

Chapter 11
LICENSES AND BUSINESS REGULATIONS

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Chapter 11 LICENSES AND BUSINESS REGULATIONS

ARTICLE I. IN GENERAL

Sec. 11-1-1. Definitions.

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

Adult oriented business

As defined in Chapter 18, Section 18-6 of the Aztec City Code.

Alarm systems

As defined in Chapter 3, of the Aztec City Code.

Amusement hall

Any arcade, building or premises having as its primary business, the providing of mechanical or electronic amusement devices, including but not limited to the following: pinball machines, electronic or video games of skill or chance, claw or scoop machines, jukeboxes, or coin-operated table games. Pool rooms and billiard parlors not having more than three mechanical or electronic amusement devices shall not be defined as an amusement hall for the purposes of this chapter.

Armored car

Any vehicle used for the transportation of currency or anything of value, which is constructed or equipped to afford protection against theft or loss of such currency or thing of value in connection with such transportation, or, in connection with such transportation, protection is provided by armed guards.

Armored car service

The furnishing of service for the transportation of currency or anything of value by means of armored car.

Body art

Tattooing, body piercing, or scarification but does not include practices that are considered medical procedures by the New Mexico medical board.

Body art establishment

A fixed or mobile place where body art is administered on the premises.

Business

Any profession, trade or occupation and all and every kind of calling whether or not carried on for profit, except those organizations exempt from the federal income tax pursuant to section 501(c)(3) of the United States Internal Revenue Code as amended or renumbered; provided, however, the term "business" shall include the phrase "unrelated trade or business" of such organizations as the latter term is defined in section 513 of the United States Internal Revenue Code of 1954, as amended or renumbered.

Business License Officer

The person who will administer and oversee the business licensing for the City of Aztec. This person will be appointed by the City Manager.

Carnival Ride

Is any mechanical device, aquatic device or combination of devices that carries or conveys passengers on, along, around, through or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement, including bungee jumping facilities and state fair rides, but does not include playground equipment, a single-passenger, coin-operated device secured by a stationary foundation or a small promotional event or operation consisting of fewer than six kiddie rides designed for children twelve years of age or younger, including merry-go-rounds;

Carnival Ride Inspection

Is the physical examination of a carnival ride by an inspector of the regulation and licensing department prior to issuing a certificate of inspection, including re-inspection.

Carnival Ride Operator

A person actually engaged in or directly controlling the operation of a carnival ride.

Caterer

Means a food establishment, other than a mobile unit, which may prepare or serve food at locations other than on the premises of the permitted food establishment. Catering does not include operations that only deliver foods such as pizza delivery.

Communitywide event

A community celebration which, by longstanding custom or by mayoral proclamation, is characterized by outdoor and indoor retail special sales throughout the community. It includes but is not limited to Fiesta Days, Relay for Life, the Animas River Blues Festival, Founders Day, and the San Juan Mountains Chapter Antique Truck and Equipment Show.

Conduct; carry on

Engage in, carry on, own, maintain, manage or operate any business, trade, art, profession, calling, employment, occupation or any commercial, industrial or professional pursuit, vocation or enterprise in this city.

Department

The State of New Mexico is the regulation and licensing department.

Distress merchandise sale

Any offer to sell to the public or any sale to the public of goods, wares or merchandise on the implied or direct representation that such sale is in anticipation of the termination of a business at its present location or that the sale is being held other than in the ordinary course of business. Distress merchandise sales shall include but are not limited to any sale advertised either specifically or in substance as a fire sale, smoke and water damage sale, adjustment sale, liquidation sale, creditor's sale, insolvent sale, trustee's sale, bankrupt sale, save us from bankruptcy sale, insurance salvage sale, mortgage sale, assignee's sale, adjuster's sale, must vacate sale, quitting business sale, receiver's sale, loss of lease sale, forced out of business sale, removal sale, change of ownership sale or new location sale.

Event

Means a preplanned single gathering or series of related consecutive daily gatherings of an entertainment, cultural, recreational, educational, political, religious or sporting nature, or of any other nature, expected to draw one hundred (100) or more persons at any session as participants or spectators which is proposed to be held on City of Aztec property or property that is owned, leased, operated, maintained or controlled by the City of Aztec, or gatherings held on private property that are partially funded by the City of Aztec or that receive in-kind services from the City of Aztec . Examples of events include, by way of illustration and without limitation, these types of events if conducted in City of Aztec Parks, on City property, or upon the sidewalks and streets of the City: concerts, dances, assemblages, processions, parades, carnivals, fairs, festivals, block parties, community events, mass participation sports (such as, marathons and running events, bicycle races or tours, sports tournaments), other organized activity conducted for a common or collective use.

Farmer's Market

Means the seasonal selling or offering for sale at retail of vegetables or produce, flowers, orchard products, and similar non-animal agricultural products, occurring in a pre-designated area, where the vendors are individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

Fireworks

As defined in Chapter 8, Section 8-52 of the Aztec City Code.

Food

Means any solid or liquid substance intended for human consumption by eating or drinking, the sale of which from catering/vending wagons or trucks is not prohibited by law.

Food Service Establishment

Means:

- (1) any fixed or mobile place where food is served or sold for consumption on the premises;
- (2) any fixed or mobile place where food is prepared for sale to or consumption by the general public either on or off the premises, including any place (other than a "dairy establishment" as defined in the New Mexico Food Act) where food is processed for ultimate sale in a sealed original package; but "prepared" as used in this paragraph does not include the preparation of raw fruits, vegetables or pure honey for display and sale in a grocery store or similar operations or reheating packaged food for sale in a retail store, and for purposes of this paragraph, "pure honey" means natural liquid or solid honey, extracted from the combs or in the comb, taken from beehives, with no processing or additional ingredients; or
- (3) any meat market, whether or not operated in conjunction with a grocery store.

General Public

Means all individuals who have access to facilities that sell or serve food, including, but not limited to, beneficiaries of governmental or private charitable feeding programs and residents and employees of institutions that provide meals to their residents or employees either with or without direct payment to the institution by the residents or employees, but does not include:

- (1) residents of private homes or home environments where residents take part in preparing or serving their own meals;
- (2) non-paying guests in private homes;
- (3) clients of facilities operated in private homes that are licensed by or registered with the department of health, or the department of children, youth and families; or
- (4) participants in a pot-luck dinner, covered dish supper, or similar event in which food is prepared and/or contributed by the participants and for which no fee is charged.

Health Authority

Means the New Mexico environment department.

Home Prepared Foods

Means foods that have not been processed in a commercial food establishment and are not prepared by a home-based food processing operation permitted by the health authority.

Home-based Food Processing Operation

Means any business in which a residential kitchen is permitted by the health authority to be used to process food not classified as potentially hazardous in a sealed original package for human consumption and is offered directly to the consumer.

