosynary corporations, organized and existing primarily for veteran, patriotic, religious, charitable, or civic betterment purposes; and
- (2) The corporation or association has its principal and permanent meeting place in the city, and has been organized and established in the city for a period of at least one year prior to the date application is made for a fireworks license.

5.04.080 Fireworks Stand License—Application—Insurance required.

i Based on existing SMC 5.04.080. Adjusted timelines and insurance minimums to refer to statute. Deleted requirement to apply by June 1 of each year.

- (1) Application for a license:

Commented [SC12]: Patricia's comments: Deleted or moved? Section 5.04.080

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- (a) Must be made in writing on forms provided by the city;
 - (b) Must be accompanied by the license fee as established by resolution;
 - (c) Must set forth the proposed location of the fireworks stand applied for.
- (2) An application must be processed by the City consistent with the timelines in RCW 70.77.270(1).
- (3) If an applicant is not granted a license, the application fee must be refunded.
- (4) An application for a license must be rejected unless the fireworks stand is covered by a liability insurance policy consistent with RCW 70.77.270.

5.04.090 Fireworks Stand License Renewal – Preference.

i Existing SMC 5.04.090.

Applicants for renewal of license must be given preference over applicants for license by persons not previously licensed, provided that if the holder of the license fails to make application for renewal by the third Monday in April, the preference must be forfeited.

5.04.100 Fireworks Stand License—Number.

i Existing SMC 5.04.100.

No one organization may receive more than one license for fireworks sales during any one calendar year. The maximum number of licenses which may be issued pursuant to this chapter during any one calendar year must not exceed one license for each 1,500 residents of the city, or fraction thereof, according to the last official census. Once the maximum number of licenses for the year have been approved, the city will no longer accept fireworks license applications.

Commented [SC13]: Patricia's comments: (1)

Commented [SC14]: Patricia's comments: (2)

Commented [SC15]: Patricia's comments: (3)

5.04.110 Fireworks Stand—Operation.

i Existing SMC 5.04.110.

No person other than the licensee organization may operate the stand for which the license is issued, or share or otherwise participate in the benefits of the operation of such stand.

5.04.120 Fireworks Stand—Requirements.

i Existing SMC 5.04.120. Updates to conform section to style guide.

All retail sales of “safe and sane” fireworks are permitted only from within a temporary fireworks stand, and the sale from any other building or structure is prohibited. Temporary stands are subject to WAC [212-17-185](#) through [212-17-21519](#) and the following provisions:

- (1) No fireworks stand may be located within 25 feet of any other building, nor within 100 feet of any gasoline station;

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- (2) A fireworks stand need not comply with the provisions of the building code of the city but must be erected under the supervision of the fire chief, who may require that those stands be constructed in a manner and place to ensure the safety of attendants and patrons.
- (3) A fireworks stand must maintain approved fire extinguishers at all times;
- (4) A fireworks stand must have at least two exits;
- (5) A fireworks stand must not be located closer than 600 feet to another fireworks stand;
- (6) All weeds and combustible material must be cleared from the location of a fireworks stand, including a distance of at least 20 feet surrounding the stand;
- (7) Signs reading “No Fireworks Discharge Within 100 Feet” in letters at least two inches high, with a principal stroke of not less than one-half inch, on contrasting background, must be conspicuously posted on all four sides of the stand;
- (8) Signs reading “No smoking within 20 feet” in letters at least two inches high, with principal stroke of not less than one-half inch, on a contrasting background, must be conspicuously posted on all four sides of the stand;
- (9) A fireworks stand may be operated by adults only.
- (10) No fireworks may be left unattended in a stand.
- (11) All unsold stock, accompanying litter, and the fireworks stand itself must be removed from the location and the city by 12:00 noon on July 6th of each year for the July 4th selling season and by 12:00 noon on January 3rd for the New Year’s selling season.

5.04.130 Violations—Penalties and Revocation

i Existing SMC 5.04.130.

- (1) Violation of any provision of this chapter is subject to the penalties of Chapter 70.77 RCW.

i New material below.

- (2) The clerk may revoke a license of a fireworks stand for non-compliance with the rules in this chapter or the rules in SMC 9.42.020 regarding purchase and sales of fireworks or for sales of fireworks other than consumer fireworks.

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Chapter 5.06 Special Events

5.06.010 Purpose

i Can staff articulate a purpose for the regulations in this chapter? This may change if the scope of applicability changes.

Commented [SC16]: Patricia's comments: PL To provide

Commented [SC17]: City of Lynnwood's is pretty good. Change if needed.

The purpose of this chapter is to accommodate and allow for individual, occasional, or seasonal activities and events desired by members of the community and to: (A) ensure special events and activities do not unduly impact or threaten the public's health, safety and welfare; (B) protect and preserve public infrastructure and city resources; (C) prevent unplanned disruption of public services; (D) mitigate impacts to the extent feasible; (E) allow for the exercise of protected free speech; and (F) facilitate business events of a singular or infrequent nature.

5.06.020 Applicability

i Note city attorney's comment to expand applicability to private property, which would be accomplished through a change in the definition if that is desired.

(1) This chapter applies only to "special events" as defined in SMC 5.06.030.

i The following is based on existing SMC 5.06.025:

(2) This chapter specifically exempts the following:

- (a) parades, athletic events or other special events that conducted in full by the city of Stanwood;
- (b) funeral procession by a licensed mortuary;
- (c) temporary sales conducted by businesses, such as holiday sales, grand opening sales, sidewalk sales, or anniversary sales;
- (d) garage sales, rummage sales, lemonade stands, and car washes outside of the right-of-way;
- (e) lawful picketing/demonstrating in public places protected by the First and Fourteenth Amendments to the United States Constitution.

Commented [SC18]: Patricia's comments: on site

5.06.030 Definitions

i Based on existing SMC 5.06.010.

i Existing definition of "special event" used "and/or," which is never recommended. Reworded for clarity. Deleted "uncommon impact on a public place" for vagueness. Replaced "reasonably expected to require the provision of public services" with the language from existing section 5.06.020.

The following definitions apply to the terms used in this chapter:

"Director" means the director of the Community Development Department, or the director's designee.

"Event organizer" means the person or entity that is sponsoring or organizing a special event.

"Special event" means any temporary or ongoing activity that:

- (a) occurs on public property;

Commented [SC19]: Do we need to include Nikki's recommendation about private property being included or does item (b) qualify?

Commented [SC20]: Patricia's comments: Special event - public vs private, consider impact to neighbors

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- (b) affects the ordinary use of public streets, rights-of-way, sidewalks, traffic and other public places;
- (c) that in the opinion of the City Administrator is reasonably expected to cause or result in a gathering of more than 75 people or is reasonably likely to require city personnel for road closures, traffic control, crowd control, or other safety and logistical support including prevention of dangerous, unlawful or impermissible uses or protection of the safety of persons and property around the event.

Commented [SC21]: Patricia's comments: Smaller than 50?

i Deleted "The proposed event requires the event organizer to obtain a use permit from two or more city departments."

5.06.040 Permit required.

i Based on existing SMC 5.06.020; deleted thresholds for permit requirement that are duplicated in the definition of "special event."

It is unlawful for any person to hold or conduct any special event as defined in 5.06.030 in the city without a permit issued per this chapter.

5.06.050 Permit application.

i Based on existing SMC 5.06.030. Fee payment moved from 5 days prior to event to time of application.

- (1) An application for a special event permit must:
 - (a) be made on forms available from the community development department;
 - (b) be completed and submitted to the community development director ("director") or designee no later than 60 days prior to the proposed event;
 - (c) include the application fee.
- (2) A waiver of the deadline in subsection (1)(b) may be granted by the director upon a showing of good cause. The director must consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application and obtain police and other city services for the event. Good cause can be demonstrated by the applicant showing that the circumstances that gave rise to the permit application did not reasonably allow the participants to file within the time prescribed, or that the event is related to the exercise of rights under the First and Fourteenth Amendments of the United States Constitution.
- (3) The application must include the following:
 - (a) Purpose of the special event; name, address and telephone number of the sponsoring organization and/or individual(s);

Commented [SC22]: Have we determined the app fee?

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- (b) Proposed date of event, location and hours of operation, schedule of events, and estimated attendance;
 - (c) Special facility requirements and city assistance required; and
 - (d) Sanitation Requirements:
 - (i) Adequate waste disposal facilities must be identified and information demonstrating how facilities will be obtained must be provided.
 - (ii) Adequate restroom and washroom facilities must be identified and information demonstrating how facilities will be arranged for or obtained by the applicant, subject to the Snohomish health district's review and certification process, must be provided.
- (4) Permits and/or approvals/coordination from other public agencies (e.g., Community Transit, Department of Transportation) when required must be submitted prior to the issuance of the permit.
- (5) Five days prior to the event, a complete list of concessionaires operating any booths must be submitted.
- (6) The city may require other information deemed reasonably necessary to determine that the permit meets the requirements of this chapter.

Note that the (existing) language below may not be sufficient to determine applicability of this provision.

- (7) When an event will be an exercise of rights protected by the First and Fourteenth Amendments to the United States Constitution, the application shall be processed promptly, without charging a fee or imposing terms or conditions that infringe upon constitutional freedoms, and in a manner that respects the liberty of applicants and the public.

