

Chapter 10

BUSINESSES*

* **Cross References:** Miscellaneous license fees, § 18-2; maintenance of areas around business premises, § 22-78; maintenance of commercial and industrial buildings, § 26-451 et seq.; junk dealers, ch. 32; laundries and dry cleaning, ch. 34; massage parlors, ch. 38; restrictions on slaughtering cattle or other animals and curing hides, § 40-15; peddlers and hawkers, ch. 46; placing merchandise on street or sidewalk, § 70-8; solicitation on roadway prohibited, § 76-61.

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ARTICLE I.

IN GENERAL

Sec. 10-1. Operation between midnight and 5:00 a.m.--Purpose.

This chapter is enacted for the purpose of providing necessary regulation and control over the hours of business operation to ensure that the operation of such business does not harm the peace and tranquility of citizens of the city.

(Code 1971, § 4 1/2-1)

Sec. 10-2. Same--License required.

No person, firm, partnership or corporation shall operate a retail business in the city between the hours of midnight and 5:00 a.m. without a license first having been issued for such operation by the board of public safety.

(Code 1971, § 4 1/2-2)

Sec. 10-3. Same--Application for license; issuance.

An application for a license for permission to operate a business between the hours of midnight and 5:00 a.m. shall be in writing, signed by the business owner, and shall be accompanied by a statement describing the business, a description of the size and location of the property and the proposed hours of operation, and such further information required by the board of public safety. Upon receipt of said application, the board of public safety shall make such inspection and investigation as it considers reasonably required to ensure that the health, safety, welfare, peace and tranquility of the public will not be adversely affected and shall docket the application for hearing within 30 days of receipt. At the expense of the applicant, written notice of the date, time and place of the hearing shall be sent by the applicant at least ten days prior to the hearing by certified mail, return receipt to all property owners within a 200 foot radius of the property for which the license is sought. The board of public safety may fix such conditions to the license as it deems reasonably required for the protection of the public. This chapter shall not apply to liquor license applications.

(Code 1971, § 4 1/2-3; Ord. No. O-00-15, § I, 4-18-00)

Sec. 10-4. Same--License fee.

The board of public safety shall require a fee as provided in chapter 18 for the issuance of such license.

(Code 1971, § 4 1/2-4)

Sec. 10-5. Same--Penalty.

Any firm, person, partnership, or corporation, or the owner, operator, or employee thereof, violating any provision of this chapter or any condition or requirement of the license issued by the board of public safety shall be subject to punishment as provided in section 1-4. Each day any violation shall occur shall constitute a separate offense.

(Code 1971, § 4 1/2-6)

Sec. 10-6. Nudity on premises where alcoholic beverages are offered for sale.

(a) It shall be unlawful for any person or entity holding a liquor license in the city to suffer or permit any person, while on the premises of the liquor license holder, to:

- (1) Expose to the public view that area of the human breast at or below the areola thereof.
- (2) Employ any device or covering which is intended to give the appearance of or simulate such portions of the human breast as described in subsection (a)(1) above.
- (3) Expose to public view his or her genitals, pubic area, anus, or anal cleft.
- (4) Employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, anus, or anal cleft.

(b) It shall be unlawful for any person, while on the premises of a liquor license holder, located within the city, at which alcoholic beverages are offered for sale for consumption on the premises, to expose to public view that area of the human breast at or below the areola thereof, or to employ any device or covering which is intended to give the appearance of or simulate such areas of the breast as described herein.

(c) It shall be unlawful for any person, while on the premises of a liquor license holder, located within the city, at which alcoholic beverages are offered for sale for consumption on the premises, to expose to public view his or her genitals, pubic area, anus, or anal cleft, or to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, anus, or anal cleft.

(d) Any person who shall violate any provision of this section shall be guilty of an offense against the city, punishable as provided in section 10-5 of this Code.
(Ord. No. 0-96-9, § I, 2-12-96)

Sec. 10-7. Alcohol server training certification for alcohol serving licensees.

(a) This section shall apply to holders of all types of liquor licenses whether alcohol served on the premises of the licensee or it is sold for consumption away from the premises of the licensee.

