

ESCORTS, ESCORT BUREAUS AND INTRODUCTORY SERVICE³

Sec. 16A-56. Definitions.

For the purpose of this article, the following terms shall have the meanings respectively ascribed to them in this section unless the context clearly requires otherwise:

- (1) *City manager* means the city manager or his designee.
 - (2) *Consideration* means payment, reward or anything regarded as a return given or suffered by one for the act or promise of another.
 - (3) *Escort* means any person who for consideration in any form or for a fee, commission or salary, acts as or is held out to the public as available for hire to consort with or to accompany another or others to social affairs, places of amusement or entertainment, within any place of public resort, or within any private quarters.
 - (4) *Escort bureau* means any person who for a fee, commission, profit, payment or other monetary consideration, furnishes, refers, or offers to furnish or refer escorts, or provides, or offers to introduce, patrons to escorts.
 - (5) *Escort bureau runner* means any person, not an escort, who for consideration, on behalf of or as the agent for either an escort, escort bureau or a patron, contacts, transports or meets with escort patrons, escorts or escort bureaus at any location other than the established open office, as defined hereunder, whether that person is employed by the escort bureau or any business, or is self-employed.
 - (6) *Introductory service* means any person who, for consideration, offers to assist any person in meeting any other person for social or personal purposes not connected with or forming part of another lawful business or professional activity.
 - (7) *Licensee* means a person who is the holder of a valid license under this article. A licensee includes an agent, servant, employee or other person while acting on behalf of that licensee whenever such licensee is or would be prohibited from doing or performing an act or acts under this title.
 - (8) *Licensing officer* means the city finance and technology director or his designee.
 - (9) *Offer to provide acts of sexual conduct* means to offer, propose or solicit to provide to or engage in sexual conduct with a patron, including but not limited
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to all conversations, advertisements and acts which would lead a reasonably prudent person to conclude that such acts were to be provided or engaged in.

- (10) *Open office* means an office or premises of the licensed escort bureau at an address from which escort business is transacted and which meets the requirements of this article.
- (11) *Person* means any individual, or any firm, partnership, corporation or association of any kind.
- (12) *Person financially interested* means a corporation, any person who is an officer or a director or any shareholder holding more than five percent (5%) of the shares thereof; and for a noncorporate business any person who shares in financial gain attributable to the business as a proprietor or owner or on the basis of a percentage in excess of five percent (5%) of gross or ten percent (10%) of net revenue.
- (13) *Sexual conduct* means
 - a. engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttock or female breast of a person for the purpose of arousing or gratifying sexual desire of another person; or
 - b. any service, including but not limited to modeling, posing, performance, dance or other activity, conducted for any consideration by a person who is nude during all or part of the time that such person is providing the service. "Nude" means without opaque non-flesh colored fabric fully covering the human anus, pubic region, genitals or areola of a female breast.
- (14) *Sexual gratification* means sexual conduct as defined herein.
- (15) *Sexually oriented acts* means sexual conduct as defined herein.
- (16) *Sexually oriented escort* means an escort who:
 - a. Works for, as an agent, employee or independent contractor, or is referred to a patron by a sexually oriented escort bureau;
 - b. Advertises that sexual conduct will be provided, or works for as an agent, employee or independent contractor, or is referred to a patron by an escort bureau which so advertises;
 - c. Solicits, offers, agrees to provide or does provide acts of sexual conduct to an escort patron;

- d. Accepts an offer or solicitation to provide acts of sexual conduct for a fee in addition to the fee charged by the escort bureau.

(17) *Sexually oriented escort bureau* means an escort bureau which:

- a. Engages in advertising to make the prospective patron believe that acts of sexual conduct or sexual stimulation will be provided;
- b. Uses as escorts persons known to have violated the law regarding prostitution;
- c. Does not maintain an open office;
- d. Advertises that sexual conduct will be provided or that escorts which provide each sexual conduct will be provided, referred, or introduced to a patron;
- e. Solicits, offers or agrees to provide or does provide acts of sexual conduct to a patron;
- f. Employs, contracts with or provides or refers escorts who do not possess escort identification cards as required herein;
- g. Does not deliver contracts to every patron or customer; or
- h. Employs, contracts with, or refers or provides to a patron, a sexually oriented escort.