5.06.060 Application for city contribution.

i Based on existing SMC 5.06.035.

- (1) An application for city contribution towards a special event must:
 - (a) be made on forms available from the community development department;
 - (b) be completed and submitted to the community development director ("director") or designee no later than 60 days prior to the proposed event.
- (2) The application must include the information required in SMC 5.06.050 and must include cost estimates for any needed city services.
- (3) A waiver of application deadline for requests for city contribution may be granted by the Director on the same basis as in SMC 5.06.050(2).
- (4) An application for city contribution may only be approved by the city council. City share of the cost of the event may be determined by the city council at their discretion.

Commented [SC23]: Patricia's comments: remove and coordination

Commented [SC24]: Patricia's comments: Island Transit

Commented [SC25]: We are currently not enforcing this, will need to update special event application to apply

Commented [SC26]: Do we need to mention the notification process requirement or does this cover this item?

Commented [SC27]: Patricia's comments: Suggested language?

Commented [SC28]: Differentiation between public space when organization is "renting" space or event.

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(5) Criteria for Approval of City Contribution. To approve an application for city contribution, the City Council must make the following findings:

- (a) the event contributes to the marketing of the city;
- (b) the event will attract the general public into the downtown or uptown commercial areas and will be conducted in a way that creates potential for additional retail or service business transactions that contribute to the city's tax base;
- (c) the event provides recreation benefit to the general public;
- (d) the event promotes the general public welfare.

(6) As part of the city contribution, the City may allow, in its sole discretion, the city of Stanwood logo or text indicating the city role on signage, posters, and other advertising materials for the event.

Commented [SC29]: Patricia's comments: CDD

Commented [SC30]: Patricia's comments: e) Be included in the adopted city budget

Commented [SC31]: Patricia's comments: Projects in excess of city budgeted amounts require council approval

5.06.070 Departmental analysis.

i Existing SMC 5.06.060.

- (1) The Director must send copies of special event permit applications to all pertinent city departments for review and determination of services required.
- (2) The applicant is required to coordinate with the Stanwood police department and public works department to employ police officers for security and traffic control as determined by the departmental analysis.
- (3) The cost of city services (e.g., police, public works employees, etc.) for special events will be estimated prior to the event. Additional costs incurred will be evaluated following the completion of the event. The city may in its discretion require a cash deposit for such costs as a condition of permit approval prior to issuance of a special event permit.
- (4) If city sponsorship is requested, the city financial contribution to the event must be determined as part of the departmental analysis. The city may at its discretion provide for the full or partial cost of police and public works services for city-sponsored special events.

Commented [SC32]: Should we add north county fire?

Commented [SC33]: Include language that city service fees must be paid prior to the event

5.06.080 Approval—Criteria.

i Based on existing SMC 5.06.040.

- (1) After receipt of the comments of affected city departments on the application, permits issued under this chapter may be issued by the Director, except for permits requesting city contribution or public road closure which must be approved by the city council.
- (2) Administrative Approval/Denial by Director. A permit may be issued by the Director only if all of the following criteria and conditions for issuance are met:
 - (a) Adequate plans for parking exist to meet the need generated by the proposed special event;
 - (b) The proposed special event or proposed use of the street will not intrude onto or over any portion of a public right-of-way open to

Commented [SC34]: Patricia's comments: no, delete and rewrite

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vehicle or pedestrian travel in such a manner as to create a likelihood of endangering property or public safety;

- (c) The proposed event will not unreasonably cause unreasonable impacts to other activities such as events or construction on the date(s) requested;
- (d) The proposed event location has not been unreasonably impacted by the number of other events in a one-year period;
- (e) City personnel and resources are available to assist with the event as deemed necessary by the community development director, chief of police, and the public works director;
- (f) Such other and further conditions as the director deems necessary to reasonably ensure that the proposed special event does not in any way create a likelihood of endangering public safety, including, but not limited to, those who may participate or be spectators.

- (3) Approval by City Council. A permit subject to approval by the City Council may be issued only if all of the following criteria and conditions for issuance are met:

- (a) Items (2)(a) through (f) listed above;

 Seems to me that all of the criteria for both sets of approval criteria are the same, and could be condensed.

- (b) In the case of special events such as fun runs, marathons, etc., or in the case of any street use which requires the closure of any public street or walkway, the proposed event or use will not require closure for a period longer than that established by the city council.

- (4) The Director must notify the City Council all special event approvals made by staff.

- (5) Notice of special events that require city council approval must be posted at the event site. The applicant is responsible for posting the event in a format approved by the Director a minimum of 10 days prior to the city council meeting at which the special event will be considered for action. When an event involves street closures, the beginning and end of the closure route and any intersecting streets must be posted.

Commented [SC35]: We do not go to council for special event permits, should we remove or keep as it says "a permit is subject to approval"

Commented [SC36]: Patricia's comments: delete

Commented [SC37]: Patricia's comments: is this a criteria? Move?

Commented [SC38]: Patricia's comments: delete. Add additional criteria for special events on private property; mitigating impact on neighbors - noise, lights, parking, etc

5.06.090 Approval—Conditions.

 Based on existing SMC 5.06.075.

- (1) The Director may condition the issuance of a special event permit by imposing reasonable requirements concerning the time, place and manner of the event, and such requirements as are necessary to protect public safety, to protect the rights of persons and property, and to address traffic control.
- (2) The following conditions apply to all special event permits:
 - (a) The applicant may not alter the time, place and manner of the event proposed on the event application;

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- (b) Conditions concerning the area of assembly and disbanding of an event occurring along the route;
 - (c) Conditions concerning accommodation of pedestrians or vehicular traffic, including restricting the event to only a portion of the street or right-of-way;
 - (d) Compliance with any other applicable federal, state or local laws and regulations.
- (3) Conditions on a special event permit that does not involve activities protected by the First and Fourteenth Amendments of the United States Constitution include but are not limited to:
- (a) Requirements for the use of traffic cones or barricades;
 - (b) Requirements for the provision of first aid or sanitary facilities;
 - (c) Requirements for use of event monitors and providing notice of permit conditions to event participants;
 - (d) Restrictions on the number and type of vehicles, animals or structures at the event, and the inspections and approval of floats, structures, and decorated vehicles for fire safety;
 - (e) Compliance with animal protection laws;
 - (f) Requirements for use of garbage containers, cleanup, and restoration of city property;
 - (g) Restrictions on the use of amplified sound and compliance with noise laws;
 - (h) Notice to residents and/or businesses regarding any activity which would require a street closure;
 - (i) Restrictions on the sale and/or consumption of alcohol;
 - (j) Elimination of an activity which cannot be mitigated to a point as to ensure public safety and welfare, or which causes undue liability to the city;

i The next line is modified to clarify overtime may be required.

- (k) Requirements regarding the use of city personnel and equipment, including any requirement for the event sponsor to pay for staff overtime;

i The next line is based on existing SMC 5.06.033:

- (l) Compliance of event signage with Chapter 17.110 SMC, Sign Standards.

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5.06.100 Denial—Criteria.

i Based on existing SMC 5.06.080.

An application for a special event permit may be denied for any of the following reasons:

- (1) The event will disrupt traffic within the city of Stanwood beyond practical solution;
- (2) The event will protrude into the public space open to vehicle or pedestrian travel in such a manner as to create a likelihood of endangering the public;
- (3) The event will interfere with access to emergency services;
- (4) The location or time of the special event will cause undue hardship or excessive noise levels to adjacent businesses or residents;
- (5) The event will require the diversion of so many city employees that it would unreasonably affect other city services;
- (6) The application contains incomplete or false information;
- (7) The applicant fails to provide proof of insurance;
- (8) The applicant fails to obtain local, county, state, or federal permits as required.

5.06.110 Site restoration.

i Existing SMC 5.06.065.

- (1) Cleanup. The permittee is required to clean all permitted public properties and the right-of-way of rubbish and debris, returning it to its pre-event condition. If the permittee fails to clean up such refuse, the cleanup will be arranged by the city and the costs charged to the permittee. The city may in its discretion require a cash cleanup deposit.
- (2) Damage to City Property. The city reserves the right to charge the event permittee the replacement cost for any documented damage to city property occurring during a special event. The city may in its discretion require a cash damage deposit.

5.06.120 Insurance required.

i Existing SMC 5.06.070.

- (1) The applicant for a special event that does not involve the exercise of rights protected by the First and Fourteenth Amendments to the United States Constitution is required to obtain and present evidence of comprehensive liability insurance (i.e., a certificate of insurance) naming the city of Stanwood as an additional insured for use of streets, public rights-of-way and publicly owned property such as parks.
- (2) The insurance policy must be written on an occurrence basis and must provide a minimum of \$1,000,000 for individual incidents, \$2,000,000 aggregate, per event, against all claims arising from permits issued pursuant to this chapter.
- (3) The insurance policy period must be for a period not less than 24 hours prior to the event and extending for a period not less than 24 hours following completion of the event.