Fireworks

As defined in Chapter 8, Section 8-52 of the Aztec City Code.

Junk dealer

Any person engaged in purchasing or otherwise acquiring, for sale or barter, any material such as old iron, copper, brass, lead, zinc, tin or other metals, metallic cable, wire, rope, bottles, rubber or other like material.

Kiddie ride carnival and exhibits

Any carnival and exhibits consisting exclusively of rides and exhibits for children with no amusement devices other than such rides and with no games of chance or skill and not operating past the hour of 10:00 p.m.

Location

A Mobile Food Service Unit location is a fixed point or defined route including an approximate duration at specific fixed points and approximate times of day at specific fixed points along the route.

Mobile Food Service Unit

Means a motor vehicle department-licensed vehicle-mounted food/vending service establishment designed to be readily movable and which serves multiple locations on a daily basis and shall not be parked closer than one hundred (100) feet from a like establishment, unless given written permission by the establishment, except for single, temporary events or celebrations. The 100 feet separation will be measured along the sidewalk or street edge. Mobile Food Service Unit does not include a "Transporter" used to transport packaged food from a food facility or other approved source to the consumer.

(Ord. 2016-451, eff. 25-May-2016)

Outdoor special event (vendor)

A temporary sales event of not more than three days by an individual business or group of businesses held outdoors and adjacent to the building from which the sales are normally conducted. The term includes but is not limited to tent sales, parking lot sales, or outdoor clearance sales.

Pawnbroker

Any person engaged in the act of lending money or extending credit on the security of pledged or pawned goods or purchasing tangible personal property with an express or implied agreement or understanding that it may be redeemed or repurchased by the seller at a stipulated price.

State law reference - Similar definition, NMSA 1978, §56-12-2

Peddler

Any person who goes from house to house, place to place, or street to street, carrying, conveying, or transporting goods, wares, or merchandise, meats, fish, vegetables, fruits, garden truck, farm products, or provisions, offering or exposing the same for sale, or making sales and delivering articles to purchasers. The word "peddler" shall include the words hawker, huckster, transient merchant or itinerant vendor.

Person

Any individual, estate, trust, receiver, cooperative association, association, club, corporation, company, firm, partnership, joint.

Pledgor

A person who gives or makes a pledge or a form of security under a contract.

Place of business

Any location, building or portion thereof or premises in which or from which a business is carried on. The term includes but is not limited to an office, warehouse, yard, location where books and records are kept, or the location from which business is solicited.

Premises

Means all areas either indoors or outdoors used in conjunction with the operation of a food establishment.

Private investigator

A person other than an insurance adjuster who for any consideration whatsoever engages in business or accepts employment to furnish or agrees to make or makes an investigation for the purpose of obtaining information with reference to crime or wrongs done or threatened against the United States or any state or territory of the United States; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliation, association, transactions, acts, reputation or character of any person; the location, disposition or recovery of lost or stolen property; the cause or responsibility for fires, liable, losses, accidents or damage or injury to persons or properties; or securing evidence to be used before any court, board, officer or investigating committee.

Private patrol operator

A person who for any consideration whatsoever agrees to furnish or furnishes or accepts employment as a uniformed or non-uniformed watchman, guard, patrolman or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers or property of any kind; or perform the service of such watchman, guard, patrolman or other person for any of such purposes.

Pushcart

Means a human propelled, self-contained food service establishment that operates at approved locations for no more than two (2) hours, except for single temporary events or celebrations. It is limited to the preparation and serving of hot dogs or commercially prepared, prepackaged, potentially hazardous foods (as defined in the New Mexico Food Act) such as burritos and tamales, served in their original packaging, maintained at safe temperatures, or limited to serving non-potentially hazardous foods.

Refuse Bin

Means any type of receptacle that is used outside the food establishment to store refuse for later removal.

Refuse Container

Means any type of receptacle that is used inside the food establishment to store refuse, including but not limited to trash, garbage and food waste.

Registrant

Any individual who is employed by a licensee as a private investigator or private patrol operator, and is registered to do so under this article.

Route

Means an established or selected course of travel.

Sampling

Means the demonstration or promotion of a food via offering a small serving of the food which cannot be sold and which may not consist of a whole meal, an individual portion or a whole sandwich.

Seasonal Food Establishment

Means any food establishment that operates for more than thirty (30) days, but not more than nine (9) months during any twelve (12) consecutive months.

Secondhand dealer

Any person engaged in purchasing, for sale or barter, used furniture or other secondhand or used material or articles, but the term does not include automobile dealers.

Self-contained Mobile Food Service Unit

Means a mobile food service establishment that meets all equipment requirements of the New Mexico environment department and the New Mexico Food Act.

Sidewalk sale

A sale which is conducted adjacent to the business building that may encroach on, in, over, or under any real property owned by the city or an public right-of-way owned by the city, including easements, by any structure or object of any kind or character, temporary or permanent in nature from which the sale is to be conducted. An application for a permit must be made before a sidewalk sale can be conducted, by and between the city (Community Development) and an owner of real property under terms and conditions similar to those set forth in Chapter 22 of the Aztec City Code and otherwise protecting the rights of third parties and the public in general.

Solicitor

Any person who goes from house to house, place to place, or street to street, soliciting, taking or attempting to take orders for the sale of goods, wares, merchandise, or services (including orders, contracts, or subscriptions for books, magazines, periodicals, real estate sales or listings, insurance contracts, or tangible or intangible personal property of any nature) or soliciting, taking or attempting to take orders for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not. Non-profit entities such as; Boy and Girl Scouts of America, Aztec Municipal Schools and other local non-profit entities that go door to door for fundraising purposes are exempt.

Special event

An event for business or community promotion sponsored by one or more businesses or organizations for a period not to exceed one week. Where the promoter provides adequate parking, may provide private patrol officers. If serving alcohol security must be provided by the Aztec Police Department, or when otherwise deemed necessary by the Aztec Police Department. The term includes arts and crafts fairs, producers' or farmers' markets and the like, and outdoor sales at communitywide events. The term does not include outdoor special events or sidewalk sales as defined in this section.

Taxicab Owner

Any person granted a license under this article to operate a taxicab on the streets of the city.

Taxicab

Includes every motor vehicle that, together with a driver, is for hire to transport passengers over the streets of the city, irrespective of whether such operations extend beyond the city limits.

Temporary Food Service Establishment

Means a food service establishment operating at a fixed location in conjunction with a single event or celebration for a period not exceeding the length of the event or celebration, or not exceeding thirty (30) days, whichever period is shorter.

- (1) A person or organization is allowed four temporary events in a calendar year.
- (2) A temporary food establishment at a farmer's market may operate one day a week for 14 consecutive weeks as a single special event if the temporary food establishment is permitted as a food establishment, or is preparing its food at a permitted food establishment, and is in compliance with its permit issued by the health authority. A

temporary food establishment at a farmer's market is not exempt from the requirements of the New Mexico Food Act, nor from the requirements of this Article.

