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CHAPTER 6. BUSINESS REGULATION.

ARTICLE I. Door-to-Door Vendors.

§ 6-1. Purpose.

The purpose of this article is to reasonably control the activities of door-to-door vendors for the safety and well-being of the people residing in the county.

State law reference--Virginia Code § 15.2-913.

§ 6-2. Registration required.

It shall be unlawful for any person to offer any item for sale within the county, when such person goes from one place of human habitation to another offering an item for sale, unless such person has registered his name, address and by whom employed with the sheriff of the county.

State law reference--Virginia Code § 15.2-913.

§ 6-3. Exemptions.

Section 6-2 shall not apply to the following persons:

A. Those otherwise licensed by the Commonwealth under Title 38.2 of the Code of Virginia (1950), as amended.

B. Those offering for sale newspapers and fresh farm products.

C. Those who are enrolled as students in the schools in the county.

State law reference--Virginia Code § 15.2-913.

§ 6-4 through § 6-10. Reserved.

ARTICLE II. Tradesman Certification Standards. Superseded.

Editor's Note - Acts 1994, c.895, cl., provides: "That §§ 15.1-11.4 and 36-99.1 of the Code of Virginia are repealed." Virginia Code § 54.1-1131 exempts tradesmen certified by local government prior to July 1, 1978, from the examination requirement specified in Virginia Code § 54.1-1130.

§ 6-11 through § 6-20. Reserved.

ARTICLE III. Alarm Company Operators.

Part A. In General.

§ 6-21. Definitions.

A. The following phrases shall have the meanings respectively assigned to them in § 15.2-911 of the Code of Virginia (1950), as amended: "alarm company operator," and "alarm system."

B. Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this article:

"Alarm System User" means any person on whose premises an alarm system is maintained within the county except for alarm systems on motor vehicles or proprietary systems. If, however, an alarm system on a motor vehicle is connected with an alarm system at a premises, the person using such system is an alarm system user.

"Proprietary System" means an alarm system sounding or recording alarm and supervisory signals only at a control center located within the protected premises and supervised by the proprietor of the protected system.

§ 6-22. Confidentiality.

A. The information contained in the alarm system permit application required by this Article and other information received by the Department of Emergency Services through correspondence or communications with an alarm system user or an alarm company operator shall be securely maintained and restricted to inspection only by the County Administrator, County Attorney, Sheriff, the Building Official and the certain officers or county employees specifically assigned responsibility for handling and processing alarm system user permits in the course of official duties.

B. The release of any information contained in the alarm system permit application or related communications or correspondence to another person in violation of subsection A or for unlawful purpose shall constitute a class 2 misdemeanor.

§ 6-23. Rules and regulations to be promulgated.

The Department of Emergency Services may recommend for approval by the Board of Supervisors forms, rules, regulations and other policies for the effective enforcement of this Article. The rules and regulations may:

A. Establish standards for the determination of the satisfactory level of knowledge required of an alarm company operator by § 6-27(B)(4) herein.

B. Establish internal procedures and safeguards to ensure the confidentiality of information required by § 6-22 herein.

§ 6-24. Penalties.

Except as otherwise provided, any person who violates any section of this Article shall be guilty of a class 4 misdemeanor.

§ 6-25. Reserved.

Part B. Alarm Company Operators.

§ 6-26. Alarm company operator registration.

A. Every alarm company operator shall register with the county's Emergency Services Department on forms provided by the county.

B. The application for registration shall include name of the alarm company operator, name of owners and officers and the services offered by the alarm company operator.

C. It shall be the responsibility of the alarm company operator to notify the county immediately in writing of any subsequent changes in the information provided on the application for registration.

D. Registration shall be accompanied by a non-refundable fee of thirty dollars (\$30.00) to cover the costs of processing the application and investigating the applicant.

E. The registration must be renewed annually thereafter at an annual fee of twenty dollars (\$20.00).

F. Registration shall not be approved unless the applicant demonstrates that it has a satisfactory level of knowledge concerning the installation, maintenance, alteration, servicing or operation of the alarm systems it uses.