(b) All management of the licensee and all persons who sell or serve alcoholic beverages and anyone serving in a supervisory capacity over those who sell or serve alcoholic beverages and anyone whose job description entails the checking of identification for the purchase of alcoholic beverages, as well as, valet parking staff, shall be required to attend an alcohol server training program approved by the department of business regulation prior to commencement of serving or selling alcoholic beverages and must attend the program every 36 months thereafter.

(c) The licensee must provide certifications of attendance for all the persons described herein to the licensing division of the board of public safety 60 days after the date on which the ordinance became law for employees working at that time or within 60 days after hiring a person for a position described herein. Copies of the certifications shall be maintained on the premises of the licensee and be available for inspection at any time by officers of the police department.
(Ord. No. O-10-1, § I, 1-12-10)

Secs. 10-8--10-10. Reserved.

ARTICLE II.

LATE NIGHT DANCES

Sec. 10-11. Purpose.

This article is enacted for the purpose of providing necessary regulations for the holding of late-night dances within a building in the city.

(Ord. No. O-00-1, § I, 1-13-00)

Sec. 10-12. License required.

No person, firm, partnership or corporation shall sponsor, organize or otherwise hold a dance within a building in the city after the hour of 2:00 a.m. without a license first having been granted for such dance by the board of public safety.

(Ord. No. O-00-1, § I, 1-13-00)

Sec. 10-13. Same--Application for license; issuance.

An application for a license for permission to sponsor, organize or otherwise hold a dance within a building in the city that will run past 2:00 a.m. shall be in writing signed by the sponsor or organizer, and shall be accompanied by a statement describing the nature of said dance, estimated number of attendees, whether there will be live or recorded music, and such further information as may be required by the board of public safety. The board of public safety may fix such conditions to the license as it deems reasonably required for the protection of the public.

(Ord. No. O-00-1, § I, 1-13-00)

Sec. 10-14. Same--Police detail.

The board of public safety shall have discretion to require that any applicant for a license under the provisions of this article must employ uniform members of the city police department for special detail at said dance. The board of public safety may direct the applicant to hire additional police officers as the board may deem necessary for the protection of the public.

(Ord. No. O-00-1, § I, 1-13-00; Ord. No. O-00-27, § I, 8-8-00)

Sec. 10-15. Same--License fee.

The board of public safety shall require a fee as provided in chapter 18 for the issuance of such license.

(Ord. No. O-00-1, § I, 1-13-00)

Sec. 10-16. Same--Penalty.

Any firm, person or partnership or corporation, or the owner, operator, or employee thereof violating

any provision of this chapter or any condition or requirement of the license issued by the board of public safety shall be subject to punishment as provided by section 1-4. Each day any violation shall occur shall constitute a separate offense.

(Ord. No. O-00-1, § I, 1-13-00)

Secs. 10-17--10-20. Reserved.

ARTICLE III.

TOBACCO DEALER'S LICENSE

Sec. 10-21. Findings.

- (a) Cigarette smoking is dangerous to human health.
- (b) There exists scientific evidence that the use of tobacco products causes cancer, heart disease, and other medical disorders.
- (c) The surgeon general of the United States of America has declared that nicotine addiction from tobacco is the most widespread example of drug addiction in this country.
- (d) The National Institute on Drug Abuse concluded that the majority of the three hundred and twenty thousand Americans who die each year from cigarette smoking became addicted to nicotine as adolescents.
- (e) The National Institute on Drug Abuse found that cigarette smoking precedes and may be predictive of adolescent drug use.
- (f) The Rhode Island General Assembly in 1996 declared that the use of tobacco by state children is a health and substance abuse problem of the utmost severity.
- (g) State tobacco retailers illegally sell over 900,000 packs and over \$2.5 million in tobacco sales to children annually, which equals 2,500 packs a day.
- (h) According to the Federal Centers for Disease Control and Prevention (CDC), smoking-related direct medical cost in the state in 1990 climbed to \$186,000,000.00. This is a health and economic drain created by each new generation of children who begin using tobacco products and become addicted to nicotine.
- (i) The state department of health reports that the city was found to have a violation rate of 39 percent of all compliance checks of tobacco sales to minors. This rate being 70 percent higher than the state rate of 23 percent.
- (j) To improve the compliance rate among retailers in the city and inform unsuspecting parents of minor children who smoke, a program monitored by the city is required.
(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, 7-11-00)

Sec. 10-22. Definitions.