- (3) Properties overseen by the City and multi-use facilities that are used for trade shows and conventions are exempt from this restriction.

Temporary outside display and sale

The display or sale of goods or merchandise not in or from an enclosed permanent building to be conducted for a period of five days or less.

Vend

Means to dispose of something by sale; to engage in selling; to sell as a hawker or peddler; or to sell by means of vending machines.

ARTICLE II. REGISTRATION

Sec. 11-2-1. Required; Unlawful Conduct; Penalties.

1. It shall be unlawful for any person to engage in, conduct or carry on any business or occupation within the city without first registering the business or occupation or obtaining a license thereof and without first paying the fees, in compliance with this chapter.
2. It shall be unlawful for any person to knowingly file an application for issuance or renewal of any business registration or business license on which any of the information required by Section 11-2-2 has been falsified.
3. Any person violating this chapter shall be punished as provided in Section 1-12.
4. The remedies provided in this section are not exclusive, and if any person engages in business in the city without obtaining the required registration or license for such business, the city may proceed in any manner authorized by law, including specifically but not limited to the procedures set forth by state law in NMSA 1978, §3-38-5 and §3-38-6.

Sec. 11-2-2. Application.

Any person filing an application for issuance or renewal of any business registration or business license shall include in the application the following information:

1. The exact nature or kind of business for which a license is requested.
2. The form of business enterprise under which the business is to be conducted, i.e., sole proprietorship, partnership, limited partnership or corporation.
3. The place where such business is to be carried on and, if the business is not to be carried on at any permanent place of business, the places of residence of the owners of the business.
4. The name, other than the name of the applicant, under which the business will be operating, if any.
5. The time of operation during the full 24-hour period.
6. The names and places of residence of all owners of the business; if the owner is a corporation or partnership, the application shall state the names and places of residence of the officers or general partners thereof.
7. The applicant's current revenue division taxpayer identification number or evidence of application for a current revenue division taxpayer identification number.
8. Such further information as the Business License Officer may deem necessary to enable a review before the issuance of the license. Examples of other documentation that may be

required are: Food permits for Restaurants and vendors, Professional or Occupational Licenses issued by the State of New Mexico.

Sec. 11-2-3. Application to Do Business.

Any person proposing to engage in business within the city limits shall apply for and pay a business registration fee for each outlet, branch or location or place of business within the city prior to engaging in business, unless such person is required to obtain a business license under Article III of this chapter.

Sec. 11-2-4. Imposition of Business Registration Fee.

There is imposed on each place of business conducted in the city a business registration fee, pursuant to NMSA 1978, §3-38-3 as it now exists or is amended and shall be known as the "business registration fee." The business registration fee may not be prorated for business conducted for a portion of a year. See Chapter 16 Fee Schedule Article VIII, Business License and Registration Fees of the Aztec City Code.

Sec. 11-2-5. Exemption; Two or More Businesses.

1. No business registration fee shall be imposed on any business which is licensed under Article III of this chapter pursuant to NMSA 1978, §3-38-1.
2. Any person who operates under the same name two or more businesses, one or more of which requires a business license under Article III of this chapter and one or more of which does not require a business license, shall obtain a separate registration or license and shall pay a separate fee for each such business.

Sec. 11-2-6. Compliance with Building, Fire and Zoning Codes and Regulations.

No license or registration shall be issued pursuant to this chapter unless and until the applicant for such license provides the Business License Officer with the address of the proposed location from which the business will be conducted, and the Business License Officer determines that the facilities and buildings at the location listed meet zoning regulations in force within the city. In his/her discretion, the Business License Officer may issue a temporary license or registration to a business, while the applicant is seeking appropriate zone designation. The business owner/applicant must confirm on the business application that the location of the business meets all applicable building and fire codes.

Sec. 11-2-7. Transferability.

No registration issued pursuant to this article shall be transferable from one business to another, or from one person conducting a business to a succeeding person conducting the same business.

Sec. 11-2-8. Refusal, Revocation of License.

When a person is required to obtain a registration as provided in this article or a license as provided in Article III of this chapter and has violated any article in this chapter or any other city regulation relating thereto, or has failed to comply with the New Mexico Unfair Practices Act or any other provision of state law pertaining to such business, or whenever in the judgment of the Business License Officer the public welfare should require it, any such license or business registration issued to a person by the City may be denied or revoked.

Sec. 11-2-9. Refusal, Revocation Procedure.

1. For the purpose of regulation, the commission may refuse to grant a license or revoke a license.
2. No license shall be refused until after a public hearing at which the applicant or licensee shall be given an opportunity to be heard.
3. At a public hearing concerning the refusal of revocation of a license, the applicant or licensee and representative of the city shall be allowed to present evidence, either orally or in writing, relevant to the effect of the business on the health, safety, or welfare of the citizens of the city. The license shall be refused or revoked if a majority of the members of the commission:
 - 1) Find that the business of the applicant or licensee is detrimental to the health, safety or welfare of the citizens of the city;
 - 2) The applicant or licensee is guilty of violating any provision of the City of Aztec Code or any other State or Federal regulations.
4. Whenever a person is guilty of violating an ordinance relating to the granting of a license, or in the judgment of the governing body the public welfare requires a license be revoked, the governing body may revoke the license.

State law reference - Denial or revocation of license, NMSA 1978, §3-38-2.

Sec. 11-2-10. Renewal.

Prior to March 15 of each year, any person with a place of business in the city and subject to this chapter shall apply for renewal of the business registration or business license with the Business License Officer.

Sec. 11-2-11. Late Fees.

If any person fails to obtain the appropriate registration or license pursuant to this chapter or fails to renew an existing registration or license, this person shall pay a late fee in an amount not to exceed that permitted by state statute. This late fee shall be in addition to all other fees imposed by this chapter. See Chapter 16 Fee Schedule Article VIII, Business License and Registration Fees of the Aztec City Code for fee amount.

Sec. 11-2-12. Display.

The Business License Officer shall provide a suitable certificate of registration or license to be furnished to each place of business coming within the terms of this chapter, and such certificate of registration or license shall be displayed at the place of business for which such registration or license is issued; and such license shall be displayed at the place of business clearly visible to the public at all times. Solicitors and similar licensees shall carry the license on their person while engaging in the business for which such license is issued.

Sec. 11-2-13. Duplicates.

A duplicate certificate of registration or license may be issued by the Business License Officer to replace any such registration or license issued under this chapter which has been lost or destroyed.

ARTICLE III. LICENSE

Sec. 11-3-1. Purpose.

The City Commission finds and declares that the licensing and regulation of the businesses enumerated in this article are conducive to the promotion of the health, general welfare and safety of the public.

Sec. 11-3-2. Applicability.