Note: The Board of Supervisors adopted this ordinance subject to the condition that subsections D and E of this section are to be in effect only until state registration fees become effective.

§ 6-27. Registration to show whether operator may install systems with access to the EOC.

- A. The form approving each registration required by § 6-26 shall show whether or not the approved alarm company operator shall be permitted to install, maintain or operate an alarm system which utilizes a special telephone line transmitting directly into the county's Emergency Operations Center.
- B. An alarm company operator shall be permitted to utilize a special telephone line transmitting directly into the county's Emergency Operations Center only under the following conditions:

1. No automatic dialing device which is programmed to transmit a prerecorded message or code signal directly to the Emergency Operations Center may be used.

2. The alarm company operator shall have an appropriate system for eliminating false alarms before an alarm is transmitted to the Emergency Operations Center. Such system shall be reasonably designed to confirm on a case by case basis the emergency nature of each call.

3. The alarm company operator shall demonstrate an adequate system of addressing and directing responders to the location of the alarm system user.

4. The alarm company operator shall demonstrate an appropriate degree of efficiency and speed.

5. The alarm company operator shall ensure that each alarm system user is registered as required by Part C of this article.

§ 6-28. Duties of alarm company operators.

A. No alarm company operator shall install, monitor, alter, service or repair any alarm system unless the alarm system user has complied with the registration and permit provisions of § 6-31 herein.

B. No alarm company operator shall install, monitor, alter, service or repair any alarm system unless the alarm system user has been instructed in the proper use and operation of the alarm system.

§ 6-29 through § 6-30. Reserved.

Part C. Alarm System Users.

§ 6-31. Alarm system user registration.

A. Every alarm system user shall obtain an alarm system user permit from the county's Emergency Services Department for the operation of such alarm system. If the alarm system is to be installed or maintained by an alarm company operator, the alarm company operator may obtain the required permit for the alarm system user.

B. The person applying for the permit required in this section shall state on a permit application form provided by the county the following: name, address of and directions for responders to the premises in or for which the alarm system will be installed, telephone number of the alarm system user, the type of alarm system (local or monitored), name of the alarm company operator selling or leasing the new or existing alarm system equipment or services and the names, addresses and telephone numbers of at least two other persons who can be reached at any time, day

or night, and who are authorized to respond to an alarm signal and who can open and represent the premises in which the system is installed for reporting and investigative purposes.

C. It shall be the responsibility of the alarm system user to notify the county immediately in writing of any subsequent changes in the information provided on the permit application.

D. No permit shall be issued to an alarm system user until the installation of the alarm system has been approved by the county building official.

E. No permit shall be issued to an alarm system user until an approved alarm company operator certifies or the alarm system user otherwise demonstrates that the alarm system user has been instructed in the proper use and operation of the alarm system.

F. Upon approval by the Emergency Services Department of the permit application, the permit shall be issued to the alarm system user.

§ 6-32. Permit to show whether alarm system shall have access to the EOC.

A. The permit for each alarm system user shall show whether the alarm system may utilize a special telephone line transmitting directly into the county's Emergency Operations Center.

B. An alarm system may be permitted to utilize a special (non-911) telephone line transmitted directly into the county's Emergency Operations Center only if the system is installed, maintained and operated by an alarm company operator approved for such purpose as provided in § 6-27 herein.

§ 6-33. Duties of alarm system users.

A. The alarm system user shall maintain the alarm system in proper working order.

B. The alarm system user shall instruct employees, tenants or others who may have occasion to activate an alarm as to the operation of the alarm system, including setting, activation, deactivation and resetting the alarm.

C. The alarm system user shall ensure that the alarm system is to be activated only in emergency situations to summon an immediate emergency services response.

D. The alarm system user shall utilize no alarm which will emit an audible signal beyond the confines of the premises for more than fifteen (15) minutes before resetting and silencing itself.