Advertising violation means any advertising of tobacco products which is on the outside of a place of business within one-half mile of any high school, junior high school, elementary school, nursery school, playground, or other youth recreational area located within the city.

Compliance check violation means any sale of tobacco products to and/or by a person who is less than 18 years of age.

Licensing offense means each and every time a *compliance check violation* or an *advertising violation* occurs.

Tobacco products means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

Vending machine means any mechanical, electric or electronic self service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products.
(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, § I, 7-11-00)

Sec. 10-23. License required.

It shall be unlawful to sell or offer for sale at retail, to give away, deliver or to keep with the intention of selling at retail, giving away or delivering tobacco products within the city without having first obtained a tobacco dealer's license pursuant to this article. Such license shall be in addition to any other license required by state and/or federal law. Failure to obtain a license shall result in a fine of \$250.00.
(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, § I, 7-11-00)

Sec. 10-24. License application.

Application for a license hereunder shall be made in writing to the board of public safety of the city.

Application for a license hereunder shall be granted for a term of three years. Licenses shall expire in the month of February and shall not be issued for a term longer than 36 months. All retailers holding a valid state license shall receive approval from the board for this license and no fee shall be required. Any individual, corporation, partnership, or other organization which had a previous license suspended or revoked by the city shall only be issued a new license after a full hearing and a majority vote in the affirmative of the board of public safety.
(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, § I, 7-11-00)

Sec. 10-25. Prohibitions applicable to license holders and their employees and agents.

(a) A person that holds a license issued under this article, or an employee or agent of that person, is prohibited from selling, distributing or delivering any tobacco product to any individual that is under 18 years of age whether said tobacco product is sold to the individual in person or via a vending machine.

(b) A person that holds a license issued under this article, or an employee or agent of that person, is

prohibited from posting or displaying any means of advertising of tobacco products as defined in subsection 10-22 of this article.
(Ord. No. O-00-25, § I, 7-11-00)

Sec. 10-26. Suspension or revocation of license; fines and costs.

The city police department shall enforce this article. All holders of a tobacco dealer's license shall be subject to a compliance check at least twice a year, with violators being checked more frequently until two checks are completed without a violation.

If an alleged violation occurs, the city police department shall issue a citation that will require the holder of the tobacco dealer's license to appear in the city municipal court. If after a hearing, it has been proven by a preponderance of the evidence that a violation is found to have occurred, the city municipal court will impose a fine of \$300.00 for the first licensing offense, \$300.00 for the second licensing offense, \$300.00 for the third licensing offense together with a 15 day suspension of the tobacco dealer's license, \$300.00 together with a minimum 30 days, not to exceed 90 days, suspension of the tobacco dealer's license for the fourth licensing offense, and \$300.00 together with a minimum 60 days, not to exceed 120 days, suspension of the tobacco dealer's license for the fifth licensing offense. For the sixth licensing offense, the tobacco dealer's license shall be revoked. If a holder of a tobacco dealer's license maintains the tobacco dealer's license for 48 consecutive months without a violation, any new violation will be treated as the first offense. In addition to all fines, the city municipal court will impose court costs.

(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, § I, 7-11-00)

Sec. 10-27. Use of premise during license suspension.

During the period of any suspension of tobacco dealer's license, the holder of the suspended license shall remove all tobacco products from the shelves and secure them in a locked area for the duration of the suspension. If at any time during the suspension period, the license holder is found to be selling tobacco products, the license shall be revoked.

(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, § I, 7-11-00)

Sec. 10-28. Vending machines.

Businesses which have vending machines shall be subject to the same fines and penalties as described in section 10-26 of this article. Suspension of a tobacco dealer's license shall result in the vending machine being removed from the licensed location for the suspension period. Revocation will result in the permanent removal of the vending machine from the licensed location.

(Ord. No. O-00-17, § I, 5-11-00; Ord. No. O-00-25, § I, 7-11-00)

Secs. 10-29, 10-30. Reserved.

ARTICLE IV.

PERMANENT MAKE-UP LICENSE

Sec. 10-31. Purpose.

This article is enacted for the purpose of providing necessary regulations for a license by a hair salon to apply permanent make-up.

(Ord. No. O-03-24, § I, 11-12-03)

Sec. 10-32. License required.