(18) *Sexual stimulation* means to excite or arouse the prurient interest or to offer or solicit acts of sexual conduct as defined under "offer to provide acts of sexual conduct".

Sec. 16A-57. Escort bureau license, introductory service license, required.

(a) It is unlawful for any person to work or perform services as, conduct, manage, operate, or maintain an escort bureau unless licensed pursuant to this article.

(b) It is unlawful for any person to operate a business which has been licensed under this article while the license for that business is suspended.

(c) It is unlawful for any person to work or perform services as, conduct, operate, manage, or maintain a sexually oriented escort bureau, regardless of license.

(d) It is unlawful for any person to act in the capacity of or engage in the activity or an introductory service without a valid license issued pursuant to the provisions of this article.

(e) A separate license is required for each location or name by which an escort bureau or introductory service conducts business or advertises.

Sec. 16A-58. Escort must work for licensed bureau or be licensed as a bureau.

(a) It is unlawful for any person to work or perform services as an escort within the city unless employed by a licensed escort bureau or licensed as an escort bureau.

(b) It is unlawful for any person to work or perform services as a sexually oriented escort, regardless of license.

(c) An escort shall:

- (1) Operate from an open office;
- (2) Not advertise that sexual conduct will be provided or work for an escort bureau which so advertises;
- (3) Not offer, solicit, agree to provide, or provide sexual conduct; and
- (4) Comply with this article and applicable law.

Sec. 16A-59. Escort regulations, prohibited activities.

(a) The escort bureau shall provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.

(b) The escort bureau shall maintain an open office at the licensed location. The address of that office shall be included in all patron contracts and published advertisements. Private rooms or booths where the patron may meet with the escort shall not be provided at the open office or at any other location by the escort bureau.

(c) The escort bureau, in terms of licensing consequences, is responsible and liable for the acts of all its employees and subcontractors including but not limited to, any telephone receptionist, runner or escort who is referred or employed by that bureau while the escort is with the patron.

(d) It is unlawful for a licensee to provide escort services as described in this article to individuals under eighteen (18) years of age unless written authorization by a parent or legal guardian is issued to the escort when acting as such.

(e) An escort bureau shall:

- (1) Maintain an open office at an established place of business;
- (2) Not advertise, offer, solicit, agree to, or provide sexual conduct to a patron; and
- (3) Employ or provide only escorts who possess escort identification cards.

Sec. 16A-60. Open office requirements.

To qualify as an open office it is required that:

- (1) Business hours be established and posted and that the office be open to the public and patrons or prospective patrons during such business hours and that the office be accessible to business invitees, business license officials and law enforcement officers through a security system during all other hours that escorts are working;
- (2) The office be managed by the owner or a management employee of the owner having authority to bind the bureau to escort and patron contracts and adjust patron and consumer complaints;
- (3) All telephone lines and numbers listed to the escort bureau, or advertised as escort bureau numbers, terminate at the open office and at no other location;
- (4) An index of all employees and escorts be kept in the open office; and
- (5) All business records be kept in the open office including records of escort calls and referrals, stating the name and address, including hotel or motel room, of the patron, the date and time of referral, name of escort sent and whether the referral resulted in an escort service and the total fee received from the patron, if any.

Sec. 16A-61. Advertising without a license.

It is unlawful to advertise or hold out to the public the availability of an escort or escort bureau without obtaining a license therefor as provided in this article, whether the actual business of escorts or escort bureau as defined in this article is performed. The escort bureau license number must be prominently displayed in such advertisements.

Sec. 16A-62. Application for escort bureau license; contents; required fees.

(a) An applicant for an escort bureau license shall file an application with the licensing officer accompanied by a nonrefundable application fee.