§ 6-34 through § 6-35. Reserved.

Part D. False Alarms.

§ 6-36. Automatic dialing device restrictions.

It shall be unlawful to install, operate or maintain an automatic dialing device which is programmed to transmit a prerecorded message or code signal directly to the county's 911 emergency telephone system.

§ 6-37. Deliberate false alarms.

A. Any person who intentionally or deliberately and without just cause activates an alarm system in a non-emergency situation shall be deemed guilty of a class 2 misdemeanor.

B. Any person who intentionally or deliberately and without just cause dial 911 or in some other manner activate the county's 911 emergency telephone system in a non-emergency situation shall be deemed guilty of a class 2 misdemeanor.

C. Nothing herein contained shall apply to the periodic testing of alarms after prior coordination with and approval of the county's Emergency Services Department. Testing the alarm system without such prior coordination and approval is unlawful.

§ 6-38. Service fees for false alarms.

In addition to the penalties provided in § 6-37, the following provisions shall apply to false alarms:

A. The third false alarm originating from any premises and to which emergency services are dispatched or respond within six (6) consecutive months shall result in a service fee being imposed by the county upon the alarm system user which fee must be paid within thirty days after billing. The service fee shall be fifty dollars (\$50.00) for the third false alarm, one hundred dollars (\$100.00) for the fourth false alarm, and two hundred dollars (\$200.00) for the fifth and each subsequent false alarm within six (6) consecutive months.

B. The Emergency Services Department shall notify an alarm system user upon occurrence of the fifth false alarm within a twelve (12) month period that the user's alarm system must be inspected by a registered alarm company operator to identify any problems or defects with the alarm system. The choice of the alarm company operator and cost of the inspection are the responsibility of the alarm system user.

C. The alarm company operator shall provide a copy of a report of inspection to the Emergency Services Department. The report shall outline the problems or defects found and the actions taken or needed to correct such problems or defects. If no problems or defects are noted, the report will certify the system as operable.

D. If the system is certified as operable, it shall be presumed that the false alarms occurred through alarm system user error. The user or its employees, tenants or others having access to the system must then be retrained in an appropriate alarm operator's training program. A report of this training must be filed by the alarm system user with the Emergency Services Department.

§ 6-39. Revocation of permits.

A. The failure of a permit holder to pay any outstanding service fees or otherwise comply with the requirements of § 6-38 shall constitute grounds for the revocation of the alarm system users permit by the Emergency Services Department. It shall be unlawful to continue operation of an alarm system after notification that the permit has been revoked.

B. An alarm system user permit that has been revoked pursuant to this section may be reinstated by the Emergency Services Department upon payment of all outstanding service fees, compliance with the requirements of § 6-38 and payment of a reinstatement fee of one hundred dollars (\$100.00).

§ 6-40. Alarm systems installed prior to effective date of article.

The provisions of this article shall not apply to an alarm system installed prior to the effective date of this article unless three or more false alarms to which emergency services are dispatched or respond originate from the premises within six (6) consecutive months. Thereafter, the alarm system shall be subject to the provisions of this article.

ARTICLE IV. Adult Businesses.

§ 6-41. Definitions.

The following words, terms and phrases, when used in this article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

“Adult bookstore” or “adult video store” means an establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, videotapes, computer disks, CD-ROMs, DVD-ROMs, virtual reality devices or similar media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

“Adult business” means any adult bookstore, adult video store, adult model studio, adult motel, adult movie theater, adult nightclub, adult store, business providing adult entertainment, or any other establishment that regularly exploits an interest in matter relating to specified sexual activities or specified anatomical areas or regularly features live entertainment intended for the sexual stimulation or titillation of patrons.

“Adult entertainment” means dancing, modeling or other live entertainment if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons; or the showing of films, motion pictures, videotapes, slides, photographs, CD-ROMs, DVD-ROMs, or other media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

“Adult merchandise” means magazines, books, other periodicals, videotapes, films, motion pictures, photographs, slides, CD-ROMs, DVD-ROMs, virtual reality devices, or other similar media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs; or, lingerie or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices.

