

PART III - CODE OF ORDINANCES
Chapter 14 - BUSINESS LICENSES AND FEES
ARTICLE II. - LICENSES
DIVISION 2. - FORTUNETELLING, ASTROLOGY, ETC.

DIVISION 2. - FORTUNETELLING, ASTROLOGY, ETC. [48]

(48) **Editor's note**— Ord. of June 14, 2007, § 1, deleted the former Div. 2, §§ 14-71, 14-72, and enacted a new Div. 2 as set out herein. The former Div. 2 pertained to similar subject matter and derived from Code 1973, §§ 15-31—15-35; Ord. of 2-12-1998, § 1.

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Sec. 14-71. - Purpose.

The purpose of this legislation is to regulate fortunetellers, psychics, and other similar businesses so that the city can efficiently and thoroughly investigate fraud and deception, protect the public by preventing people who have been charged with deceptive practices from having easy access to persons who may be vulnerable to fraud or confidence games, to ensure that consumers are provided with information regarding services, rates, and complaint procedures, and to foster a positive business environment for legitimate practitioners within this industry.

(Ord. of 6-14-2007, § 1)

Sec. 14-72. - Definitions.

(a) Fortunetelling shall mean the telling of fortunes, forecasting of futures, or reading the past, by means of any occult, psychic power, faculty, force, clairvoyance, cartomancy, psychometry, phrenology, spirits, tea leaves, tarot cards, scrying, coins, sticks, dice, sand, coffee grounds, crystal gazing or other such reading, or through mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mindreading, telepathy or other craft, art, science, talisman, charm, potion, magnetism, magnetized article or substance, or by any such similar thing or act.

(b) A fair is a periodic gathering of fortunetellers, as defined above, in an appointed place. A fair shall not exceed 31 days in any calendar year.

(c) A store under this division shall mean a business whose revenue from sales and services are predominantly, from the telling of fortunes, as defined in (a) above, or the sale of metaphysical

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products, as defined in (d) below, relating to such service. Any new store license issued pursuant to this Division after May 1, 2012 shall be to a business whose revenues are no less than 75% from the sales, services and products defined in Sec. 14-72.

(d) Metaphysical products shall mean ritual tools or materials used in the study or practice of Witchcraft, Wicca, Pagan, New Age, Occult, or other spiritual belief. Products may include crystals, anointing oils, amulets, incense, candles, Tarot Cards, herbs, ritual attire, pentagrams, DVDs and books related to spiritual study or practice.

(Ord. of 6-14-2007, § 1; Ord. of 5-22-2008, § 1)

Sec. 14-73 - Licensing board authorized to license.

(a) *Individual licenses.* The licensing board is authorized to issue licenses to individuals for the regulation of the business of palmistry, fortunetelling, phrenology, card reading, astrology or any such enterprise as defined in section 14-72. Individual license holders may operate within their own business. In the event an individual license holder is an employee in a store other than their own or a sublicensee of a fair, the individual must also be properly licensed in accordance with sections (b) and (c) below.

(b) *Store licenses.* The licensing board may issue store licenses. Only one (1) store license may be issued per business address or in the case of a multi-unit building, only one (1) store license may be issued per unit. A store license shall license the owner of an establishment to employ, in addition to the store owner, up to five employees or subcontractors to engage in the enterprise of fortunetelling, upon the premises of the licensed store. The employee or subcontractor shall be considered a sublicensee and shall only be considered licensed as long as the employee is employed by the holder of the store license. Upon the discontinuance of employment at the licensed store, the employee or subcontractor shall no longer hold a valid fortunetelling license. Licenses shall be framed and prominently displayed in the store and made available for inspection.

(c) *Fair licenses.* The licensing board may issue fair licenses upon application thereof. The application for a fair license must include a definite, fixed address for the entire length of the proposed fair. A fair license shall only be issued to a store owner or individual who possesses a valid license as described in subsections (a) and (b) above. Those persons employed or retained by the fair license holder shall be considered a sub-licensee and shall only be considered licensed as long as the individual is employed or retained by the holder of the fair license. Upon the close of the fair, the individuals employed or retained by fair applicant shall no longer hold a valid license. No fair license issued under this division shall license more than 20 individual fortunetellers, as defined in section 14-72, but no more than ten licensed fortunetellers may read at any one time on Friday, Saturday, Sunday and federal holidays and no more than five licensed fortunetellers may read at any one time Monday through Thursday.

(Ord. of 6-14-2007, § 1; Ord. of 5-22-2008, § 1)

Sec. 14-74. - License requirement and qualifications.

(a) It shall be unlawful for any person to engage in the business of palmistry, fortunetelling, phrenology, card reading, astrology or any like enterprise in the city without a valid license issued by the licensing board.

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(b) Individual and store licenses shall be granted only to applicants who have resided or operated a business selling metaphysical products continuously in the city for at least 12 months immediately preceding the date of the application. Applicants shall be required to provide evidence, in the form of a utility bill or other documentation acceptable to the licensing board, of such residency or business. This section shall not apply to the renewal of licenses or sub-licensees.

(Ord. of 6-14-2007, § 1)

Sec. 14-75. - Exception.

