

ARTICLE I. IN GENERAL

ARTICLE I. IN GENERAL ^[2]

[Sec. 16-1. Purpose.](#)

[Sec. 16-2. Applicability.](#)

[Sec. 16-3. Definitions.](#)

[Sec. 16-3.1. Interpretations of this chapter.](#)

[Sec. 16-4. Issuance of licenses; grounds for denial.](#)

[Sec. 16-4.1. Timeframes for issuance of licenses.](#)

[Sec. 16-5. Denial of issuance.](#)

[Sec. 16-6. Notices; change of address.](#)

[Sec. 16-7. Hearings.](#)

[Sec. 16-8. Revocation; grounds.](#)

[Sec. 16-9. Revocation initiation.](#)

[Sec. 16-10. Revocation hearing.](#)

[Sec. 16-11. Appeal procedures.](#)

[Sec. 16-12. Reserved.](#)

[Sec. 16-13. Use of criminal history information.](#)

[Sec. 16-14. Reapplication.](#)

[Sec. 16-15. Reserved.](#)

Sec. 16-1. Purpose.

The purposes of this article are:

- (1) To establish the general procedures applicable to the issuance of licenses and permits by the city, in accordance with this chapter, and
- (2) To provide for a uniform, speedy and fair administrative review and hearing process when a license or permit is denied or revoked.

(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-2. Applicability.

This article is applicable to [chapter 3](#) of this Code and to the following articles of [chapter 16](#): IV, VI, VIII, IX, XII, XIV, XV, XVI, XVII and XVIII.

(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-3. Definitions.

The following words, terms and phrases, when used in this article, in [chapter 3](#), and in those articles of [chapter 16](#) of this Code to which this article applies, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. These definitions control over any

ARTICLE I. IN GENERAL

conflicting definitions in [chapter 3](#) of this Code, or in article IV, VI, VIII, IX, XII, XIV, XV, XVI, XVII or XVIII of this chapter.

Aggrieved person means any person who has been denied a license, or whose license is subject to revocation.

Appellant means an aggrieved person who files for appeal under this article.

Assault means conduct, or a course of conduct, in which a person recklessly, knowingly or intentionally commits, or threatens to commit, bodily injury to another person and includes threatening or intimidating, as provided in Arizona Revised Statutes § 13-1202.

Control means the power to direct or cause the direction of the management and policies of an applicant, licensee or controlling person, in any way. Control is presumed to exist:

- (1) In a privately-held corporation, if a person has the direct or indirect ownership of or power to vote ten (10) percent or more of the outstanding voting securities of the applicant, licensee or controlling person, or to control in any manner the election of one (1) or more of the directors of the applicant, licensee or controlling person. To determine the percentage of voting securities owned, controlled or held by a person, there shall be added the voting securities of any other person controlled by (i) that person, or (ii) by an officer, partner, employee or representative of that person or (iii) by a spouse, parent or child of that person.
- (2) In a publicly-held corporation, in an on-site manager who directs the daily operation of the applicant or licensee, and every additional manager at the same location to whom the on-site manager reports, whether or not the on-site manager or additional manager(s) has any ownership interest in the applicant or licensee.
- (3) In a partnership, if the general partner or a limited partner holds ten (10) percent or more of the voting rights of the partnership.
- (4) In a limited liability company, if a member holds ten (10) percent or more of the voting rights of the company.
- (5) If a creditor of the applicant, licensee or controlling person holds a beneficial interest in ten (10) percent or more of the liabilities of the applicant, licensee or controlling person.
- (6) In an on-site manager of a business who directs the daily operation of the applicant or licensee, whether or not the on-site manager has any ownership interest in the applicant or licensee.

Controlling person means a person directly or indirectly possessing control of an applicant or licensee.

Director means the city director whose responsibilities include licensing and revenue functions, and the director's successor or designee.

License means either a license or permit to which this article applies, including a renewed license or permit.

Licensee means either a licensee or permittee to whom or which this article applies.

Moral turpitude means an act of baseness, vileness or depravity in the duties that a person owes to society, contrary to the accepted and customary rules of right and duty. Moral turpitude includes, but is not limited to, gross indecency, indecent exposure, lewdness, solicitation of prostitution, prostitution, perjury, forgery, tax evasion, theft, misappropriation of funds, and any other specific offenses that have been determined by federal or state courts in Arizona as being crimes of moral turpitude.

(Ord. No. 4065, § 1, 12-4-12)

ARTICLE I. IN GENERAL

Sec. 16-3.1. Interpretations of this chapter.