All sections of Article II of this chapter, except Sections 11-2-3 through 11-2-5 and 11-2-7 and any other section which by its terms can apply only to businesses subject to registration fees and not subject to licensing pursuant to this article, shall apply in full force and effect to businesses which are licensed under this article.

Sec. 11-3-3. Required.

All persons engaged in the pursuits, businesses and occupations enumerated in this article shall, before commencing business and thereafter annually before March 15, secure a license from the city under the procedures set forth in this chapter and shall pay the license fees set forth in Chapter 16 Fee Schedule Article VIII, Business License and Registration Fees of the Aztec City Code in connection with each such pursuit, business or occupation.

Sec. 11-3-4. Effect of Other Licensing Provisions.

Whenever other licensing provisions of this Code differ from the provisions of this article, the provisions elsewhere in this Code applicable to the specific type of license addressed shall take precedence.

Sec. 11-3-5. Exemptions.

Outdoor sales during sidewalk sales, as defined in Section 11-1-1, are exempt from the license fees provided in this article.

Sec. 11-3-6. Investigation of Applicant.

Upon receipt of an application for a business license under this article, the Business License Officer shall determine whether the proposed operation may be carried on without conflict with any city ordinance and may cause such investigation of the applicant and/or proposed business premises as may be necessary to protect the public health, safety and welfare. The Business License Officer shall investigate the nature of the proposed business to determine the degree that such business will affect the public health, safety and general welfare; the level of supervision such business may require; the degree to which such business may attract crowds or children; the accessibility of the proprietors of such business when complaints made to the

city must be investigated; and the possibility of illegal activity transpiring at the proposed place of business. If, as a result of such investigation, the Business License Officer determines that the issuance of a business license is in conflict with any ordinance or is not in the interest of the health, safety, general welfare of the public, the application shall be denied.

Sec. 11-3-7. License Fee Imposed on Listed Businesses.

License fees are imposed upon the following businesses when conducted within the city in lieu of and not in addition to the registration fee assessed pursuant to Chapter 16 Fee Schedule Article VIII, Business License and Registration Fees (fees are annual unless otherwise noted): If the license required by this division is granted by the Business License Officer, a license fee as provided in Chapter 16 Fee Schedule Article VIII, Business License and Registration Fees shall be paid.

License Fee

- Adult oriented businesses
- Alarm Service
- Armored cars
- Body Art Establishments
- Carnival, circus, except kiddie ride carnivals
- Distress Sales
- Fireworks
- Food catering, vending & mobile food service units
- Junk or secondhand dealers
- Outdoor special events (vendor)
- Pawnbrokers
- Peddlers or Solicitors, per peddler/solicitor
- Private Detective & Private Patrol Operators
- Special events (license is required of sponsor only)
- Taxicabs

Subject to Regulations

Chapter 18 of the Aztec City Code
 Chapter 3 of the Aztec City Code
 Article XI of this chapter
 Article XIII of this chapter
 Article XV of the chapter
 Article IV of this chapter
 Chapter 8 of the Aztec City Code
 Article XI of this chapter
 Article VI of this chapter
 Article I of this chapter
 Article VII of this chapter
 Article I of this chapter
 Article I of this chapter
 Article I of this chapter
 Article X of this chapter

Sec. 11-3-8. Transferability.

No license issued pursuant to this article shall be transferable from one business to another.

ARTICLE IV. DISTRESS SALES

DIVISION 1. IN GENERAL**Sec. 11-4-1. Applicability.**

1. This article shall not apply to any sale conducted by a public officer as a part of his/her official duties, to any sale for which an accounting must be made to a court of law or to any sale conducted pursuant to an order of a court of law.
2. This article does not apply to seasonal sales, clearance sales or similar special sales of non-distress merchandise.

Sec. 11-4-2. Penalty.

Any person violating this article shall upon conviction be punished as provided in Section 1-8.

DIVISION 2. LICENSE**Sec. 11-4-3. License Required.**

It shall be unlawful for any person to advertise or conduct a distress merchandise sale without having first obtained a license in accordance with this article.

Sec. 11-4-4. Application for License.

Any person desiring to conduct a distress merchandise sale shall make a written application to the Business License Officer at least fifteen (15) days prior to the date on which the sale is to commence. However, if the merchandise to be sold consists of perishable goods or goods damaged by smoke, fire or water, the fifteen (15) day time period will not be applicable. Each application shall contain the following information and such other information as the Business License Officer shall require:

1. The name and address of the owner of the goods, wares or merchandise to be sold;
2. A description of the place where such sale is to be held;
3. The nature of the occupancy of the place where such sale is to be held, whether by lease or otherwise, and the effective date of the termination of the occupancy of the premises;
4. The commencement and termination dates of the distress merchandise sale;
5. A full and complete statement of the facts regarding the reasons why the distress merchandise sale is being conducted, the manner in which the sale is to be conducted, the means to be employed in advertising the sale, together with the content of any proposed advertisement or advertising themes or copies thereof;

6. If a defunct business is involved, the name and address of the defunct business and the owner or former owner thereof;
7. A complete and detailed inventory of the goods, wares and merchandise, including goods received on consignment, to be offered at the distress merchandise sale; the terms and conditions of the acquisition of the property; the amount and description of the goods, wares or merchandise to be sold; and the location of the goods, wares and merchandise at the time of filing the application;
8. A statement that the applicant has not, in contemplation of the distress merchandise sale, ordered, purchased or received on consignment any goods, wares or merchandise for the purpose of selling them at the sale within ninety (90) days prior to filing the application;
9. A statement that no goods will be added to the inventory after the application is made or during the sale; and
10. A statement that the applicant or his/her principal officers or agents have not been convicted of a violation of this article or had a license issued under this article revoked within five years of the filing of this application.

Sec. 11-4-5. Examination and Investigation; Grounds for Denial.

The Business License Officer may, upon the filing of an application for a license required under this article, investigate the applicant and examine his/her affairs in relation to the proposed sale and may examine the inventory and records of the applicant. No license shall be issued if it is found that:

1. The applicant has held a sale subject to regulation under this article at the location described in the application, within three years from the date of the application;
2. The application states that the applicant or any of his/her principal officers or agents has been convicted of a violation of this article or has had a license issued under this article revoked within five years of the filing of this application;
3. The inventory submitted with the application includes goods, wares or merchandise purchased or held on consignment by the applicant or added to his/her stock in contemplation of such sale and for the purpose of selling the stock at the distress sale. Any unusual addition to the stock of goods, wares or merchandise which is made within ninety (90) days prior to the filing of the application shall be prima facie evidence that the addition was made in contemplation of the sale and for the purpose of selling the goods at the sale;
4. The applicant, in ticketing the goods, wares or merchandise for sale, has misrepresented the original retail price or value thereof;
5. The advertisement or advertising themes are false, fraudulent, deceptive or misleading in any respect;

6. The sales methods to be used by the applicant in conducting the sale will work a fraud upon the purchasers;
7. The information set forth in the application is insufficient;
8. Representations made in the application are false; or
9. The applicant has acquired bankrupt stock or other distress sale merchandise from another area within six months of the application.