“Adult model studio” means a commercial establishment, including a lingerie store or novelty store, in which a person performs or simulates specified sexual activities, exposes specified anatomical areas, or engages in other performances intended for the sexual stimulation or titillation of patrons.

“Adult motel” means a motel, hotel, or similar commercial establishment that: (i) provides patrons with closed-circuit television transmissions, satellite transmissions, internet, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or (ii) offers a sleeping room for rent for a time period of less than ten hours; or (iii) allows a tenant or occupant to subrent the sleeping room for a time period of less than ten hours.

“Adult movie theater” means an enclosed building regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons, excluding movies that have been rated “G,” “PG,” “PG-13,” or “R” by the Motion Picture Association of America.

“Adult nightclub” means a restaurant, bar, club, or similar establishment that regularly features adult entertainment.

“Adult store” means an establishment having adult merchandise as a substantial or significant portion of its stock-in-trade.

“Associate” means any entity or person acting in concert with an owner, operator, manager or employee in the management or control of the adult business, whether or not compensated.

“Employee” means an individual working or performing services for any adult business, including any independent contractor who provides services on behalf of any adult business to the patrons of such business, whether or not the individual receives any remuneration, gratuity, or tips of any kind, or pays the permittee or manager for the right to perform or entertain in the adult business.

“Live entertainment” means entertainment provided in person including, but not limited to, musical performances, music played by disc jockeys, public speaking, dramatic performances, dancing, modeling, or comedy performances.

“Specified anatomical areas” means less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“Specified sexual activities” means human genitals in a state of sexual stimulation or arousal; sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttock or female breast, including masturbation.

§ 6-42. Permit required from sheriff—Application; issuance; duration; renewal.

A. Every person either operating or desiring to operate an adult business, in addition to obtaining any required business license from the commissioner of revenue, shall apply to the sheriff, or designee, for a permit to conduct such activity. Each such application shall be accompanied by a fee in the amount of \$300.00.

B. Information required on and with the permit application shall include, but not be limited to, the following:

1. The applicant’s full name, any previous or current aliases, age, sex, race, weight, height, hair and eye color, address, telephone number, date and place of birth and social security number.
2. Names and addresses of at least three references.
3. Whether the applicant has been convicted of any felony or misdemeanor and, if so, the nature of the offense, when and where convicted and the penalty or punishment assessed.
4. Whether the applicant holds or has held, in the name of this business or any other, any other permits under this article or similar adult-use regulations of another locality within the past five years, and, if so, the names and locations of such other permitted businesses.
5. Whether the applicant has been denied a permit or has had a permit revoked or suspended under any statute or ordinance requiring a permit to operate an adult business and, if so, when and where the denial, revocation or suspension occurred.

6. Photograph and fingerprints of applicant.
7. Name, including any fictitious names, and address of the business for which a permit is sought.
8. A criminal records check of the applicant shall be provided by the applicant with the application, along with the applicant's written authorization to investigate whether the information provided by the applicant is true.
9. A description of the intended business activity and, if adult entertainment is to be provided, a detailed description of such entertainment.
10. Written declaration, dated and signed by the applicant, in affidavit form that the information contained in the application is true and correct.

C. For a corporation, partnership, limited liability company or other legal entity, "applicant" includes each officer, director, partner, member or principal of the entity and the managers and other associates of the business.

D. The sheriff or designee shall act on the application within 30 days of the filing of an application containing all the information required by this section, unless information requested from other law enforcement agencies is not received within that 30-day period, in which case the sheriff or designee shall have an additional 30 days to act on the application. Upon the expiration of the applicable time period, unless the applicant requests and is granted a reasonable extension of time, the applicant may, at its option, begin operating the business for which the permit is sought, unless and until the sheriff or designee notifies the applicant of a denial of the application and states the reasons for denial.