- (a) An applicant for a license subject to this chapter or [chapter 3](#) of this Code may request the director to interpret a statute, ordinance, code or authorized substantive policy statement affecting the procurement of that license.
- (b) The applicant shall make a written request to the director with the following information:
 - (1) The name, address and phone number of the applicant requesting the interpretation.
 - (2) The citation of the statute, ordinance, code or authorized substantive policy statement, or part thereof, to be interpreted.
 - (3) The applicant's proposed interpretation of the applicable statute, ordinance, code or authorized substantive policy statement.
 - (4) Any facts relevant to the requested interpretation.
 - (5) Whether, to the applicant's knowledge, the city is considering similar issues related to an existing license or application.
- (c) The applicant shall include a copy of the applicant's license application with the written request.
- (d) On receipt of a request that complies with subsection (b), the director may meet with the applicant to discuss the written request. The director shall respond within thirty (30) days of the receipt of the request with a written interpretation.
- (e) The director shall provide the applicant with an opportunity to meet and discuss the director's interpretation.
- (f) The director may modify the interpretation, with written notice to the applicant, based on changes in the law or other applicable circumstances.
- (g) The director's interpretation is final.

(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-4. Issuance of licenses; grounds for denial.

- (a) Unless otherwise expressly provided elsewhere in this chapter, license applications shall be filed with the director. The director shall be responsible for the issuance of the licenses which are subject to this chapter.
- (b) The processing of an application begins with the filing of a complete license application. A complete license application includes, but is not limited to, a written application, all supporting or related documents and materials, fingerprinting, if applicable, and payment of all required fees.
- (c) The director will issue a license to an applicant when the following conditions of the applicable licensing provisions have been fully satisfied:
 - (1) All application requirements have been met, including any police background checks and fingerprint requirements.
 - (2) All license fees, city taxes, fines and penalties have been paid in full.
 - (3) No grounds for denial listed in this section exist.
 - (4) No grounds for denial provided in the specific article under which application is made exist.
 - (5) The applicant has not had a license similar to the one (1) to be issued pursuant to this article issued by the city or another authority, denied, suspended or revoked within the two-year period immediately preceding the filing of the application.

ARTICLE I. IN GENERAL

- (d) The following are grounds for denying a license, in addition to those grounds provided in the specific articles of this chapter, if the director has reasonable grounds to believe that they exist at the time of the filing of an application:
- (1) The applicant or a controlling person has been previously convicted in any jurisdiction, within the five-year period immediately preceding the filing of an application, of a felony; or a misdemeanor involving fraud, theft, dishonesty, assault or moral turpitude. Any such conviction shall constitute grounds for denial of a license, whether or not the conviction or convictions have been expunged from court records pursuant to law. A certified copy of the records of any court of competent jurisdiction reflecting the fact and date of any relevant conviction shall be prima facie evidence thereof for purposes of this article.
 - (2) False or misleading information was given in any license application, or was submitted in support of such application, or the applicant failed or refused to make full disclosure of all required information.
 - (3) The applicant is not a United States citizen or a non-citizen authorized to work by the government of the United States, or does not provide proof required by Arizona Revised Statutes § 41-1080(a).
 - (4) The applicant or any controlling person has an outstanding arrest warrant issued by any jurisdiction within the United States.
 - (5) The applicant is a corporation which is not qualified to transact business in Arizona.
 - (6) The applicant is delinquent in payment to the city of taxes, fees, fines, or penalties imposed upon the applicant or arising out of any other business activity owned or operated by the applicant and licensed by the city.
 - (7) The applicant is in violation of any applicable provisions of ordinances and regulations of the city, relating to the business or occupation to be conducted under the license.
 - (8) One (1) or more conditions for issuing the license as provided in [section 16-4](#)(c) have not been met.

(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-4.1. Timeframes for issuance of licenses.

- (a) Administrative timeframe: unless the license has already been issued, within fifteen (15) days after receiving a license application under this chapter, the director will determine whether the application is administratively complete, and notify the applicant as set forth in this article.
- (b) Substantive timeframe: within forty-five (45) days after the director notifies the applicant that the application is administratively complete, the city will complete its substantive review of the license application.
- (c) Overall timeframe: within ninety (90) days after receiving an application under this chapter, the director will grant or deny a license.
- (d) An application is deemed withdrawn if, within thirty (30) days after the date of a request for additional information during the substantive timeframe, the applicant does not supply the requested information or provide justification for delay. On receipt of justification, the director shall allow the applicant thirty (30) additional days to provide the requested information before deeming the application withdrawn.
- (e) Except as otherwise provided, the timeframes in this section shall be extended and suspended as provided by state law.
- (f) The timeframes in this section are also applicable to:
 - (1) Articles II and III of this chapter.