Commented [SC39]: Patricia's comments: verify amounts

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- (4) In circumstances posing a significantly high risk of liability, the city may, in its discretion, increase the minimum insurance requirements, and in circumstances posing a significantly low risk of liability, the city may in its discretion reduce the minimum insurance requirements.

5.06.130 Revocation of special event permit.

i Based on existing SMC 5.06.090.

! Staff please verify if we want city administrator revoking in (1) and director revoking in (3).

- (1) Any special event permit issued pursuant to this chapter may be revoked by the city administrator if the city administrator in consultation with the mayor determines that any of the following apply:
- (a) That the special event cannot be conducted without violating the provisions of this chapter and/or the conditions of the special event permit;
 - (b) The special event is being conducted in violation of the provisions of this chapter and/or any condition of the special event permit;
 - (c) The special event poses a threat to the public health or safety;
 - (d) Conditions such as severe weather or other circumstances beyond the control of the city or the permittee have created or are likely to create conditions detrimental to the health and safety of the public or the event participants;
 - (e) The permittee has failed to obtain any other permit required by the city or pursuant to other local, state or federal law;
 - (f) The special event permit was issued in error or contrary to applicable law;
 - (g) The permittee has not paid all applicable city fees when due;
 - (h) The participants in the special event are engaged in illegal activities;
 - (i) The applicant fails to comply with conditions of the permit determined by city staff during departmental analysis.
- (2) Except as otherwise provided in this section, revocation of a special event permit must be in writing, must describe the reasons for the revocation and must be mailed, electronically transmitted, or hand-delivered to the permittee.
- (3) If there is an emergency requiring immediate revocation of a special event permit, the director may verbally notify the permittee of the revocation and the reasons for the revocation.

Commented [SC40]: Should be director

Commented [SC41]: Patricia's comments: CDD

Commented [SC42]: Patricia's comments: B and I the same?

Commented [SC43]: Patricia's comments: CDD

Exhibit A - Title 5 Amendments

5.06.140 Appeal.

i Based on existing SMC 5.06.100

- (1) An applicant may appeal any administrative denial or revocation of a special event permit to the city council.
Any such appeal must:

- (a) be in writing;
- (b) specify the grounds for the appeal; and
- (c) must be submitted to the city clerk within seven calendar days of the issuance of the permit denial or revocation.

- (2) An applicant may appeal the city council's denial of a special event permit to appeal Snohomish County superior court. Any such appeal must be made within 21 calendar days of the permit denial.

- (3) No appeal is available for City denial of an application for city contribution under SMC 5.06.060.

5.06.150 Violation – Penalty.

i Based on existing SMC 5.06.110.

- (1) It is unlawful to sponsor, conduct, or operate a special event contrary to this chapter or contrary to the conditions of a special event permit, or for any participant in a special event to willfully and knowingly violate a condition of the special event permit.
- (2) Violation of this chapter is a Class 1 civil infraction and may also be enforced pursuant to SMC Title 13.

Chapter 5.08 Merchants without a Fixed Location

i This is a heavy rewrite of existing SMC Chapter 5.08 titled "Peddlers, Vendors and Temporary Merchants" to provide substantive rules for such vendors without the requirement for an additional permit (other than a city business license).

! Staff please verify that the new title of the chapter makes sense for the intended purpose.

Commented [SC45]: Fine with title, unless someone else has a better recommendation

5.08.010 Purpose

i New material.

The purpose of this chapter is to regulate vendors and other merchants without a fixed location that desire to operate in the City of Stanwood.

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5.08.020 Applicability

i This section is a new organization of applicability rules from the existing chapter.

- (1) This chapter applies to merchants without a fixed location, such as door-to-door sales people, food trucks or other mobile or vehicle-based vending of merchandise, or temporary concessionaires.

Commented [SC46]: Patricia's comments: Mobile art center?
Book mobiles?

i The following subsections are based on the exclusions in existing SMC 5.08.010 definition of "temporary merchant" or "concessionaire."

! Staff please verify that these exclusions are intended.

- (2) This chapter does not apply to:

- (a) merchants who operate within the City less than 1 day per year;
- (b) public officers selling property under authority of law and to persons selling property under court order;

Commented [SC47]: Confirm with Patricia that one day operations do not need licenses. DO we need to specify on public vs private property?

i The next line is based on existing SMC 5.08.020(9):

- (c) special events, which are regulated by Chapter 5.06 SMC, but may apply to vendors operating at special events;

i The next line is based on existing SMC 5.08.030(8):

- (d) any farmer, gardener, or other person, who sells, delivers, or peddles any fruits, vegetables, berries, butter, eggs, fish, milk, poultry, meats, or any farm produce or edibles raised, caught, produced, or manufactured by such person;

i The following exclusion is based on the exclusions in existing SMC 5.08.010 definition of "Vending of food from a mobile unit."

- (e) deliveries of meals on wheels and food basket or hot food delivery, by churches or other not-for-profit charitable organizations, to the elderly, sick or physically challenged;

i Next line captures "newspapers," which was excluded from existing definition of peddler, and pizza deliveries, which was excluded from definition of "vending of food from a mobile unit."

- (f) deliveries of other services or merchandise arranged at a location not otherwise subject to this chapter, including delivery of newspapers and food pursuant to orders taken at an established place of business.

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5.08.030 Definitions.

i Based on existing SMC 5.08.010. Deleted "peddler" as duplicative of "temporary merchant." Deleted "solicitor for profit," which was unused. Amended "vending of food from a mobile unit" to be broader than just food.

The following definitions apply to the terms used in this chapter:

"Temporary merchant" or "temporary concessionaire" means any person who sells, or offers for no charge, any goods, wares, merchandise, food or anything of value, from a location other than a permanent building they own or lease, including any person, either as agent or principal, who carries goods, wares, merchandise or food of whatever nature or description from house to house, building to building or upon any street, highway or public place within the city for the purpose of selling such goods, wares or merchandise or solicits orders for the same.

"Permanent building" means a structure constructed on a permanent foundation, and hooked up to city water, sewer, and drainage, that have restrooms and washing areas.

"Solicit" and "solicitation" mean the request, directly or indirectly, for money, credit, property, financial assistance or other thing of value on the plea or representation that such will be used for a charitable purpose as hereafter defined. "Solicit" and "solicitation" includes the following methods of requests, collections or receipts:

(a) Any oral or written request;

(b) The sale of, offer or attempt to sell any change, coupon, device, tag, emblem, ticket, book, card, magazine, membership, merchandise, subscription, advertising space or other thing in connection with which an appeal is made for a charitable purpose or any statement is made that the whole or any part of the proceeds from such sale will be donated to or will go to a charitable purpose.

"Vendor from a mobile unit" means a business that sells merchandise from a mobile unit traveling city streets for the purpose of selling merchandise.

5.08.040 Business License Required

i This section supplants the separate license requirement in existing SMC 5.08.020.

(1) Per SMC Chapter 5.02, a City business license is required for any business to which this chapter applies.

(2) An application for such a business license must include:

i The following is based on existing SMC 5.08.020(4) and (6):

(a) a brief description of the nature and method of the business, and goods to be sold, or services solicited or provided;

(b) if a vehicle is to be used, a description of the vehicle, the name of the person or company to whom the vehicle is registered, and the vehicle license number or other means of identification;

Commented [SC48]: Include language about food, Snohomish County Health Department

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i Next line based on existing SMC 5.08.070(2).

- (c) if a business intends to conduct business for more than one day at any one location, a site plan of the business location and such other plans or drawings as the city may require for approval.

Commented [SC49]: Patricia's comments: d) written approval of property owners

5.08.050 General Requirements

(1) Businesses to which this chapter applies must comply with the following:

i Next line based on existing SMC 5.08.070(1). Note difficulty for strict compliance for door-to-door salesmen.

- (a) No person may conduct business under this chapter on private property without written permission from the property owner.

Commented [SC50]: Patricia's comments: With exception of door to door sales, door to door sales shall comply with all private "no trespassing" signs

i Next sections are based on existing SMC 5.08.080:

- (b) The site of the business operation must be kept clean and orderly at all times and the business must provide a refuse container if their activities generates refuse.
- (c) If located on a sidewalk, a minimum usable and unimpaired sidewalk clearance of five feet must be maintained by any street vendor.
- (d) If located on a street, the operation must be oriented to the pedestrians on the sidewalk and not the vehicular traffic, if such exposure would interfere with the traffic flow.
- (e) The business must comply with all parking requirements as listed in Chapter 17.105 SMC.
- (f) The business must comply with all city, county, state and federal regulations regarding food handling.
- (g) The business must comply with all applicable requirements of SMC Title 17, Zoning.

Commented [SC51]: Patricia's comments: i) "***** Signage *****

i The next line is based on existing SMC 5.08.030(6):

! Are businesses actually complying with this requirement? Including product liability coverage?

Commented [SC52]: Yes, are there recommendations to increase or change requirements?

- (h) The business must obtain and retain a minimum of \$500,000 public liability and property damage insurance, which must include product liability coverage, naming the city as an additional insured.

Commented [SC53]: Patricia's comments: VS \$1 mill?

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i The next line is based on existing SMC 5.08.080(3):

- (2) The city reserves the right to limit the number of mobile vending sites allowed in any given area.