This division shall not apply:

(1) To persons solely by reason that the person is engaged in the business of entertaining the public by demonstrations of mindreading, mental telepathy, thought conveyance, magic, giving of horoscopic readings or other fortunetelling at public places and in the presence of and within the hearing of other persons, and where any questions answered as part of such entertainment may be heard by all persons present at such public place

(2) To persons conducting or participating in any religious ceremony as a minister, missionary, medium, healer, or clairvoyant, hereinafter collectively referred to as minister, from any bona fide church or religious association that conducts regular services and has a creed or set of religious principles that is recognized by all groups of like faith, provided that the benefit, gain or advantage shall be regularly accounted for and paid solely to or for the benefit of the bona fide church or religious association except that the bona fide church or religious association may pay to its ministers a salary or compensation based upon a percentage only, pursuant to an agreement between the church and the ministers that is embodied in a resolution and transcribed in the minutes of such church or religious association. Upon request, a copy of such resolution and/or minutes of a meeting shall be provided to the licensing board.

(Ord. of 6-14-2007, § 1)

Sec. 14-76. - Application for license.

(a) An applicant for a fortunetelling license shall file with the licensing board, on a form issued by the police department, a written application signed under the penalties of perjury, containing the following information:

- (1) The name of the applicant.
- (2) The address of the applicant (local and permanent home address. PO Box shall not be acceptable).
- (3) The applicant's height, weight, eye and hair color.
- (4) The applicant's Social Security number.
- (5) The length of time for which the right to do business is desired.
- (6) A brief description of the nature of the business and the services to be provided.
- (7) The full true name under which the business will be conducted.

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- (8) The present or proposed address where the business will be conducted.
- (9) A photograph of the applicant, which picture shall be submitted by the applicant and shall be two inches by two inches showing the face, head, and shoulders of the applicant in a clear and distinguishing manner.
- (10) A minimum of five-year employment history and educational background.
- (11) A store or fair applicant shall also provide the information required of (a) (1) through (a) (5) and (a) (9) (10) above for all sub-licensees. Fair license applications must be presented to the Clerk of the Licensing Board no later than forty five days prior to the commencement of the fair. No more than 20 sub-licensee applications will be accepted per Fair.

(b) At the time of filing the application, the applicant shall pay a fee in accordance with the fee schedule within section 14-38 along with a \$25.00 fee for each application to cover the expense of a criminal history report.

(Ord. of 6-14-2007, § 1)

Sec. 14-77. - Investigation of application and issuance of license.

(a) Upon receipt of the application for the license required by this division, the licensing board shall investigate:

- (1) The status of the business in the office of the city clerk and the office of the secretary of state.
- (2) The existence of consumer complaints against the applicant and/or sub-licensees in the office of the attorney general.
- (3) The criminal and probationary record of the applicant and/or sub-licensees, either by information volunteered or background information obtained from public records or other legal means.

(b) After the investigation of the applicant, but within 30 days of the filing of the application, the licensing board shall endorse on such application their approval or disapproval. Failure of the licensing board to act on the application within 30 days of the applicant's filing shall constitute approval. If disapproved, the applicant shall have the right of appeal to the city council in writing within seven days of the denial by the licensing board. The city council must act upon the appeal at its next two regularly scheduled meetings. Failure to so act shall be deemed approval.

(c) Such license when issued shall contain the signature of the licensing board or the approval by the city council; shall show the name, address, and photograph of the licensee; and shall show the date of issuance and the length of time the license shall be operative, as well as the license number. The licensing board shall keep a record of all licenses issued for a period of six years. Such licensee is required to display an identifying badge issued by the licensing board, by wearing such badge on an outer garment or displaying such badge in their business at a vantage point visible to the public. Each licensee is required to possess an individual license.

(Ord. of 6-14-2007, § 1)

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Sec. 14-78. - Enforcement.

The licensing board and the police department shall enforce this division.

(Ord. of 6-14-2007, § 1)

Sec. 14-79. - Transferability of license.

No license issued under this division shall be transferred.

(Ord. of 6-14-2007, § 1)

Sec. 14-80. - Revocation of license.

The licensing board has the authority, after a hearing on a complaint, to suspend or revoke licenses issued under this division. Any person aggrieved by such suspension or revocation may appeal to the city council within seven business days, and a hearing will be scheduled for one of the next two regularly scheduled meetings of the city council.

(Ord. of 6-14-2007, § 1)

Sec. 14-81. - Expiration of license.

Unless otherwise specified in this division, each license issued under this division shall continue in force for two years from the date of its issue, unless sooner revoked.

(Ord. of 6-14-2007, § 1)

Sec. 14-82. - Renewal of license.

A license issued under this division may be renewed by the licensing board. An individual, store or fair applicant requesting a renewal must apply in person and provide such information as is required to obtain an initial license.

(Ord. of 6-14-2007, § 1)

Sec. 14-83. - Penalty for violation of division.

Any person violating any section of this division shall be punished by a fine not to exceed \$100.00 for each and every offense.

(Ord. of 6-14-2007, § 1)

Secs. 14-84—14-100. - Reserved.

⁽⁴⁸⁾ **State Law reference**— Obtaining property by trick, pretended fortunetelling, M.G.L.A. c. 266, § 75. (Back)