(b) Unless otherwise provided in this article, the application shall contain the name and address of the activity and the following information about the applicant, any person financially interested in the activity to be licensed, any authorized local agents, any managing employee of the activity to be licensed, any escort or escort bureau runner:

- (1) The name, including any aliases, business trade names or styles;
- (2) Present residence and business addresses and telephone numbers, as applicable;
- (3) Each residence and business address for the five (5) year period immediately preceding the date of filing of the application and the inclusive dates of each such address;
- (4) Arizona driver's license;
- (5) Valid proof of age and that the applicant is at least eighteen (18) years of age;
- (6) Height, weight, color of eyes and hair and date of birth;
- (7) Two (2) current two (2) inch x two (2) inch photographs;
- (8) The business, occupation or employment history for the three-year period immediately preceding the date of the filing of the application;
- (9) Information as to whether such individual or business has ever been refused any similar license or permit or has had any similar license or permit issued to such individual or business in the city or elsewhere revoked or suspended and the reason or reasons therefor;
- (10) All prior criminal convictions excepting minor traffic offenses;
- (11) The applicants and agents shall submit a full set of fingerprints to the Tempe police department for the purpose of obtaining a state or federal, or both, criminal records check pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. Fingerprints must be submitted on fingerprint cards provided by the finance and technology director or designee;
- (12) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation, and the names, residence addresses, and dates of birth of each of its current officers and directors, and each stockholder holding more than five percent (5%) of the stock in the corporation. If the applicant is a partnership, the applicant shall set

forth the names, residence addresses and dates of birth of each of the partners, including limited partners and profit interest holders. If the applicant is a limited partnership, the applicant shall furnish a copy of the certificate of limited partnership. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The corporation or partnership applicant shall designate one of its officers or general partners to act as its responsible managing officer. Such designated person shall complete and sign all application forms required of an individual applicant under this article, but only one application fee shall be charged; and

(13) A description of any service to be provided together with a declaration that the services to be provided shall not involve those of a sexually oriented escort or escort bureau.

(c) The licensing officer shall have a reasonable period of time in which to investigate the application and background of the applicant and process the application through various city departments.

(d) The licensing officer shall grant the license upon the following circumstances:

- (1) The required fees have been paid;
- (2) The application, applicant and activities conform in all respects to the provisions of this article, the ordinances of the city and laws of the state;
- (3) The applicant has not made a material misrepresentation of fact in the application;
- (4) The applicant has provided in a timely manner all information required herein or reasonably necessary for issuance of the license;
- (5) Neither the applicant, if an individual, nor any person financially interested if a corporation, nor any of the partners, including limited partners, nor the holder of any profit interest, nor the manager or other person principally in charge of the operation of the existing or proposed escort bureau, nor any individual employed or contracted with to as an escort, escort bureau runner or to provide escort services has been convicted of, pleaded nolo contendere to or guilty to any felony, or to a misdemeanor involving moral turpitude, within five (5) years prior to the issuance of the license. This section shall be inapplicable to an individual whose civil rights have been restored in accordance with law, unless the conviction involves a criminal violation of this article;
- (6) The applicant has not had a license similar to the one issued pursuant to the provisions of this article issued by another authority, suspended or

revoked within the five (5) year period immediately preceding the date of the filing of the application;

- (7) Neither the applicant or the licensee is delinquent in payment to the city of taxes, fees, fines or penalties assessed against or imposed upon the applicant or licensee arising out of any business activity owned or operated by the applicant or licensee;
- (8) The escort bureau complies with all applicable laws of the city, the county and state; and
- (9) The applicant, manager or other person principally in charge of the operation of the business is at least eighteen (18) years of age.

(e) The licensing officer shall deny the license application if all of the requirements set forth in paragraphs (1) through (9) of subsection (d) have not been met. In the event of denial, the applicant shall be notified by mail of the denial and the reasons therefore. The applicant may appeal such denial to the city manager by filing with the city clerk an appeal within ten (10) days of the date of denial. The decision of the city manager shall be final.

Sec. 16A-63. Escort license identification card.