Sec. 11-4-6. License Fee; Renewal.

1. The fee for a distress sale license issued pursuant to this article shall be paid as provided in Chapter 16 Fee Schedule Article VIII, Business License and Registration Fees.
2. If, during the period that the license is in effect, it appears to the Business License Officer that all of the goods in the original inventory have not been sold, the Business License Officer may, upon application and for good cause shown, extend the license for a period not to exceed thirty (30) days.

Sec. 11-4-7. Conditions for Issuance of License.

If the application submitted for the license required by this article complies with this article and if the required license fee has been paid, the Business License Officer shall issue the applicant a license to advertise and conduct the sale described in the application, subject to the following conditions:

1. The sale shall be held at the place named in the application.
2. The sale shall be held by the licensee for a period of not more than ninety (90) days following the date set forth in the license.
3. Only goods, wares and merchandise included in the inventory attached to the application shall be displayed on the premises and sold at the sale.
4. The license shall be prominently displayed at the location of the sale at all times.
5. The licensee shall keep suitable books at the sales location which shall be open for inspection by the Business License Officer during normal business hours.

Sec. 11-4-8. Revocation of License.

The Business License Officer shall revoke any license issued pursuant to this article if he finds that the licensee has:

1. Violated any section of this article;

2. Violated any condition of the license;
3. Made any material misstatement in the application for the license;
4. Failed to include in the inventory required by this article all the goods, wares or merchandise being offered for sale;
5. Offered or permitted to be offered at the sale any goods, wares or merchandise not included in the inventory attached to the application;
6. Failed to keep suitable records of the sale;
7. Made or permitted to be made any false or misleading statements or representations in advertising the sale or in displaying, ticketing or pricing goods, wares or merchandise offered for sale; or
8. Been guilty of any fraudulent practice in the conduct of the sale authorized by the license.

Sec. 11-4-9. Confidentiality.

The filing of an application for a license required under this article, the contents of the application and the issuance of the license shall be confidential information, and no disclosure thereof shall be made except that which is necessary in the administration of this article. However, disclosure of the information mentioned in this section may be made with the consent of the applicant. The filing of the application and the issuance of the license shall not be confidential after public notice of the proposed sale has been given by the applicant.

State law reference - Similar definitions, NMSA 1978, §57-10-9 to 57-10-12.

ARTICLE V. JUNK AND SECONDHAND DEALERS

DIVISION 1. IN GENERAL**Sec. 11-5-1. Posting of Article; False Reports.**

1. It shall be the duty of every junk dealer or secondhand dealer to keep a copy of this article posted in a conspicuous place.
2. Any junk dealer or secondhand dealer who shall make or keep on file a false report or a false writing of consent shall upon conviction have his/her license revoked and shall be punished as provided in Section 1-8.

Sec. 11-5-2. Records of Personal Property Acquired.

Every junk dealer shall keep a permanent record book, in ink with full and accurate description of each and every article purchased, together with the full name, residence and general description of the person or persons selling the same, and said book shall at all times be open to inspection by the local law enforcement agency or city official in which the junk dealer does business. No entry in said book shall be erased, mutilated or changed.

State law reference - Records of purchases, NMSA 1978, §57-7-2.

Sec. 11-5-3. Report Concerning Lost or Stolen Articles: Inspection of Articles.

If any material, goods, articles or thing whatsoever shall be advertised as having been lost or stolen, or any material, goods, articles or things answering to the description advertised, or any part or portion thereof, shall then be in, or subsequently come into, the possession of any junk dealer, he shall immediately give information thereof in writing to the Aztec Police Department, the city in which the junk dealer does business, and state when and from whom the same was received. Any junk dealer who shall receive, or shall have in his/her possession any goods, article or thing that has been lost, or shall be alleged or supposed to have been lost or stolen from the owner thereof, shall exhibit the same on demand or to any member of the Aztec Police Department or other City official, for the City of Aztec, in which said junk dealer does business, or to any person duly authorized in writing by any magistrate to inspect property in the possession of said junk dealer, who shall exhibit such authorization to said dealer.

State law reference - Records of purchases, NMSA 1978, §57-7-3.

Sec. 11-5-4. Lost or Stolen Property Returned without Payment.

When any person, firm or corporation is found to be the owner of lost or stolen property, which has been purchased by, or is in the possession of any junk dealer, the said property shall be returned to the owner thereof by said junk dealer without the payment of any money by the owner to said junk dealer without the payment of any money by the owner to said junk dealer, or any other person firm or corporation.

State law reference - Records of purchases, NMSA 1978, §57-7-4

Sec. 11-5-5. Dealer to Obtain Statement from Vendor; Filing.

At the time of purchase by any junk dealer of any crude castings of metal, copper wire or brass; car axles or shafts; or of any junk said junk dealer shall cause to be subscribed by the person or persons vending the same a statement as to when, where and from whom the vendor or vendors obtained such property; also a statement as to the vendor's or vendors' age or ages, residence or residences: i.e., the city, village or town, and the street and number, if any, of said residence or residences, and such other information as is reasonably necessary to enable said residence or residences to be located, also the name of the employer or employers, if any, of said vendor or vendors, and the place of business or employment of said employer or employers, and the junk dealer shall forthwith file the original of said statement subscribed by said vendor or vendors in the office of the Aztec Police Department for the City of Aztec, in which the purchase was made.

State law reference - Records of purchases, NMSA 1978, §57-7-5

Sec. 11-5-6. Violations of Act; Penalties.

Violations of any of the provisions of this article are punishable as provided in Section 1-12.

Sec. 11-5-7. Transactions with Minors.

It shall be unlawful for any junk dealer or secondhand dealer doing business in the city to purchase or otherwise acquire, from any minor under the age of eight (18) years, any personal property of any nature, without having first obtained, from the parent or guardian of such minor, consent to such transaction, in writing, signed by the parent or guardian. Such writing shall contain the name or description of the article, the name of the minor, his/her age and residence, the date of the transaction and the amount of the loan or purchase price to be received. It shall be the duty of the junk dealer or secondhand dealer to ascertain that such written consent is in fact signed by such parent or guardian. Failure to do so shall constitute a violation of this article.

Secs. 11-5-8 to 11-5-30. Reserved.**DIVISION 2. LICENSE****Sec. 11-5-31. Required.**

Every junk dealer or secondhand dealer shall, before engaging in such business, obtain a license from the Business License Officer.

Sec. 11-5-32. Application.

Any person desiring a license required under this division shall make an application in writing to the Business License Officer in the form and as provided in Article II of this chapter.

Sec. 11-5-33. License Fee.