No person, firm, partnership, corporation or other entity shall provide or offer to people the service of permanent make-up, as such is defined by the Rhode Island Department of Health Regulations, without a license first having been granted for such service by the board of public safety.

(Ord. No. O-03-24, § I, 11-12-03)

Sec. 10-33. Same--Application for license; issuance.

An application for a license to apply permanent make-up shall be in writing signed by the business owner of the hair salon on a form prescribed by the board of public safety. Pursuant to Rhode Island Department of Health Regulations, as a condition of obtaining and maintaining such a license, the applicant must have on staff a person or persons licensed as a tattoo artist by the Rhode Island Department of Health who will be the only person(s) authorized to apply the permanent make-up. The board of public safety may fix such conditions to the license as it deems reasonably required for the protection of the public.

(Ord. No. O-03-24, § I, 11-12-03)

Sec. 10-34. Same--License fee.

The board of public safety shall require a fee as provided in chapter 18 for the issuance of such license.

(Ord. No. O-03-24, § I, 11-12-03)

Sec. 10-35. Same--Penalty.

Any firm, person or partnership, corporation or other entity, or the owner, operator, or employee thereof violating any provision of this chapter or any condition or requirement of the license issued by the board of public safety shall be subject to punishment as provided by section 1-4. Each day any violation shall occur shall constitute a separate offense.

(Ord. No. O-03-24, § I, 11-12-03)

ARTICLE V.

FORECLOSURE OF OWNER-OCCUPIED HOMES

Sec. 10-36. Definitions.

The *city* shall mean the City of Warwick.

Homeowner shall mean an individual who owns and resides in residential real property located in the City of Warwick, and for whom such residential real property is a principal residence.

Lender shall mean an entity which has advanced funds secured by a mortgage on residential premises, and recorded in the land evidence records of the city.

Loan/mortgage conciliation conference shall mean the formal discussion and negotiation taking place at the call of the loan/mortgage conciliation conference coordinator between the homeowner/mortgagor and the lender/mortgagee.

Loan/mortgage conciliation conference coordinator shall mean an individual employed by a HUD-approved independent counseling agency to facilitate the discussion between the homeowner/mortgagor and the lender/mortgagee.

The *parties* shall mean the homeowner/mortgagor and the lender/mortgagee.

Residential premises/property shall mean real property that is owner-occupied as an owner's principal residence, located within the City of Warwick, that is either a single-family dwelling or a structure containing not more than four residential units, and shall also include a residential condominium unit or a residential co-op unit occupied by an owner as an owner's principal residence. Property deemed abandoned or under order for demolition as a result of fire or other calamity by the city's minimum housing division is not considered owner-occupied for the purpose of this article.

Rules and regulations shall mean any rules adopted by the city necessary for the proper enforcement of this article to interpret and secure its intent.

(Ord. No. O-10-5, § I, 4-26-10)

Sec. 10-37. Statement of policy.

It is hereby declared that residential mortgage foreclosure actions, caused in part by so-called sub-prime mortgage lending and predatory lending practices, as well as rising interest rates, unemployment and underemployment, have negatively impacted a substantial number of homeowners in the city, creating a foreclosure crisis which endangers the economic stability of the city and the health and safety of its citizens, as the increasing numbers of foreclosures lead to increases in unoccupied and unattended buildings in the city and give impetus to the continuation, extension and aggravation of urban blight and decay. More importantly, foreclosures cause the unnecessary and unwanted displacement of a considerable number of homeowners and tenants who desire to live and work in the city.

(Ord. No. O-10-5, § I, 4-26-10)

Sec. 10-38. Purpose.

The city's purpose in sections 10-36 through 10-40, inclusive, is to protect the public health, safety and welfare by providing early, HUD-approved independent counseling agency-supervised intervention in residential owner-occupied mortgage foreclosure cases which will assure timely determination of eligibility under various federal, state and local programs established to facilitate loan work-out and other solutions to permit residential homeowners, where possible, to retain their properties and permit lenders to move forward to auction/sale of the properties and recordation of a foreclosure deed upon conclusion of the process.

(Ord. No. O-10-5, § I, 4-26-10)

Sec. 10-39. Filing/recording of foreclosure deed.