5.08.060 Additional Requirement for Mobile Vendors

i Based on existing SMC 5.08.040:

A vendor from a mobile unit:

- (1) may not place advertising on the street or sidewalk (all advertising must be on the mobile unit);
- (2) may not use radios or any other sound devices to attract public attention except in accordance with Chapter 9.50 SMC;
- (3) must provide, for public use, receptacles of adequate size on said unit for the deposit of refuse and recyclables;
- (4) must be 200 feet from a similar existing and stationary **business**.

Commented [SC54]: Patricia's comments: Address: water and gray water, no dumping?

5.08.070 Location Restrictions

i The next subsections are based on existing SMC 5.08.080(6-7):

- (1) Businesses to which this chapter applies are prohibited in the following locations:
- (a) within the SR-532 right-of-way;
 - (b) parks, unless approved as part of a special event permit or as allowed in SMC Title 17, Zoning;
 - (c) any other location prohibited by SMC Title 17, Zoning.

i Next line is based on existing definition of "temporary merchant."

- (2) A **temporary** merchant may only operate up to 15 days per calendar year from a single location, except from a permanent building they own or lease.

Commented [SC55]: Multiple times a year?

5.08.080 Business License—Revocation

i Based on existing SMC 5.08.060; this catch-all makes it unnecessary to list the various reasons for revocation in the existing section.

The business license for a business to which this chapter applies may be revoked per SMC 5.02.100 for any failure to comply with the requirements of this chapter.

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5.08.090 Responsibilities.

i Based on existing SMC 5.08.090.

The issuance of a business license for a business regulated by this chapter does not relieve the licensee from securing any other license(s) required by state, federal, county or city law.

5.08.100 Penalty for violation.

i Revision of existing SMC 5.08.100.

Violation of this chapter is a misdemeanor and may also be enforced pursuant to SMC Title 13.

Commented [SC56]: Patricia's comments: vs fine? \$250/day fine

Chapter 5.12 Taxicabs

i Ride-share companies such as Uber and Lyft are now regulated by ESHB 2076 (2022), notably RCW Chapter 46.72B, which preempts local regulation of such "transportation network companies and drivers."

i This revision deletes the requirement for a local taxi license, relying instead on city business licensing and the state's licensing scheme in RCW Chapter 46.72. A taxicab operator will therefore need to obtain a taxicab license from the state rather than the city.

5.12.010 Purpose

The purpose of this chapter is to clarify applicability of business licenses to taxicabs. It is not the purpose of this chapter to supplant the state licensing requirement in RCW 46.72.020.

5.12.020 Applicability

This chapter applies to taxicabs and other for-hire cars per RCW 81.72, but not transportation network companies and drivers that are regulated by RCW 46.72B.

5.12.030 State and Local Licenses Required.

(1) To operate taxicab in the City of Stanwood, the following licenses are required:

- (a) a state taxicab license per RCW 46.72.020; and
- (b) a City of Stanwood business license.

(2) To obtain a city business license, a taxicab operator must comply with all of the following:

- (a) be at least 21 years of age;
- (b) be duly licensed to drive a motor vehicle for hire under the laws of the state of Washington;
- (c) only operate as a taxicab a vehicle in safe condition for use as such;
- (d) fully comply with the requirements of RCW Chapter 46.72.

Commented [SC57]: Per driver?

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5.12.040 Business License—Revocation

The business license for a taxicab may be revoked per SMC 5.02.100 for any failure to comply with the requirements of this chapter.

Chapter 5.20 Cable System Regulations

i This chapter is existing SMC Chapter 5.20 with only a few changes to conform the chapter to the style guide.

5.20.010 Short title.

This chapter constitutes the “cable system regulations” of the city of Stanwood and may be referred to as such.

5.20.020 Definitions.

For the purposes of this chapter, the following words, terms, phrases, and their derivations have the meanings given herein:

“Affiliate,” when used in connection with the franchisee, means any person who owns or controls, is owned or controlled by, or is under common ownership or control with the franchisee.

“Applicant” means any person or entity that applies for an initial franchise.

“Cable Act” means the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, and as any of them may be amended.

“Cable service” means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

“Cable system” means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves subscribers without using any public right-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a cable system (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (d) an open video system that complies with federal statutes; or (e) any facilities of any electric utility used solely for operating its electric utility system.

“Channel” means a portion of the frequency band capable of carrying a video programming service or combination of video programming services whether by analog or digital signal.

“Franchise” means an agreement that authorizes a person or entity to construct, operate, maintain or reconstruct a cable system. Upon the written acceptance by a franchisee, the agreement constitutes a contract between the city and franchisee.

Commented [SC58]: Patricia's comments: Ziply? Would this apply to dish? Should this title be updated to include streaming?

Commented [SC59]: Patricia's comments: Add paragraphs

Commented [SC60]: Patricia's comments: Add paragraphs

Commented [SC61]: Patricia's comments: Add paragraphs

Commented [SC62]: Patricia's comments: Add paragraphs

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“Franchisee” means the person, firm, corporation or entity to whom or which a franchise, as hereinabove defined, is granted by the city council under this chapter and the lawful successor, transferee or assignee of said person, firm, corporation or entity.

“Right-of-way” or “rights-of-way” means all of the following which have been dedicated or otherwise conveyed to the public or are hereafter dedicated or conveyed to the public whether in fee or as a right-of-way and maintained under public authority or by others and are located within the city: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements and similar public property and areas.

“Subscriber” means any person who or which elects to subscribe to, for any purpose, cable service provided by a franchisee by means of or in connection with the cable system and whose premises are physically wired and lawfully activated to receive cable service from franchisee’s cable system.

5.20.030 Franchise grant.

- (1) It is unlawful to engage in or commence construction, operation, or maintenance of a cable system in the city without a franchise issued under this chapter.
- (2) The city council may, by ordinance, issue a nonexclusive franchise to construct, operate, and maintain a cable system within all or any portion of the city to any person or entity, whether operating under an existing franchise or not, who applies for authority to furnish cable service which complies with the terms and conditions of this chapter; provided that such person or entity also agrees to comply with all of the provisions of the franchise.
- (3) This authority may not be deemed to require the grant of a franchise to any particular person or entity.
- (4) The city council may restrict the number of franchisees if it determines such a restriction would be in the public interest.

5.20.040 Franchise purposes.

A franchise granted by the city under the provisions of this chapter must:

- (1) Permit the franchisee to engage in the business of operating a cable system and providing cable service within the city;
- (2) Permit the franchisee to erect, install, construct, repair, rebuild, reconstruct, replace, maintain and retain cable lines, related electronic equipment, supporting structures, appurtenances and other property in connection with the operation of the cable system in, on, over, under, upon, along and across rights-of-way within the city;
- (3) Permit the franchisee to maintain and operate said cable system for the origination, reception, transmission, amplification and distribution of cable television signals and for the delivery of cable service; and
- (4) Set forth the obligations of the franchisee under the franchise.

5.20.050 Nonexclusive franchise.

Any franchise granted pursuant to this chapter:

- (1) is nonexclusive;
- (2) must not preclude the city from granting other or future franchises or permits;

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- (3) must not preclude the city from using any rights-of-way or other public properties and may not affect its jurisdiction over them or any part of them, or limit the full power of the city to make all necessary changes, as the city in its sole discretion decides, including the dedication, establishment, maintenance and improvements of all rights-of-way and thoroughfares and other public properties of any type.

5.20.060 Application.

- (1) An applicant for an initial franchise must submit to the city a written application in a format provided by the city, at the time and place specified by the city for accepting applications, and accompanied by the designated application fee. An application fee as set by resolution or as set forth in the city's adopted fee schedule must accompany the application to cover costs associated with processing the application, including, without limitation, costs of administrative review, financial, legal, and technical evaluation of the applicant, the costs of consultants, notice and publication requirements, and document preparation expenses. In the event such costs exceed the application fee, the applicant must pay the difference to the city within 30 days following receipt of an itemized statement of such costs. Conversely, if such costs are less than the application fee, the city must refund the difference to the applicant.
- (2) Application – Contents. An application for an initial franchise for a cable system must contain, at a minimum:
 - (a) A statement as to the proposed franchise and information relating to the characteristics and location of the proposed system;
 - (b) A resume of prior history of the applicant, including the expertise of the applicant in the cable system field;
 - (c) Information demonstrating the applicant's legal, technical and financial ability to construct and operate the proposed system;
 - (d) A list of the partners, general and limited, of the applicant, if a partnership, members, if a limited liability company, or the percentage of stock owned or controlled by each stockholder having a five percent or greater interest, if a corporation;
 - (e) A list of officers, directors and key employees of the applicant, together with a description of the background of all such persons;
 - (f) The names and addresses of any parent entity or subsidiary of the applicant or any other business entity owning or controlling the applicant in whole or in part, or owned or controlled in whole or in part by the applicant;
 - (g) A proposed construction and service schedule;
 - (h) Any other reasonable information that the city may request.
- (3) The city must be allowed the opportunity to ask relevant follow-up questions and obtain further information from whatever source. A refusal by an applicant to cooperate or provide requested information is sufficient grounds for the city acting through its community development director or designee to deny an application.
- (4) Consideration of Initial Franchise.
 - (a) Upon receipt of an application for an initial franchise and after obtaining any additional information the city in its sole discretion deems appropriate from any source, a public hearing must be