If the license required by this division is granted by the Business License Officer, a license fee as provided in Chapter 16 Fee Schedule Article VIII, Business Registration and License Fees, shall be paid, and no other license fee or occupation tax shall be collected for the same business. Secondhand dealers shall be the same as junk dealers for the purpose of fixing the amount of the license fee required.

Sec. 11-5-34. Revocation of License.

Any license granted under this division may be revoked as provided in Article II of this chapter.

ARTICLE VI. PAWNBROKERS

DIVISION 1. IN GENERAL**Sec. 11-6-1. Posting of Article.**

It shall be the duty of every pawnbroker to keep a copy of this article posted in a viewable and noticeable place.

Sec. 11-6-2. Penalty for Violation.

Violations of any of the provisions of this article are punishable as provided in Section 1-12.

Sec. 11-6-3. Forfeiture and Civil Actions for Excess Service Charges.

The violation of any section of this article and any covered transaction shall be deemed a forfeiture of the entire amount of the pawn service charge contracted for or allowable under the transaction. If a pawn service charge in excess of the amounts allowable under this article has been paid in any covered transaction, the person by whom it has been paid or his/her legal representative may recover by civil action triple the amount of service charge paid. Any civil action under this section shall be commenced within two years from the date the serious transaction was consummated.

State law reference - Similar provisions, NMSA 1978, §56-12-16.

Sec. 11-6-4. Prohibited Practices.

A pawnbroker shall not:

1. Knowingly enter into a pawn transaction with a person under the age of eighteen (18) years or under the influence of alcohol or any narcotic, drug, stimulant or depressant;
2. Make any agreement requiring the personal liability of a pledgor in connection with the pawn transaction;
3. Accept any waiver, in writing or otherwise, of any right or protection accorded a pledgor under this article;
4. Fail to exercise reasonable care to protect pledged goods from loss or damage;
5. Fail to return a pledged good to a pledgor upon payment of the full amount due to the pawnbroker on the pawn transaction. If a pledged good is lost or damaged while in the possession of the pawnbroker, the pawnbroker shall compensate the pledgor for the reasonable value of the lost or damaged good;
6. Make any charge for insurance in connection with a pawn transaction;

7. Purchase or otherwise receive any item of property on which the manufacturer's nameplate, serial number or identification mark has been obviously defaced, altered, covered or destroyed;
8. Purchase or otherwise receive any item of property which the pawnbroker knows is not lawfully owned by the person offering the property;
9. Enter into a pawn transaction in which the unpaid principal balance exceeds two thousand dollars (\$2,000.⁰⁰); or
10. Require that any of the proceeds of any cash loan be spent at the pawnbroker's place of business or in any other manner directed by the pawnbroker.

State law reference - Similar provisions, NMSA 1978, §56-12-14.

Sec. 11-6-5. Records of Pawned Property.

Every person doing business as a pawnbroker shall keep a permanent book record, in ink, of all personal property acquired by him in the conduct of the business. The records of such business shall be open to inspection by the police officers during regular business hours. The records shall contain the name of the item; a description of the item, including make and model number if any, serial numbers and other identifying marks; the date, time and type of pawn transaction; the name and address of the person offering the item; a description of the person offering the item, including sex, complexion, hair color, approximate height and weight, and date of birth; and the type of identification used by the person offering the item and the identifying number of that identification. If the offering person presents the driver's license for identification, a report shall include the state and date of issuance. Persistent or frequent erroneous or incomplete entries in or delays in submitting the required reports shall constitute a violation of this section and shall be subject to the general penalty provisions of Section 1-8.

State law reference - Similar provisions, NMSA 1978, §56-12-12.

Sec. 11-6-6. Identification of Items.

Each item pledged or pawned to or purchased by the licensed pawnbroker for which a report is required shall have attached to it a tag with an alphabetic or numeric identification system matching that item with its corresponding report and record.

Sec. 11-6-7. Pawn Ticket.

1. Every pawnbroker shall, at the time of each pawn transaction, deliver to the person pawning or pledging personal property a ticket signed by the pawnbroker containing the information required to be made in the pawnbroker's daily report to the city.
2. The holder of such ticket shall be presumed to be the person entitled to redeem the pledged or pawned item, and the pawnbroker shall deliver such item to the person presenting this ticket on payment of the principal amount owed and all other lawful charges

3. The pawn ticket required by this section shall further contain all disclosures of credit terms required to be disclosed to the pledgor by the Federal Truth in Lending Act.
State law reference - Similar provisions, NMSA 1978, §56-12-10.

Sec. 11-6-8. Weekly Record of Business Transactions.

Each licensed pawnbroker shall furnish to the Aztec Police Department, submitted on an electronic format approved by the Aztec Police Department, or on a written form approved by the Aztec Police Department, a true and correct record of each transaction had at his/her place of business for the previous business week.

Sec. 11-6-9. Default by Pledgor; Disposition of Pawned Property.

1. Except as otherwise specified in this article, upon default by the pledgor, the pawnbroker shall comply with the requirements of NMSA 1978, §§55-9-501 to 55-9-507 in the disposition of the pledged goods.
2. Notwithstanding subsection (1) of this section, the pawnbroker shall not dispose of the pledged property, except by redemption, until at least ninety (90) days after the indebtedness has become due.
3. Notwithstanding subsection (1) of this section, if the pawnbroker disposes of the pledged property by sale in the regular course of his/her business, such sale shall conform to the requirements of NMSA 1978, §55-9-504. If a surplus remains after sale of the pledged property, the pawnbroker must make a record of the sale in the amount of the surplus and must notify the pledgor by first class mail sent to the pledgor's last known address of the amount of the surplus and the pledgor's right to claim it at a location specified in the notice within ninety (90) days of the date of mailing of the notice, if the surplus is \$100.00 or less, or within twelve (12) months of the date of mailing of the notice if the surplus is greater than one hundred dollars (\$100.⁰⁰). If the first class mail addressed to any person is returned unclaimed to the pawnbroker, the pawnbroker must post and maintain on a conspicuous public part of his/her premises an appropriately entitled list naming each such person. Ninety (90) days or twelve (12) months, as applicable, after the date of such mailing or posting, whichever is later, the pawnbroker may retain as his/her own property any surplus remaining unclaimed by the pledgor.

Sec. 11-6-10. Record of Disposition of Property after Default of Pledgor.

Every pawnbroker shall keep a permanent record, fully itemized, of all pledged property disposed of following default by the pledgor. The record shall include the following:

1. The number of the pawned transaction;
2. The name and address of the pledgor;
3. The date of the pawned transaction and the date of the last payment received as service charge or on principal;

4. The date of disposition of the pledged property pursuant to this article;
5. The method of disposition of the pledged property; and
6. The amount and disposition of any surplus following disposition of the pledged property.

State law reference - Similar provisions, NMSA 1978, §56-12-12.

Sec. 11-6-11. Pawn Service Charge.