E. The applicant shall be issued a permit unless the investigation or the information furnished by the applicant shows any of the following:

1. The applicant has failed to provide information required by this section or has falsely or misleadingly answered a question.
2. The applicant has been convicted of a felony within the past five years.
3. The applicant has been convicted of a crime of moral turpitude or a crime involving obscenity laws within the past five years.
4. The applicant has been denied a permit or has had a permit revoked or suspended within the past 12 months under any statute or ordinance requiring a permit to operate an adult business.

5. Failure of the applicant's business to comply with the county's business license, zoning, building, plumbing, utility, health, electric or fire prevention codes, or with any other applicable county or state laws or regulations.

6. The application fee has not been paid.

F. If the application is denied, the sheriff or designee shall notify the applicant of the denial and state the reasons for the denial.

G. The permit shall be valid for 12 months from the date thereof and may be renewed in the same manner as it was initially obtained. The application fee for a renewal permit shall be \$300.00. No permit shall be transferable.

H. Any changes in the ownership or principals of the business entity to which the permit is issued or in the managers or other associates of the business will automatically make the permit void. Such changes shall be immediately reported to the sheriff or designee, and a new application may be submitted for review.

§ 6-43. Same—Grounds for revocation.

The sheriff or designee may revoke any permit issued pursuant to this article for the following:

A. Fraud, misrepresentation or any false or misleading statement contained in the application.

B. Conviction of the permittee for any felony, crime involving moral turpitude, or crime involving the obscenity laws after the permit is issued.

C. The permittee or an employee or associate of the permittee has knowingly allowed possession, use or sale of illegal controlled substances in or on the premises.

D. The permittee or an employee or associate of the permittee has knowingly allowed prostitution on the premises.

E. The permittee or an employee or associate has refused to allow an inspection of the adult business premises as authorized by this article.

F. On two or more occasions within a 12-month period, employees or associates of the adult business at the time of the offenses committed an offense in or on the permitted premises for which a conviction has been obtained constituting:

1. aiding, abetting or harboring a runaway child;
2. prostitution or promotion of prostitution;

3. exposing minors to harmful materials;
4. dissemination of obscenity;
5. sexual assault; or
6. violation of § 7-21 of this Code.

The fact that a conviction is being appealed shall have no effect on the revocation of the permit.

G. The permittee is convicted of violations regarding any taxes or fees related to the adult business.

H. The permittee has failed to operate or manage an adult business in a peaceful and law-abiding manner.

I. The permittee or an employee of the permittee, except a permittee or employee of a permittee of an adult motel, has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual activity to occur in or on the permitted premises.

J. The permittee has been operating an adult business not approved under the applicable permit.

K. The permittee has failed to comply with the provisions of this article.

L. The permittee's business fails to comply with other applicable county or state laws or regulations.

§ 6-44. Procedure upon denial of an application or revocation of a permit.

A. If the sheriff or designee denies an application or revokes a permit, the sheriff shall notify the applicant or permittee in writing of such action, the reasons therefor, and the right to request a hearing. To receive a hearing, the applicant or permittee must make a written hearing request which must be received by the sheriff or designee within ten days of the date of the notice of denial or revocation. If a timely hearing request is not received by the sheriff or designee, the decision of the sheriff or designee shall be final. If a hearing is properly requested, it shall be held within ten days from receipt of the hearing request. The hearing shall be presided over by the sheriff or designee. The applicant or permittee shall have the right to present evidence and argument or to have counsel do so. Within five days of the hearing, the sheriff or designee shall render a decision which shall be final. A permittee must discontinue operation of its business when the decision to revoke the permit becomes final.

B. When an imminent threat of substantial harm to public health or safety requires such action, unless the matter is one for which another county official has specific enforcement authority, the sheriff or designee may immediately revoke a permit issued under this article by so stating in a written notice to the permittee. When action is taken pursuant to this subsection, the permittee shall immediately discontinue operation of its business, but shall have the right to a hearing as stated in subsection (A) of this section.