ARTICLE I. IN GENERAL

- (2) Article V of this chapter, except that the timeframes begin after the city has received notice that the state liquor board has issued a license under Arizona Revised Statutes Title 4.
- (3) License renewal.
- (4) Applications to change locations.
- (g) The timeframes in this section are not applicable to article XVI of this chapter.
(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-5. Denial of issuance.

The director shall deny an application for a license if the applicant has failed to comply with [section 16-4](#), or grounds for denial exist. The director shall give notice of any denial of an application, and the right of appeal from the denial, as provided for in this article.

(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-6. Notices; change of address.

- (a) Applicants and licensees shall notify the director, in writing, of all changes in their mailing, residence and business addresses, not less than ten (10) days prior to the effective date of the change. This requirement is in addition to any other provision in this chapter requiring applicants and licensees to update information pertaining to applications and licenses.
- (b) Unless otherwise provided, the director shall provide all notices under this article in writing, and either hand-deliver or mail the notices to the applicant or licensee. The director may send additional notices to the applicant or licensee by any electronic means. The director shall mail notices to the most recent mailing address provided by the applicant or licensee. When the director has reasonable grounds to believe that the address of record is incorrect, the director may send the notice to another address of the applicant or licensee, if the director believes it to be the most current address.
- (c) Notices of denial or revocation shall state the basis for the denial or revocation.
- (d) Notices of hearings shall state that if the licensee is not present at the time of the hearing, the hearing will proceed without the licensee and that the ruling will be based upon the evidence presented at the hearing.
- (e) Compliance with the mailing provisions of this section constitutes notice of the denial or revocation, and the right of appeal, as applicable. The city is not required to prove actual receipt of the notice or actual knowledge of the denial or revocation. Any notice that is the subject of this section is complete upon hand-delivery or mailing.

(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-7. Hearings.

- (a) At the request of the director, the city manager shall appoint a hearing officer to conduct any hearing provided for in this article. A different hearing officer shall be appointed for any appeal from the hearing.
- (b) The hearing officer shall preside over the hearing, direct the course of the proceedings and make all rulings necessary to conduct the hearing in a fair and orderly manner.
- (c) The city may be represented at such hearings by any member of the city staff, or by counsel. The appellant may be represented by counsel. Each party to a hearing may present evidence in support of their position through testimony by witnesses, documents and other materials.

ARTICLE I. IN GENERAL

- (d) Hearings will be informal and the formal rules of evidence will not apply. The burden of proof shall be upon the city to prove the grounds for denial or revocation by a preponderance of evidence.
- (e) If the licensee is not present at the place and time the hearing is scheduled, or within fifteen (15) minutes thereafter, the director may infer that the licensee's absence is voluntary. Unless there is good cause, the hearing shall go forward without the licensee. An authorized legal representative, who is present within the required time, may represent the licensee in his or her absence.
- (f) At a denial or revocation hearing, the hearing officer will state the grounds for denial or revocation. The city shall make its presentation, followed by the licensee. Presentations will be limited to the issue of whether the license that is the subject of the hearing should be denied or revoked. At the close of both presentations, the parties may give final argument in support of their positions.
- (g) No license shall be denied or revoked unless the hearing officer finds by a preponderance of the evidence that one (1) or more of the grounds alleged for denial or revocation are true. In an appeal hearing, the hearing officer shall sustain the action appealed if it is supported by a preponderance of evidence.
- (h) All hearings shall be recorded. The resulting record shall be maintained as a public record as required by law, but for no less than one (1) year.
- (i) The hearing officer may rule on the matter at the close of the evidence and argument, but shall enter a ruling within ten (10) working days of the completion of the hearing unless the parties stipulate that additional time is required to render a fair decision. The hearing officer's ruling shall be in writing, signed by the hearing officer and contain the hearing officer's findings in respect to the allegations and the evidence supporting the findings. The hearing officer shall give notice of the ruling as provided in this article.

(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-8. Revocation; grounds.