Except as may be provided in this article, from and after the effective date of this article, no deed offered by a lender/mortgagee to be filed with the recorder of deeds as a result of a mortgage foreclosure action shall be accepted and/or recorded in the land evidence records of the city until and unless the following events have occurred:

- (a) The lender/mortgagee shall provide written notice to the city of its intent to foreclose on the subject residential property at the same time it issues notice to the homeowner/mortgagor of the foreclosure action. Such notice must include plat and lot information.
- (b) Said notice shall be filed by the lender/mortgagee with the recorder of deeds.
- (c) Following the filing of such notice, the parties shall participate in a mandatory loan/mortgage conciliation conference at a location mutually convenient to the parties. Telephone participation by the lender/mortgagee is acceptable.
- (d) Said conciliation conference shall be scheduled at a time and place to be determined by the conciliation conference coordinator, but not later than 30 days following the mailing of the notice of intent to foreclosure. The parties will be noticed by certified and first class mail.
- (e) Prior to the scheduled conciliation conference, the homeowner/mortgagor will be assigned a loan counselor to be provided by a HUD-approved independent counseling agency.
- (f) The homeowner/mortgagor shall cooperate in all respects with the housing counseling agency, providing all necessary financial and employment information. The homeowner/mortgagor shall complete any and all loan resolution proposals and applications as appropriate.
- (g) The conciliation conference will require the exchange of information provided as required by subsection (f) to the representative of the lender/mortgagee.
- (h) If after the two attempts by the conciliation conference coordinator to contact the homeowner/mortgagor, the homeowner/mortgagor fails to respond to the conference coordinator's request to appear for the conciliation conference, or the homeowner/mortgagor fails to cooperate in any respect with the requirements outlined in this article, the requirements of the article will be deemed to be satisfied upon verification by the HUD-approved independent counseling agency that the required notice was sent; and if so, a certificate will be issued immediately by the HUD-approved independent counseling agency authorizing the lender/mortgagee to proceed with the foreclosure action including recording the foreclosure deed.
- (i) If it is determined after a good faith effort made by the lender/mortgagee at the conciliation conference with the homeowner/mortgagor, that the parties cannot come to an agreement to renegotiate the terms of the loan in an effort to avoid foreclosure, such good faith effort on behalf of the lender/mortgagee shall be deemed to satisfy the requirements of this article. A certificate certifying such good faith effort will be issued immediately by the HUD-approved independent

counseling agency authorizing the lender/mortgagee to proceed with the foreclosure action, including recording the deed. Such a certification will be the form of a document to be filed along with all other relevant documents with the recorder of deeds.

- (j) Upon the demand of the lender/mortgagee at any time following completion of the conciliation conference, if the lender/mortgagee is not invoking subsection (h), the HUD-approved independent counseling agency will immediately certify that the provisions of this article have been met.
- (k) The parties shall complete the process required by this article within a period of 60 days from the initial notice provided in subsection (a).
- (l) Cases involving premises which are not owner-occupied or which are not residential are not subject to the mandatory loan/mortgage conciliation conference and may proceed directly to foreclosure and recordation of the deed concerning such property.
- (m) Notwithstanding the foregoing, any lender/mortgagee which is headquartered within the State of Rhode Island and which services its own mortgages shall be deemed to be in compliance with the requirements of this section if:
 - (1) The lender/mortgagee provided homeowners a forbearance relief program that is consistent with the forbearance relief requirements applicable to FHA-Insured Mortgages, as set forth in Chapter 8 of the HUD Handbook 4330.1 Rev. 5, Administration of Insured Home Mortgages, as the same may be amended from time to time; and
 - (2) The deed offered by a lender/mortgagee to be filed with the recorder of deeds as a result of a mortgage foreclosure action contains a certification that the provisions of this subsection have been satisfied.

(Ord. No. O-10-5, § I, 4-26-10)

Sec. 10-40. Penalties.

No deed offered by a lender/mortgagor to be filed with the recorder of deeds shall be accepted and/or recorded in the land evidence records of the city if it is determined that the lender/mortgagor has failed in any respect with the requirements and provisions of this article. In the event that a foreclosure has taken place without affording the homeowner of the relief afforded by this article, the recorder of deeds shall assess a penalty of \$2,000.00 in addition to any other penalties and fees that may be assessed prior to recording the foreclosure deed. The rights of the homeowner to any redress afforded under the law are not abridged by this section.

(Ord. No. O-10-5, § I, 4-26-10)