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scheduled to allow public comment. At the public hearing, the city council may receive public comment regarding the following:

- (i) Public Benefit. Whether the public will benefit from granting a franchise to the applicant;
 - (ii) Qualifications. Whether the applicant appears to have adequate legal, financial, and technical qualifications and capabilities to build, operate and maintain a cable system in the city;
 - (iii) No Conflicting Interests. Whether the applicant has any conflicting interests, either financial or commercial, that will be contrary to the interests of the city;
 - (iv) Compliance with the Franchise and Local Laws. Whether the applicant will comply with all of the terms and conditions placed upon a franchisee by the franchise, this chapter, and other applicable local laws and regulations;
 - (v) Compliance with Other Requirements. Whether the applicant will comply with all relevant federal and state laws and regulations pertaining to the construction, operation, and maintenance of the cable system.
- (5) Within 60 days after the close of the hearing, the city council must decide whether to grant a franchise and on what conditions. The city council's decision must be based upon the application, any additional information submitted by the applicant or obtained by the city from any source, and public comments. The city council may grant one or more franchises, or may decline to grant any franchise. Any final action must be taken in accordance with the requirements of RCW 35A.47.040.
- (6) The means, methods and processes for franchise renewal or franchise transfer must be set out in the franchise agreement subject to any applicable requirements of federal or state law.

Commented [SC63]: Patricia's comments: Allow for extensions?

5.20.070 Pole or conduit agreements – Regulatory permits – Right-of-way permits.

No franchise relieves the franchisee of any of its obligations to obtain:

- (1) pole or conduit agreements from any department of the city, any utility company, or from others maintaining facilities in the rights-of-way;
- (2) building or similar regulatory permits or approvals;
- (3) a right-of-way permit for construction within rights-of-way where applicable.

5.20.080 Other authorizations – Franchise.

Franchisee must comply with and obtain, at its own expense, all permits, licenses, and other authorizations required by federal, state, and local laws, rules, regulations and applicable resolutions and ordinances which are now existing or hereafter lawfully adopted. The provisions of this chapter do not limit or restrict the terms, conditions, or provisions the city may require in a franchise.

5.20.090 Rules and regulations of the city.

In addition to the inherent powers of the city to regulate and control any franchise it issues, the authority granted to it by the Cable Act, and those powers expressly reserved by the city, or agreed to and provided for in a franchise, the right and power is reserved by the city to promulgate such additional rules and regulations as it may find necessary in the exercise of its lawful powers and in furtherance of the terms and conditions of a franchise and this chapter, and as permitted by applicable state and federal law.

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5.20.100 Applicability.

The provisions of this chapter apply to all franchisees and cable systems to the greatest extent permissible under applicable law.

5.20.110 Severability.

If any section, sentence, clause, or phrase of this chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality must not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this chapter.

Commented [SC64]: Patricia's comments: delete, new severability clause should be apply to entire title

Chapter 5.32 Sexually Oriented Businesses

- i** This chapter is existing SMC Chapter 5.32 without modification except for cross-references (where noted).
- i** This chapter contains a mix of zoning/development rules and non-development rules. Ideally, development code should all be contained within the proposed new unified development code title, which also could apply within the UGA, and non-development regulatory measures should be located here in Title 5 (and cannot be applied outside the city limits). Because the new unified development code title will be one of the last titles that the City adopts as part of this project, we propose only changes to correct cross-references in this chapter at this time, and queue the remainder of the chapter for a full rewrite concomitant with the unified development code, which would retain the substantive regulations in Title 5, but move the zoning overlay to Title 17.
- i** Existing SMC 5.32.270 regarding the duration of time of a suspension or a license, cross-referencing to 13.01.030(8), is deleted as unnecessary.

5.32.010 Purpose and intent.

It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote health, safety, morals, and general welfare of the citizens of the city of Stanwood, and to establish reasonable and uniform regulations to prevent the deleterious location of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the State or Federal Constitutions, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials. (Ord. 930, 1996).

5.32.020 Definitions.

For the purposes of this chapter certain terms and words are defined as follows:

- (1) "Sexually oriented businesses" mean those businesses defined as follows:
 - (a) "Adult arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides, or other photographic or computer generated reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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(b) "Adult bookstore", "adult novelty store", or "adult video store" means a commercial establishment which has as a significant or substantial portion of its stock-in-trade or a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale or rental for any form of consideration, of any one or more of the following:

(i) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(ii) An establishment may have other principal business purposes that do not involve the offering for sale or rental of materials depicting or describing "specified sexual activities" or "specified anatomical areas", and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities";

(iii) Video stores that sell and/or rent only video tapes or other photographic or computer generated reproductions, and associated equipment shall come within this definition if 20 percent or more of its stock-in-trade or revenues comes from the rental or sale of video tapes or other photographic reproductions or associated equipment which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(c) "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment, whether or not alcoholic beverages are served, which features: i) persons who appear nude or semi-nude; ii) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or iii) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(d) "Adult motel" means a hotel, motel, or similar commercial establishment which has the primary function of:

(i) Offering accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; and

(ii) Offering a sleeping room for rent for a period of time that is less than 20 hours; or

(iii) Allowing a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 20 hours.

(e) "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions characterized by the depiction or description of "specified anatomical areas" or "specified sexual activities" are regularly shown for any form of consideration.

(f) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear nude or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."

(g) "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

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- (h) "Nude or semi-nude model studio" mean any place where a person, who appears nude or semi-nude or displays "specified anatomical areas", is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.
- (i) "City" means the city of Stanwood, Washington.
- (j) "Clerk" means the city clerk, or designee.
- (k) "Employee" means any and all persons, including managers, entertainers, and independent contractors who work in or at or render any services directly related to the operation of any business offering adult entertainment, adult theater, or adult use establishments, whether or not such person is paid compensation by the operator of said business.
- (l) "Entertainer" means any person who provides sexually oriented entertainment in an adult cabaret whether or not an employee of the operator and whether or not a fee is charged or accepted for such entertainment.
- (m) "Manager" means any person who manages, directs, administers, or is in charge of, the affairs and/or the conduct of an adult cabaret.
- (n) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- (o) "Establishment" means and includes any of the following:
- (i) The opening or commencement of any sexually oriented business as a new business; or
 - (ii) The conversion of an existing business, whether or not a sexually oriented businesses, to any sexually oriented businesses defined herein;
 - (iii) The addition of any of the sexually oriented businesses defined herein to any other existing sexually oriented business; or
 - (iv) The relocation of any such sexually oriented business.
- (p) "Nude or state of nudity" means the appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast.
- (q) "Operator" means and includes the owner, permit holder, custodian, manager, operator, or person in charge of any permitted or licensed premises.
- (r) "Permitted and/or licensed premises" means any premises that requires a license and/or permit and that is classified as a sexually oriented business.
- (s) "Permittee and/or licensee" shall mean a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.
- (t) "Person" means any individual, firm, joint venture, copartnership, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver or any other group or combination acting as a unit.
- (u) "Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

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(v) "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, sexual encounter establishment, semi-nude model studio, escort agency, or adult motel.

(w) "Specified anatomical areas" mean and include any of the following:

(i) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of areolae; or

(ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(x) "Specified criminal acts" mean any conviction or acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another sexually oriented business, including but not limited to, distribution of obscenity or material harmful to minors, prostitution or pandering.

(y) "Specified sexual activities" mean and include any of the following:

(i) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts; or

(ii) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or

(iii) Masturbation, actual or simulated; or

(iv) Human genitals in a state of sexual stimulation, arousal or tumescence; or

(v) Excretory functions as part of or in connection with any of the activities set forth in subsections (y)(i) through (iv) of this section.

(z) "Sexually oriented entertainment" means a live performance at an adult cabaret which is characterized by the performer's exposure of "specified anatomical areas."

(aa) "Transfer of ownership or control of a sexually oriented business" means and includes any of the following:

(i) The sale, lease or sublease of the business; or

(ii) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(iii) The establishment of a trust, gift or other similar legal devise which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

(bb) "Youth-oriented business or activity" means a business utilizing a permanent building or facility where children under the age of 18 years are invited onto the business premises in conjunction with such business activity and at least 50 percent of the business revenue is generated from their patronage. (Ord. 930, 1996).

5.32.030 Sexually oriented business overlay zone created.

There is hereby created a sexually oriented business overlay zone within such geographical areas of the city as are identified on the official city zoning map of the city. The boundaries of such sexually oriented business overlay zone are further identified and depicted on Exhibit A1, attached to the ordinance codified in this chapter and by this reference incorporated herein. Sexually oriented businesses as defined herein may only locate within the sexually oriented businesses overlay zone above described; provided, however, even within such zone a sexually oriented business shall not locate within a distance of 100 feet of an existing youth-oriented business or activity; within 100 feet of any residential zone or any single or multiple family use; within 100 feet of any public park; within 100 feet of any church or other religious facilities or institution including public or private schools.