1. For the first thirty (30) day period of the pawn transaction, a pawnbroker may charge \$7.⁵⁰ or ten percent of the amount loaned, whichever is greater, provided that such charge shall not be made on the refinancing of an existing loan or credit transaction. A loan or extension of credit shall be considered to be refinancing of an existing loan if any part of the proceeds of the subsequent loan is applied toward the payment of a prior loan with the same pawnbroker.
2. For the remaining period of the pawn transaction, including any refinancing, no pawnbroker shall charge, directly or indirectly or by any subterfuge, a pawn service charge in connection with any pawn transaction at a rate in excess of four percent per month on the unpaid principal balance of the loan or extension of credit.
3. The pawn service charges in this section are limiting maximums, and nothing in this section shall be construed to prohibit a pawnbroker from contracting for or receiving a lesser rate than established in this section.

State law reference - Similar provisions, NMSA 1978, §56-12-13.

Secs. 11-6-12 to 11-6-30. Reserved.

DIVISION 2. LICENSE

Sec. 11-6-31. Required.

1. Every pawnbroker shall, before engaging in such business, obtain a license from the Business License Officer. The license for pawnbrokers shall expire in accordance with Article II of this chapter and must be renewed annually. The license shall be conspicuously displayed at the place of business for the general public. Upon receipt of each annual license, each pawnbroker shall register or reregister with the Aztec Police Department.
2. No person who has been convicted of a felony shall be eligible for a license as a pawnbroker.
3. Doing business as a pawnbroker without a license is a violation of this Code and is punishable as provided in Section 1-12.

State law reference - Similar provisions, NMSA 1978, §56-12-4.

Sec. 11-6-32. Application.

Any person desiring a license required under this division shall make an application in writing upon a form provided by the Business License Office as provided in Article II of this chapter.

Sec. 11-6-33. License Fee.

If a license required by this division is granted by the Business License Officer, a license fee as provided in Chapter 16 Fee Schedule Article VIII, Business Registration and License Fees, shall be paid.

Sec. 11-6-34. Bond.

Every application for a new license required under this division shall include a proof of bond, which has been executed and delivered to the Business License Officer. The bond shall be in the amount provided in Chapter 16 Fee Schedule Article VIII, Business Registration and License Fees, and in a form approved by the local government and shall be conditioned upon the conduct of the pawnbroker's business according to this Code. The bond shall be for the benefit of each and every person damaged by a breach of any condition set forth in the bond. Each pawnbroker shall provide the Business License Officer with a 30-day written notice of the cancellation of the bond.

State law reference - Similar provisions, NMSA 1978, §56-12-6.

ARTICLE VII. TAXICABS

DIVISION 1. IN GENERAL**Sec. 11-7-1. Taxicab Driver's Identification.**

1. It shall be unlawful for any owner to allow any driver to operate any taxicab licensed as required in this article unless there is clearly posted within the taxicab and in view of passengers using the taxicab:
 - 1) A recent photograph of the driver of the taxicab.
 - 2) The name of the driver and his/her age.
 - 3) The name of the owner for whom the driver is authorized to operate a taxicab.
2. Each owner shall keep and maintain at all times a complete and accurate record of all drivers employed by him/her, which record shall show in detail the names and addresses and the dates of the beginning and termination of employment of such drivers, the taxicab driven by each driver and the hours during which each such driver was on duty during each day or night of his/her employment, as well as a list of all days and nights on which each employee was absent from his/her employment. Such records shall be displayed to the police department at any time upon demand and shall not be destroyed without permission of the Aztec Police Department or such other person who may be designated, unless five (5) years have elapsed since the driver was employed by the owner.
3. Upon employment of any taxicab driver, each owner shall inform the Business License Officer of the fact of employment, the name of the driver employed, the date the employment began, the number of the driver's license of the driver and such other information concerning the driver as the Business License Officer may require. At the same time the owner shall furnish the Business License Officer with a picture of the driver identical with the photograph required to be posted in the taxicab under this section. Upon termination of employment of any driver, the owner shall inform the Business License Officer of such termination and the date of termination of employment.

Sec. 11-7-2. Identification of Taxicab.

Each owner of a licensed taxicab shall be required to mark the vehicles used in his/her business in a manner which clearly indicates to the public that this vehicle is one for hire. Each taxicab shall be suitably labeled at all times during which it is being operated as a taxicab. All identification labels, signs must comply with Chapter 20 of the Aztec City Code.

Sec. 11-7-3. Schedule of Fares.

Every taxicab owner shall keep posted, in a conspicuous place in the passenger compartment of each taxicab operated, an explanation of fees to be charged, whether it is on a time or zone basis. It shall be unlawful to charge any fees other than what is so posted.

Secs. 11-7-4 to 11-7-30. Reserved.**DIVISION 2. LICENSE****Sec. 11-7-31. Required.**

It shall be unlawful to operate any taxicab in the city unless the owner makes proper application for a license, as explained in Section 11-7-32, pays the appropriate license fees as prescribed in Chapter 16 Fee Schedule Article VIII, Business License and Registration Fees.

Sec. 11-7-32. Application.

The application for an owner's license required under this division shall be tendered to the licensing division of the Business License Officer's office. It shall be verified under oath and shall set forth the following:

1. A full identification, including residence and business addresses and phone numbers, of the applicant and all other persons to be directly or indirectly connected with the managing or the financing of the taxicab business.
2. The location and name of the business for which the license is requested.
3. The past experience of the applicant in reference to the taxicab business, and the name, address and past experience of the person to be in charge of the premises of the business.
4. The number of vehicles proposed to be operated and a complete description of the vehicles.
5. Current vehicle registration and proof of current auto insurance for all business vehicles.
6. The form of business enterprise under which the business is to be conducted, i.e., sole proprietorship, partnership, limited partnership, or corporation.
7. The time of operation during a 24-hour period.
8. The applicant's current revenue division taxpayer identification number or evidence of application for such number.
9. The proposed schedule of fares as required to be posted in the taxicab in Section 11-7-3, and such schedule shall be in the same size and physical form as will be posted in the taxicab.
10. The current taxicab drivers' names and other information as required in Section 11-7-1.
11. Such further information as the city may deem necessary to enable the issuance of the license.

Sec. 11-7-33. License Fee.

If license is granted by the Business License Officer, a license fee as provided in Chapter 16 Fee Schedule Article VIII, Business Registration and License Fees, shall be paid.

Sec. 11-7-34. Issuance; Display.

The Business License Officer, through the licensing division, shall provide a suitable certificate of license to each applicant complying with the terms of this article, and such license shall be displayed at the place of business clearly visible to the public at all times. The license shall be renewed annually as outlined in Article II of this chapter.

ARTICLE VIII. ARMORED CAR SERVICES

DIVISION 1. IN GENERAL**Sec. 11-8-1. Liability of City.**

This article shall not be construed as imposing upon the city, its officials, or its employees any liability or responsibility for the operation of armored car service by any person licensed under this article.