§ 6-45. Availability of prompt judicial review and determination.

After denial of an initial or renewal application or after revocation of a permit by the sheriff or designee, the applicant or permittee may seek prompt judicial review of such administrative action in the circuit court of the county. Any such request for judicial review shall be filed within 30 days of when the administrative action becomes final. The county will facilitate the applicant's obtaining prompt review and determination.

§ 6-46. Inspection.

A. In addition to any existing legal authority, representatives of county departments shall have the authority to inspect an adult business for the purpose of determining compliance with the provisions of this article.

B. The provisions of subsection (A) of this section shall not apply to sleeping rooms of an adult motel which are currently being rented by a customer.

§ 6-47. Regulations pertaining to adult businesses providing adult entertainment.

A. For purposes of this section, adult entertainment is defined as dancing, modeling or other live entertainment if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons.

B. No person shall provide adult entertainment for patrons of an adult business except upon a stage located in an area open to all patrons of the business. The stage shall be at least 18 inches above the level of the floor and separated by a distance of at least three feet from the nearest area occupied by patrons. No patron shall be permitted within three feet of the stage while the stage is occupied by an entertainer.

C. The adult business shall provide separate dressing room facilities for female and male entertainers, which shall not be occupied or used in any way by anyone other than them.

D. The adult business shall provide entertainers access between the stage and the dressing rooms which is completely separated from the patrons. If separate access is not physically feasible, the establishment shall provide a walk aisle at least four feet wide for entertainers between the dressing room area and the stage with a railing, fence or other barrier separating the patrons and the entertainers which prevents any physical contact between patrons and entertainers.

E. No entertainer shall have physical contact with any patron and no patron shall have physical contact with any entertainer while in or on the premises of the adult business.

F. No patron shall directly pay or give any gratuity to any entertainer. A patron who wishes to pay or give a gratuity to an entertainer shall place the gratuity in a container that is at all

times located separately from the entertainers for the purpose of preventing any physical contact between a patron and an entertainer. No entertainer shall solicit any gratuity from any patron.

G. Patrons must be at least 18 years of age.

H. No operator or manager of an adult business shall cause or allow an entertainer to contract to or engage in any entertainment such as a “couch,” a “straddle,” or “lap” dance with a patron while in or on the premises of an adult business. No entertainer shall contract to or engage in a “couch,” “straddle,” or “lap” dance with a patron while in or on the premises of an adult business. For purposes of this subsection, “couch,” “straddle,” or “lap” dance is defined as an employee of the establishment intentionally touching any patron while engaged in any specified sexual activity or other activity intended for the sexual stimulation or titillation of patrons, or the exposure of any specified anatomical area.

I. This section shall not apply to an employee of an establishment who, while acting as a waiter, waitress, host, hostess, or bartender, comes within three feet of a patron. No employee shall engage in any specified sexual activity or other activity intended for the sexual stimulation or titillation of patrons, or expose any specified anatomical area while acting as a waiter, waitress, host, hostess, or bartender.

§ 6-48. Regulations pertaining to adult motels.

A. Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two or more times in less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in § 6-41.

B. No person who is in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have an adult business permit shall rent or subrent a sleeping room to a person, and within ten hours from the time the room is rented, rent or subrent the same sleeping room again.

C. For purposes of subsection (C) of this section, the terms rent or subrent mean the act of permitting a room to be occupied for any form of consideration.

§ 6-49. Transfer of permit prohibited.

A. A permittee shall not operate an adult business at any place other than at the address designated in the approved permit.

B. A permittee shall not transfer its permit to another person.

§ 6-50. Public nudity prohibited.

Nothing in this article shall be construed to permit any conduct which violated § 7-21 of this Code.

§ 6-51. Violations.

Except as permitted in § 6-42(D), operation of an adult business without a permit is prohibited. Violations of this article shall be unlawful and subject to the provisions of § 1-11.

(Ord. 04/23/08)