Each escort bureau licensee shall be issued identification cards in its name and in the names of each person who shall engage in the activity of an escort or escort runner on its behalf. The card shall contain the name, license number and license date of the escort bureau, and the name and photograph of the escort or escort bureau runner. This card must be carried on the person of any escort, escort bureau runner, or other individual while such person is engaged in the activity of an escort within the city. Such identification card shall be displayed upon request of any city officer or other law enforcement official.

Sec. 16A-64. License term, nontransferability.

The term of a license issued pursuant to the provisions of this article is one calendar year. All licenses issued pursuant to this article are nontransferable.

Sec. 16A-65. Information update.

Any changes in information required to be submitted by this article must be given to the licensing officer within ten (10) days of any such change.

Sec. 16A-66. Renewal of licenses.

Any license issued pursuant to the provisions of this article, which has not been suspended or revoked, and no violations of this article, city ordinances or state law have

occurred in the determination of the licensing officer, may be renewed for a period of not to exceed one year on written application to the licensing officer made at least thirty (30) days prior to the expiration date of the current valid license. The renewal application shall be on a form provided by the licensing officer and shall contain all of the information and processing required by § 16A-62 if the licensing officer determines that any violations or complaints of violation of this article have occurred or been made to the city, or unless otherwise waived by the licensing officer.

Sec. 16A-67. Fees.

A nonrefundable application fee in the amount set by the city council shall accompany each application for an escort, escort service bureau or introductory service. Upon approval the license fee as set by the council by resolution shall be assessed. The annual license fee may be pro-rated to one-half (1/2) the amount required if the proposed licensee will be open for business only after July 1.

Sec. 16A-68. Revocation of license, grounds and procedure; appeal.

(a) Any license issued pursuant to this article shall be revoked upon any one or more of the following grounds committed by a licensee, employee, agent, escort, escort runner, or other person connected or associated with the license as a partner, director, officer, stockholder or manager, or any "person financially interested" as defined herein:

- (1) Violation of any provision of this article in conducting an activity licensed under the provisions of this article;
- (2) Giving false information or making a material misrepresentation of fact in the application for any license required in this article;
- (3) Delinquency in payment to the city of taxes or fees;
- (4) Conviction, subsequent to the issuance of any license of a crime which is either a felony or a misdemeanor involving moral turpitude or has offered or agreed to or rendered the service of a sexually oriented escort;
or
- (5) The licensee is a corporation or business entity and is not or is no longer qualified to transact business in the State of Arizona.

(b) To revoke a license, the licensing officer shall notify the licensee in writing by mail to the address as shown on the application or otherwise more recently of record, that said license or permit is revoked. The cause for such revocation shall be set forth in the notice. Service shall be complete upon mailing to the address of record, in the office of the licensing officer.

(c) Except as otherwise provided in this article, the license shall terminate if the

licensee fails to pay any license fee owed either when due or by the end of any renewal period.

(d) Appeals from the revocation or termination of a license as provided for in this article may be appealed to the city manager by filing an appeal with the city clerk within ten (10) days after the date of the revocation or termination. The decision of the city manager shall be final.

(e) A revoked license shall be surrendered to the licensing officer on demand at the expiration of the appeals process.

Sec. 16A-69. Applicability of regulations to existing businesses.

The provisions of this article shall be applicable to all persons and activities described herein whether the herein described activities were established before or after the effective date of the ordinance enacting this article into law.

Sec. 16A-70. Nonprofit corporation or organization exemptions.

An organization which is qualified for exemption from taxation of income under A.R.S. § 43-1201, paragraph 1, 2, 4, 5, 6, 7, 10 or 11, and all professions, occupations and businesses which are licensed by the State of Arizona or any political subdivision thereof pursuant to a specific statute or ordinance, and all employees employed by a business so licensed, and which perform an escort, runner or escort bureau function as a service merely incidental to the primary function of such organization, profession, occupation or business and which do not hold themselves out to the public as an escort, runner or escort bureau, are exempt from licensing pursuant to this article. Any employment agency, licensed by the state which provides escorts as defined herein, must, however, obtain a license as required by this chapter.

Secs. 16A-71—16A-74. Reserved.