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Such distance shall be measured in a straight line from the nearest property line of the existing youth-oriented business to the nearest property line of the site upon which the proposed sexually oriented business proposes to locate. (Ord. 930, 1996).

1 Code reviser's note: Exhibit A is on file in the clerk's office.

5.32.040 Prohibition.

For the reasons stated in the recitals and SMC 5.32.010, a person shall not use any property or premises for a sexually oriented business within the city of Stanwood except within the sexually oriented business overlay zone established by this chapter, and then only subject to all regulations and conditions enumerated herein. (Ord. 930, 1996).

5.32.050 Regulated uses.

The following sexually oriented businesses are subject to the provisions of SMC 5.32.030 and all other regulations contained in this chapter:

- (1) Adult arcade;
- (2) Adult bookstore, adult novelty store, or adult video store;
- (3) Adult cabaret;
- (4) Adult motion picture;
- (5) Adult theater;
- (6) Nude/semi-nude model studio;
- (7) Escort agency;
- (8) Adult motel/hotel. (Ord. 930, 1996).

5.32.060 Sexually oriented business permit required.

- (1) No sexually oriented business shall be permitted to operate without a valid sexually oriented business permit, issued by the city for the particular type of business. It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a sexually oriented business without said permit.
- (2) The city clerk or his/her designee is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business permits and licenses. The planning director or his/her designee are responsible for ascertaining whether a proposed sexually oriented business for which a permit and/or license is being applied for complies with all requirements enumerated herein and all other applicable zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of the ordinance codified in this chapter.
- (3) An application for a sexually oriented business permit shall be made on a form provided by the city. Any person desiring to operate a sexually oriented business shall file with the city clerk an original and two copies of a sworn permit application on the application form supplied by the city.
- (4) The completed application shall contain the following information and shall be accompanied by the following documents:
 - (a) If the applicant is:

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- (i) An individual, he/she shall state their legal name and any aliases or previous married names and submit satisfactory proof that he/she is at least 18 years of age;
- (ii) A partnership, the partnership shall state its complete name, and the names of all partners, and include their dates of birth, and partnership agreement, if applicable;
- (iii) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of Washington, the names and capacity of all officers, directors and shareholders, the name of the registered corporate agent, and the address of the registered office for service of process;
- (iv) As a part of the application process, every officer, director, or shareholder, as defined above, shall provide the city clerk with an affidavit attesting to their identity and relationship to the corporation.
- (b) Whether the applicant or any other individuals listed pursuant to subsections (4)(a)(ii) and (iii) above within a two-year period immediately preceding the date of the application has been convicted of a specified criminal act and, if so, the specified criminal act involved, the date of conviction, and the place of conviction.
- (c) Whether the applicant or any of the other individuals listed pursuant to this chapter has had a previous permit or license under this chapter or other similar ordinances from another city or county denied, suspended, or revoked, including the name and location of the sexually oriented business for which the permit or license was denied, suspended, or revoked, as well as the date of the denial, suspension, or revocation.
- (d) Whether the applicant or any other individual listed pursuant to this chapter holds any other permits and/or licenses under this chapter, et seq., or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other permitted businesses.
- (e) The single classification of permit for which the applicant is filing.
- (f) The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.
- (g) The applicant's mailing address and residential address.
- (h) Two two-inch by two-inch black and white photographs of the applicant(s), including all shareholders/partners, taken within six months of the date of the application, showing only the full face of the applicant(s). The photographs shall be provided at the applicant's expense. The license, when issued, shall have affixed to it one such photograph of the applicant.
- (i) The applicant(s) including all shareholders/partners, shall provide driver's license number, social security number, and or his/her state or federally issued tax identification number.
- (j) Each application shall be accompanied by a complete set of fingerprints of each person required to be included in the application, including all shareholders/partners as defined above, utilizing fingerprint forms as prescribed by the chief of police. Application shall be made for annual permit before January 1st of each year.
- (k) In the case of an adult cabaret, a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- (l) Applicants for a permit and/or license under this chapter shall have a continuing duty to promptly supplement application information required in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within 30 days from the date of such

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change by supplementing the application on file with the city clerk or his/her designee, shall be grounds for suspension of a permit and/or license.

(m) In the event the city clerk or his/her designee determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business permit or license, he/she shall promptly notify the applicant of such fact and allow the applicant 10 days to properly complete the application. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.)

(n) The applicant must be qualified according to the provisions of this chapter, must have a current city business license, and the premises must be inspected and found to be in compliance with health, fire, and building codes of the city.

(o) The applicant shall be required to pay a nonrefundable application fee as listed in SMC 3.30.110 at the time of filing an application under this chapter. Note: this is a processing fee. License fees shall also be required in the event the application is approved.

(p) The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business permit.

(q) The application form for licenses and permits issued under this chapter shall contain a provision providing that under penalty of perjury the applicant verifies that the information contained therein is true to the best of their knowledge. (Ord. 930, 1996).

5.32.070 Investigation and application.

(1) Upon receipt of an application properly filed with the city clerk and upon payment of the nonrefundable application fee, the city clerk or his/her designee shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to other city departments or other agencies responsible for enforcement of health, fire, and building codes and laws. Each department or agency shall promptly conduct an investigation of the applicant's application and the proposed sexually oriented business. Said investigation shall be completed within 60 working days of receipt of the application by the city clerk or his/her designee. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its recommendation as to approval or disapproval of the application, date it, sign it, and in the event it recommends disapproval, state the specific reasons therefor citing applicable laws or regulations.

(2) A department or agency shall recommend disapproval of an application if it finds that the proposed sexually oriented business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the city. After its indication of approval or disapproval, each department or agency shall immediately return the photocopy of the application to the city clerk or his/her designee. (Ord. 930, 1996).

5.32.080 Issuance of permit.

(1) The city clerk or his/her designee shall grant or deny an application for a permit within 60 days from the date of its proper filing. Upon the expiration of the sixtieth day, unless the applicant requests and is granted a reasonable extension of time, the applicant shall be permitted to begin operating the business for which the permit is sought, unless and until the city or its designee notifies the applicant of a denial of the application and states the reason(s) for that denial.

(2) Grant of Application for Permit.

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- (a) The city clerk or his/her designee shall grant the application unless one or more of the criteria set forth in subsection (2)(C) below (Denial of Application for Permit) is present.
- (b) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be easily read at any time.
- (c) Denial of Application for Permit. The city clerk or his/her designee shall deny the application for any of the following reasons:
 - (i) An applicant is under 18 years of age.
 - (ii) An applicant is overdue on his/her payment to the city of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.
 - (iii) An applicant has failed to provide information required by this chapter or permit application for the issuance of the permit or has falsely answered a question or request for information on the application form.
 - (iv) The applicant has failed to comply with any provision or requirement of this chapter. (Ord. 930, 1996).

5.32.090 Licenses required for sexually oriented business – Fees.

i Updated to reference the City's consolidated fee schedule.

- (1) No sexually oriented business shall be operated or maintained in the city of Stanwood unless the owner or operator has obtained a sexually oriented business permit as set forth above, and the applicable licenses from the city clerk. For adult cabarets the required license shall be the adult cabaret license set forth in subsection (2) below. It is unlawful for any entertainer, employee, or operator to knowingly work in or about or knowingly perform any service directly related to the operation of an unlicensed adult cabaret business.
- (2) The annual fee for an adult cabaret business license shall be as noted in the City's consolidated fee schedule. This amount shall be used for the cost of administration of this chapter.
- (3) The annual license fee for all other sexually oriented businesses described in SMC 5.32.050 shall be as noted in the City's consolidated fee schedule. This amount shall be used for the cost of administration of this chapter.
- (4) The above referenced licenses expires annually on December 31st and must be renewed by January 1st.
- (5) In cases where the license becomes effective on a date other than January 1st, the license fee shall be prorated on a quarterly basis. The cost thereof shall be computed by prorating the annual fee on a quarterly basis rounded back to the beginning of the quarter in which the license is to be issued.
- (6) The applicant must be 18 years of age or older. (Ord. 930, 1996).

5.32.100 License for managers and entertainers of adult cabarets required – Fee.

- (1) No person shall work as a manager or entertainer at an adult cabaret without having first obtained an entertainer's or manager's license from the city clerk. Each such applicant shall not be required to obtain a sexually oriented business permit, but shall complete an application containing the information identified in SMC 5.32.060(4) and the same procedures shall be followed as set forth in SMC 5.32.070 and 5.32.080. A nonrefundable processing fee as noted in the City's consolidated fee schedule shall accompany the application.
- (2) The annual fee for such a license shall be as noted in SMC 3.30.110. This amount shall be used for the cost of administration of this chapter.

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- (3) This license expires annually on December 31st and must be renewed by January 1st.
- (4) In cases where the license becomes effective on a date other than January 1st, the license fee shall be prorated on a quarterly basis. The cost thereof shall be computed by prorating the annual fee on a quarterly basis rounded back to the beginning of the quarter in which the license is to be issued.
- (5) The applicant must be 18 years of age or older. (Ord. 930, 1996).