The director may initiate license revocation proceedings when the director has reasonable grounds to believe that:

- (1) The licensee or a controlling person has been convicted in any jurisdiction, within the five-year period immediately preceding the filing of an application, or during any period in which the license is in effect, of a felony; or a misdemeanor involving fraud, theft, dishonesty, assault or moral turpitude. A conviction may be grounds for revocation whether or not the conviction has been expunged from court records. A certified copy of the records of any court of competent jurisdiction reflecting the fact and date of any relevant conviction shall be prima facie evidence thereof for purposes of this article.
- (2) The licensee has given false or misleading information in any license application, or in support of such application; or has failed or refused to make full disclosure of required information.
- (3) The licensee has had a license similar to the license issued under this article, issued by the city or another authority, denied, suspended, revoked or cancelled within two (2) years of the city's issuance of the license in effect.
- (4) Any ground for revocation set forth in the article or chapter under which the license was issued exists.

(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-9. Revocation initiation.

- (a) When grounds for revocation exist, the director shall give the licensee notice of a revocation hearing. The notice shall be given in accordance with this article and shall contain the following information:

ARTICLE I. IN GENERAL

- (1) The grounds for the revocation, including citations to applicable Code provisions.
- (2) The date, time and place of the hearing.
- (b) The date and time of the hearing shall be not less than ten (10) working days, nor more than fifteen (15) working days, after giving notice.
- (c) A copy of this article I shall accompany the notice of hearing.
(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-10. Revocation hearing.

- (a) [Section 16-7](#). Hearings, applies to revocation hearings.
- (b) Except as provided in subsection (d) below, any revocation of a license shall be effective when notice is given to the licensee, and:
 - (1) The time permitted for filing a notice of appeal has expired without a notice of appeal having been filed; or
 - (2) The revocation has been affirmed following the hearing of a timely filed notice of appeal; or
 - (3) The aggrieved person has filed a timely notice of appeal, but has abandoned the appeal prior to any hearing or ruling on the appeal.
- (c) When a revocation becomes effective, the licensee shall surrender the license to the director immediately and shall no longer conduct any business pursuant to the license.
- (d) After a ruling by the hearing officer, the director may declare that the license is revoked immediately, if in the reasonable judgment of the director, the continuation of the licensed activities constitutes an unreasonable danger to the health or safety of any individual or the community in general. A license revoked under this subsection shall be reactivated immediately upon a successful appeal by the aggrieved person.
(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-11. Appeal procedures.

- (a) An aggrieved person may appeal the denial or revocation of a license by filing a written notice of appeal with the director not later than ten (10) working days after the ruling appealed from. The right to appeal is waived if the notice of appeal is not timely filed.
- (b) Upon receipt of a written notice of appeal, the director shall set an appeal hearing to be held within ten (10) working days and shall give notice of the hearing as provided in this article.
- (c) When required in the interest of fairness, a continuance may be granted, but all hearings on license denials and revocations shall be heard within twenty (20) working days after the director receives the notice of appeal.
- (d) [Section 16-7](#). Hearings, applies to appeal hearings.
- (e) A revocation is effective when notice is given that the revocation has been sustained by the hearing officer. The licensee shall surrender the license to the director immediately and shall no longer conduct any business pursuant to the license.
(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-12. Reserved.

Editor's note—

ARTICLE I. IN GENERAL

Ord. No. 4065, § 1, adopted December 4, 2012, repealed [§ 16-12](#), which pertained to record of proceedings. See also the Code Comparative Table.

Sec. 16-13. Use of criminal history information.

- (a) Any use or disclosure of criminal history information to administer this chapter shall be in accordance with Arizona Revised Statutes Section 41-1750. All other use of such information is prohibited.
- (b) Criminal history information obtained pursuant to Arizona Revised Statutes Section 41-1750 shall not be disclosed to the public. Should the disclosure of such information become necessary during any hearing or proceeding that is otherwise open to the public, the disclosure shall be only to those who are authorized by law to know the disclosed information.

(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-14. Reapplication.

- (a) No person who has had a license denied or revoked may apply for a license of the same or similar kind that was the subject of the denial or revocation for two (2) years after the decision affecting the applicant's license has become final, unless the cause of such denial or revocation has been removed to the satisfaction of the director.
- (b) No person, who has had a license denied or revoked, because false or misleading information was given in any license application, or was submitted in support of the application, or the applicant failed or refused to make full disclosure of all required information, may apply for a license pursuant to this article until two (2) years after the decision affecting the applicant's license has become final.
- (c) No person, who has had a license denied or revoked for a conviction of an offense described in this article may apply for a license pursuant to this article for two (2) years from the denial or revocation, or five (5) years from the conviction date, whichever is greater.

(Ord. No. 4065, § 1, 12-4-12)

Sec. 16-15. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 4065, § 1, adopted December 4, 2012, amended Art. I, in its entirety, to read as herein set out. Prior to inclusion of said ordinance, Art. I pertained to similar subject matter. See also the Code Comparative Table. ([Back](#))