5.32.110 Licenses for models and escorts.

No person shall work as a model at a nude or semi-nude model studio or as an escort as defined herein without having first obtained a model or escort license from the city clerk.

- (1) Each such applicant shall not be required to obtain a sexually oriented business permit, but shall complete an application containing the information identified in SMC 5.32.060(4) and the same procedures shall be followed as set forth in SMC 5.32.070 and 5.32.080. A nonrefundable processing fee as noted in the City's consolidated fee schedule shall accompany the application.
- (2) The annual fee for such a license shall be as noted in the City's consolidated fee schedule. This amount shall be used for the cost of administration of this chapter.
- (3) This license expires annually on December 31st and must be renewed by January 1st.
- (4) In cases where the license becomes effective on a date other than January 1st, the license fee shall be prorated on a quarterly basis. The cost thereof shall be computed by prorating the annual fee on a quarterly basis rounded back to the beginning of the quarter in which the license is to be issued.
- (5) The applicant must be 18 years of age or older. (Ord. 930, 1996).

5.32.120 Due date for license fees.

All licenses required by this chapter must be issued and the applicable fees paid to the city clerk at least 14 calendar days before commencing work at a sexually oriented business. The sexually oriented business permit required by SMC 5.32.060 must only be renewed based on changed circumstances as set forth in SMC 5.32.060(4)(l). (Ord. 930, 1996).

5.32.130 Manager on premises.

- (1) A licensed manager shall be on duty at an adult cabaret business premises at all times.
- (2) The licensed manager on duty shall not be an entertainer.
- (3) It shall be the responsibility of the manager to verify that any entertainer who works or appears within the premises possesses a current and valid entertainer's license posted in the manner required by this chapter. (Ord. 930, 1996).

5.32.140 License nontransferable.

No license or permit issued pursuant to this chapter shall be transferable. (Ord. 930, 1996).

5.32.150 License – Posting and display.

- (1) Every entertainer shall post his or her license in his or her work area so that it is readily available for public inspection.

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(2) Every person, corporation, partnership, or association licensed under this chapter shall display its license in a prominent place within the establishment. In the case of adult cabarets, the name of the manager on duty shall be prominently posted during business hours. (Ord. 930, 1996).

5.32.160 Specifications – Adult cabarets.

(1) Separation of Sexually Oriented Adult Entertainment Performance Area. The portion of the adult cabaret premises in which sexually oriented adult entertainment is performed shall be a stage or platform that is separated from all patron seating areas in the following ways:

- (a) Be at least 24 inches in elevation above; and
 - (b) Be separated by a distance of at least 10 feet; and
 - (c) Have a continuous railing at least three feet in height, extending from the floor, and located at least 10 feet from all points of the sexually oriented adult entertainment performance area.
- (2) Lighting. Sufficient lighting shall be provided and equally distributed in and about the parts of the premises which are open to and used by patrons so that all objects are plainly visible at all times, and so that on any part of the premises which are open to and used by patrons a program, menu, or list printed in eight point type will be readable.
- (3) Submittal of Plans. Building plans showing conformance with the requirements of this chapter shall be included with any application for an adult cabaret business license. (Ord. 930, 1996).

5.32.170 Standards of conduct and operation applicable to adult cabarets.

(1) Standards for Patrons, Employees and Entertainers. The following standards of conduct must be adhered to by patrons, entertainers and/or employees of adult cabarets at all times:

- (a) No employee or entertainer shall appear nude or semi-nude on any part of the premises open to view of members of the public, except on or in the entertainment performance area described in SMC 5.32.160(1).
- (b) No patron or customer shall go into or upon the adult entertainment performance area described in SMC 5.32.160(1) while sexually oriented entertainment is being performed.
- (c) No member of the public or employee or entertainer shall allow, encourage, or knowingly permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, pubic area, or genitals of any other person.
- (d) No member of the public or employee or entertainer shall allow, encourage, or permit physical contact between an employee or entertainer and any member of the public, which contact is intended to arouse or excite sexual desires.
- (e) No employee or entertainer shall perform acts of or acts which simulate:
 - (i) Sexual intercourse, masturbation, bestiality, sodomy, oral copulation, flagellation, or any sexual acts which are prohibited by law; or
 - (ii) The touching, caressing, or fondling of the breasts, buttocks, pubic area, or genitals.
- (f) No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection.
- (g) No entertainer of an adult cabaret shall be visible from any public place outside the premises during the actual or apparent hours of his or her employment or performance on the premises.

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(h) No entertainer employed or otherwise working at an adult cabaret shall solicit, demand, accept, or receive any gratuity or other payment from a patron, customer, or member of the public.

(i) No customer or patron of an adult cabaret shall give or otherwise provide an entertainer with a gratuity or other payment.

(j) Signs in lettering at least three-quarters inch high shall be conspicuously displayed in the public area of the establishment stating the following:

THIS ADULT CABARET IS REGULATED BY THE CITY OF STANWOOD. ENTERTAINERS ARE:

(i) Not permitted to engage in any type of sexual conduct;

(ii) Not permitted to appear nude or semi-nude, except on stage;

(iii) Not permitted to dance or model where patrons are congregated;

(iv) Not permitted to solicit, demand, accept, or receive any gratuity or other payment from a patron.

(2) Standards for Owner or Operator of Adult Cabarets. At any adult cabaret where live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities" are provided the following are required:

(a) Admission must be restricted to persons of the age of 18 years or more; and

(b) Sufficient lighting shall be provided and equally distributed in and about the parts of the premises which are open to and used by patrons so that all objects are plainly visible at all times, and so that on any part of the premises which are open to and used by patrons a program, menu, or list printed in eight point type will be readable. (Ord. 930, 1996).

5.32.180 Regulations applicable to adult arcades.

All adult bookstores, adult novelty stores, or adult video stores having facilities for customer's viewing of depictions of human nudity and/or sexual conduct of any nature, including depictions of specified sexual activities, shall comply with the following regulations:

(1) The viewing areas within the sexually oriented viewing booth premises shall be visible from a continuous main aisle and shall not be obscured by any curtain, door, wall or other enclosure. As used in this chapter "viewing area" means the area where a patron or customer would ordinarily be positioned while watching a film, video or other viewing device.

(2) The licensee shall not permit any doors to public areas on the premises to be locked during business hours in compliance with the applicable provision of the city of Stanwood Building Code, Uniform Fire Code, and National Fire Protection Association Code.

(3) A sexually oriented adult viewing booth operator must, at all times when the premises are open or when any member of the public is permitted to enter and remain there, maintain sufficient lighting to provide equally distributed illumination about all parts of the premises which are open to and used by patrons so that objects are plainly visible at all times, and so that on any part of the premises which are open to and used by patrons a program, menu, or list printed in eight point type will be readable.

(4) The licensee shall not permit more than one person to occupy a sexually oriented adult arcade station or viewing booth at any time and public notices to this effect shall at all times be conspicuously posted and maintained on the sexually oriented adult arcade premises.

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(5) There must be at least one employee on duty and situated in the public room adjacent to the sexually oriented adult arcade stations or viewing booths at all times that any patron, member, or customer is present inside the premises.

(6) There must be permanently posted and maintained in at least two conspicuous locations on the interior of every sexually oriented adult arcade premises a sign stating substantially the following:

Occupancy of any station or viewing booth is at all times limited to one person. There may be no acts of lewd or obscene conduct in the stations or viewing booths or on the premises. Violators are subject to criminal prosecution.

Each sign must be conspicuously posted and not screened from the patron's view. The letters must be on a contrasting background and shall be no smaller than three-quarters inch in height.

(7) The premises must be equipped with overhead lighting fixtures of sufficient intensity to maintain sufficient lighting that provides equally distributed illumination about all parts of the premises which are open to and used by patrons so that objects are plainly visible at all times, and so that on any part of the premises which are open to and used by patrons a program, menu, or list printed in eight point type can be read.

(8) Doors to areas on the premises which are available for use by persons other than the owner, manager, operator or their agents or employees may not be locked during business hours.

(9) The unobstructed view into the sexually oriented adult arcade viewing booths or stations from the adjacent public room by direct line of sight must remain unobstructed by any doors, walls, merchandise, display racks or other materials at all times.

(10) No patron, member, or customer is permitted access to any area of the premises which has been designated as an area in which patrons, members or customers will not be permitted.

(11) No sexually oriented adult arcade viewing booth or station may be occupied by more than one person at any time.

(12) There may be no acts of lewd or obscene conduct in the sexually oriented adult arcade stations or viewing booths or on the premises.

(13) No person may operate or maintain any warning system or device, of any nature or kind, for the purpose of warning or aiding and abetting the warning of patrons, members, customers or any other persons occupying sexually oriented adult arcade stations or viewing booths located on the premises that police officers or city health, fire, licensing or building inspectors are approaching or have entered the premises.

(14) No person under the age of 18 years of age may be on or within a sexually oriented adult arcade booth premises whether as a patron, member, customer, agent, employee or independent contractor.

(15) Premises. Restrooms may not contain video reproduction equipment.

(16) Steps Risers. No steps or risers are allowed in any sexually oriented adult arcade viewing booth or station.

(17) Seating. No sexually oriented adult arcade station or viewing booth shall have more than one stool type seat. In order to prevent obscuring the occupant of a sexually oriented adult arcade station or viewing booth from view, no stool for seating within a sexually oriented adult arcade station or viewing booth shall have any seatback or sides. The seat cannot be positioned behind the doorway so that the occupant sits with his or her back to the door.

(18) Ventilation and Other Holes. All ventilation devices between the sexually oriented adult arcade viewing booths must be covered by a permanently affixed ventilation cover. Ventilation holes may only be located one

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foot from the top of the viewing booth walls or one foot from the bottom of the viewing booth walls. There may not be any other holes or openings between the viewing booths. (Ord. 930, 1996).

5.32.190 Regulations applicable to video stores not qualifying as sexually oriented businesses.

Video stores that sell or otherwise distribute films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and less than 20 percent of their stock-in-trade or revenues comes from the rental or sale of such items shall be subject to the following regulations:

- (1) All such items as are described above shall be physically segregated and closed off from other portions of the store such that these items are not visible and/or accessible from other portions of the store.
- (2) No advertising for such items shall be posted or otherwise visible, except where such items are authorized for display.
- (3) Signs readable at a distance of 20 feet shall be posted at the entrance to the area where such items are displayed stating that persons under the age of 18 are not allowed access to the area where such items are displayed.
- (4) The manager or attendant shall take reasonable steps to monitor the area where such items are displayed to insure that persons under 18 years of age do not access the age-restricted area.
- (5) Rental or sale of obscene material (as defined by state law) or material harmful to minors (as defined by state law) to persons under 18 years of age is prohibited.
- (6) Employees of such video stores shall check identification of persons appearing to be 18 or under to insure that such items are not rented or sold to persons under the age of 18. (Ord. 930, 1996).

5.32.200 Exemptions.

It is a defense to prosecution under this chapter that a person appearing in a state of nudity or semi-nudity did so in a modeling class operated by:

- (1) A proprietary school, licensed by the state of Washington; a college, junior college, or university supported entirely or partly by taxation;
- (2) A private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (3) The modeling of clothing or lingerie in a full-service restaurant where no consideration is charged, whether directly or indirectly, and specified anatomical areas are not exposed by the model. (Ord. 930, 1996).

5.32.210 License – Name of business and place of business.

No person granted a permit and/or license pursuant to this chapter shall operate a sexually oriented business under a name not specified in his/her license, nor shall he/she conduct business under any designation or at a location not specified in his/her permit and/or license. (Ord. 930, 1996).

5.32.220 Inspections.

- (1) All books and records required to be kept pursuant to this chapter shall be open to inspection by the police chief of the city of Stanwood during the hours when the licensed premises is open for business upon two days'

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written notice to the licensee. The purpose of such inspection shall be to determine if the books and records meet the requirements of this chapter.

(2) The licensed premises shall be (as an implied condition of receiving a sexually oriented business permit and/or license) open to inspection by the police chief during the hours when the sexually oriented business premises is open for business. The purpose of such inspection shall be to determine if the licensed premises is operated in accordance with the requirements of this chapter. It is hereby expressly declared that unannounced inspections are necessary to insure compliance with this chapter. (Ord. 930, 1996).

5.32.230 Hours of operation.

It is unlawful for any sexually oriented business premises, except adult motels, to be conducted, operated, or otherwise open to the public between the hours of 2:00 a.m. and 11:30 a.m. (Ord. 930, 1996).

5.32.240 Record-keeping requirements.

(1) Within 30 days following each calendar quarter, each sexually oriented business licensee shall file with the city clerk a verified report showing the licensee's gross receipts and amounts paid to entertainers, models, or escorts, if applicable, for the preceding calendar year.

(2) Each sexually oriented business licensee shall maintain and retain for a period of two years beyond the last date of employment, the full name, date of birth, address, age and driver's license number of all persons employed or otherwise retained as entertainers, models, and escorts by the licensee. (Ord. 930, 1996).

5.32.250 Procedure for appealing a license/permit denial.

(1) When the city clerk refuses to grant a license or permit, he/she shall notify the applicant in writing of the same, describing the reasons therefor, and shall inform the applicant of his right to appeal to the city council within 10 days of the date of the written notice by filing a written notice of appeal with the city clerk containing a statement of the specific reasons for the appeal and a statement of the relief requested.

(2) Within 10 days of receiving a timely appeal, the city clerk shall forward the administrative record of the licensing decision to the city council.

(3) Once the applicant has appealed the city clerk's decision, the city council shall review the administrative record at the next regularly scheduled meeting for which proper notice can be given. Written notice of the date and time of the scheduled meeting will be given to the applicant by the city clerk-treasurer by mailing the same, postage prepaid, to the applicant at the address shown on the license or permit application.

(4) The applicant and city clerk or his/her representative shall be given an opportunity to argue the merits of the appeal before the city council. Oral argument by each party shall not exceed 20 minutes and shall be limited to the administrative record before the council. New evidence shall not be presented by the parties or accepted by the council.

(5) The city council shall uphold the city clerk's decision unless it finds the decision is not supported by substantial evidence in the administrative record. The applicant shall bear the burden of proof.

(6) The city council shall issue a written decision within 10 days of hearing the appeal. The council may uphold the city clerk's decision and deny the permit, overrule the city clerk's decision and grant the permit, or remand the matter to the city clerk for further review and action. The city clerk shall complete further action or review within 30 days of receiving the remand.

(7) Appeal to the city council shall constitute final administrative review. (Ord. 930, 1996).

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5.32.260 Suspension or revocation of license or permit procedures – Appeal.

i Updated to reflect changes to SMC Title 13.

License suspension and/or revocation and appeal therefrom shall be done in accordance with SMC 13.01.030(8). (Ord. 1112 § 2, 2001; Ord. 930, 1996).

5.32.280 Adult bookstores not incorporating arcade uses.

Adult bookstores, adult novelty stores, or adult video stores not including or incorporating into the business conduct those activities described in the definition of “adult arcade,” may locate or continue to operate within commercial zones of the city, as well as the sexually oriented business overlay zone; provided, however, such businesses locating within a commercial zone shall be subject to the following additional requirements: No building or structure used for an adult bookstore, adult novelty store, or adult video store as defined herein shall locate closer than 1,200 feet from any other building or structure used for such purpose, nor shall such a business locate within 600 feet of an existing church or school building, as measured in all compass directions from the exterior wall of the existing building to the closest property line of the subject building. (Ord. 930, 1996).

5.32.290 Building facade.

All sexually oriented business building facades, exteriors, and exits must be indistinguishable from surrounding buildings. Illustrations depicting partially or totally nude males and/or females shall not be posted or painted on any exterior wall of a building used for a sexually oriented business, or on any door or apparatus attached to such building. (Ord. 930, 1996).

5.32.300 Signs.

Signs shall be permitted as allowed in accordance with Chapter 17.110 SMC. (Ord. 930, 1996).

5.32.310 Parking and lighting regulations.

On-site parking shall be required and regulated in accordance with Chapter 17.105 SMC, and in addition shall meet the following requirements:

- (1) All on-site parking areas and premises entries of sexually oriented businesses shall be illuminated from dusk until one hour past closing hours of operation with a lighting system that will provide adequate illumination and visibility on the parking surface and/or walkways. An on-premises exterior lighting plan shall be presented to the city building department for approval prior to the operation of any sexually oriented business.
- (2) All parking must be visible from the fronting street. Access to the exterior rear of the building shall be denied to any persons other than employees and public officials during the performance of their respective duties and tasks by means of fencing as approved by the city building department. (Ord. 930, 1996).

5.32.320 Number of permitted uses per structure.

There shall be no more than one sexually oriented business operating in the same building, structure, or portion thereof. In addition there shall be no other nonsexually oriented business operating in the same building, structure, or portion thereof in which a sexually oriented business is currently operating. (Ord. 930, 1996).

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5.32.330 Severability.

If any portion of this chapter as now or hereafter amended, or its application to any person or circumstance is held invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole, or any section, provision, or part thereof not adjudged to be invalid or unconstitutional, and its application to other persons or circumstances shall not be affected. Any ordinance or regulation in conflict with this chapter is hereby repealed. (Ord. 930, 1996).

5.32.340 Limitation of liability.

None of the provisions of this chapter are intended to create a cause of action or provide the basis for a claim against the city, its officials, or employees for the performance or the failure to perform a duty or obligation running to a specific individual or specific individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public. (Ord. 930, 1996).

5.32.350 Penalties for violation.

i Updated to reflect changes in proposed amendments to Title 13.

Violation of this chapter is a Class 1 civil infraction and may also be enforced pursuant to SMC Title 13.

5.32.360 Public nuisance – Injunctions.

Any sexually oriented businesses in violation of this chapter shall be deemed a public nuisance, which, in addition to all other remedies, may be abated by injunctive relief. (Ord. 930, 1996).

5.32.370 Moral nuisances.

Chapter 7.48 RCW pertaining to moral nuisances is hereby adopted by reference. (Ord. 930, 1996).

5.32.380 Effective date.

The ordinance codified in this chapter shall be in full force and effect five days after its passage and publication as provided by law. (Ord. 930, 1996).