Secs. 11-8-2 to 11-8-30. Reserved.**DIVISION 2. LICENSE****Sec. 11-8-31. Required.**

No person shall conduct or operate an armored car service in the city without having first obtained a license as provided in this division, and no person shall conduct or operate an armored car service except upon compliance with all of the sections of this article.

Sec. 11-8-32. Application; License Fee.

1. The application for the license required by this division shall be in writing and filed with the licensing division of the Business License Officer's office. It shall be verified under oath and shall set forth the following:
 - 1) A full identification, including residence and business addresses and phone numbers, of the applicant and all other persons to be directly or indirectly connected with the managing or the financing of the armored car service.
 - 2) The location and name of the business for which the license is requested.
 - 3) The past experience of the applicant in reference to the armored car business, and the name, address and past experience of the person to be in charge of the premises of the business.
 - 4) The number of vehicles proposed to be operated and a complete description of the vehicles.
 - 5) The form of business enterprise under which the business is to be conducted, i.e., sole proprietorship, partnership, limited partnership or corporation.
 - 6) The applicant's current revenue division taxpayer identification number or evidence of application for such number.

- 7) The current armored car driver's names and other information as required in Section 11-8-33.
 - 8) Fingerprints of the applicant and of all the drivers of the armored cars are to be taken by the police department and placed on file there.
 - 9) Such further information as the city may deem necessary to enable the issuance of the license.
2. Such application shall be accompanied by a fee as provided in Chapter 16 Fee Schedule Article VIII, Business Registration and License Fees. The license shall be renewed annually as outlined in Article II of this chapter.

Sec. 11-8-33. Additional Employees of Licensee.

A person holding a license under this division may employ other persons not named in the original application or in any renewal application, but the person shall promptly report to the Business License Officer the name and residence address of such person so employed and shall furnish like information as to such employee as is required of the employer in the employer's application for a license.

ARTICLE IX. FOOD CATERING, FOOD VENDING AND MOBILE FOOD SERVICE UNITS

DIVISION 1. IN GENERAL**Sec. 11-9-1. License Required.**

It shall be unlawful for any person, firm, organization or corporation to engage in or carry on, or to operate, or cause or permit to be operated, the business of a Mobile Vending Unit, Food Catering business, or Food Vending operation, upon any public street, sidewalk, alley, or any other public or private place in the City of Aztec without first having obtained a Business License from the City of Aztec, accompanied by documentation of official approval by the New Mexico Environmental Department. A license issued under this Article is not transferable from vehicle to vehicle or from person to person.

(Ord. 2016-451, eff. 25-May-2016)

DIVISION 2. LICENSE**Sec. 11-9-2 License Application.**

Except as otherwise provided herein, an application for a Business License for a Mobile Food Service Unit pursuant to the provisions of this Article shall specify or include:

1. The name, business and residence address of the applicant and the address where the mobile catering vehicle is stored during non-operating hours. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation; the names and residence addresses of each of the officers and directors. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this Section pertaining to a corporate applicant apply.
2. A description of the Mobile Food/Vending Service Unit, including the following data:
 - (1) The make, model and type of body; the vehicle license plate number; the vehicle identification number or any other identifying number as may be required by the City of Aztec.
3. A description of the food products or services the applicant intends to sell.
4. The specific location(s) and/or routes of the activity, including a detailed description and proposed site plan of where the applicant intends to place his or her Mobile Food Service Unit, illustrating sufficient parking area and adequate ingress and egress for customer vehicles, as required by the Community Development Department.
5. The proposed hours of operation and days of operation for each location and/or route that the Mobile Food/Vending Service Unit proposes to serve.
6. Proof of a valid and current food service permit issued by the New Mexico Environmental Department or a written statement from the New Mexico Environmental Department stating that a food service permit is not necessary.

7. If proposing to locate the Mobile Food/Vending Service Unit on private property not owned by the applicant, a lease agreement or notarized statement from the landowner of record is required as proof of location approval and use.
8. If proposing to be located at one location for more than two hours, a notarized statement from a business within one hundred fifty (150) feet of the Mobile Food Service Unit location must be provided as proof that employees of the Mobile Food/Vending Service Unit will have access to and use of flushable restrooms (or other facilities as approved by the New Mexico Environment Department) during hours of Mobile Food Service Unit operation.

No license for a Mobile Food/Vending Service Unit will be issued if the required information is not provided.

Each Mobile Food/Vending Service Unit shall require a separate license pursuant to this Article. Each license issued pursuant to this Article shall be valid for only those Locations, Routes and hours of operation that the City of Aztec approves as set forth in this Article.

(Ord. 2016-451, eff. 25-May-2016)

Sec. 11-9-3 Display of Mobile Food/Vending Service Unit License.

Each vehicle used as a Mobile Food/Vending Service Unit must obtain a business license and pay the applicable license fee imposed by Section 11-3-7. The business license must display on its face the vehicle identification number (VIN) and the license plate number of the Mobile Food/Vending Service Unit that is being licensed. The business license, food service permit and list of approved hours and locations must be displayed at all times in the vehicle in a prominent and conspicuous manner for view by the general public.

(Ord. 2016-451, eff. 25-May-2016)

Sec. 11-9-4 License Amendment, Renewal and Suspension.

Business license(s) must be renewed each January 1. Business Licenses for Mobile Food/Vending Service Units renewed by the City are not final and effective unless and until the Mobile Food/Vending Service Unit Applicant has obtained and provided a copy to the City of an annual renewal of his or her food service permit from the New Mexico Environmental Department.

Business license holders desiring to change the location(s) and/or routes of the Mobile Food/Vending Service Unit, modify the hours of operation, or add a new location(s) during the term of the annual license, shall file a new application with the City of Aztec upon a form provided by the City. Such requests shall be processed in the same manner as a new license. Mobile Food Service Units shall not implement changes and/or additions to locations and routes until the City of Aztec has issued approval of such changes/additions.

A business license for a food/vending service vendor or establishment within the City may be immediately suspended without a public hearing if the City receives written notification from the New Mexico Environmental Department that the business poses an imminent health hazard (as defined by the New Mexico Food Act). In the event of a license suspension, the City will provide

the business owner with written notification of the suspension within forty-eight (48) hours from the date of notification by the New Mexico Environmental Department; once the license is suspended the business shall immediately cease all operations until all health violations have been addressed and the City has received written notification from the New Mexico Environmental Department that the business has been approved to proceed with food service operations.

(Ord. 2016-451, eff. 25-May-2016)

Sec. 11-9-5 Regulating Locations.

Every person desiring a license pursuant to this Article shall conform to the requirements set forth in this Section and any regulations and rules that the City of Aztec may adopt pursuant to this Article.

The City may issue a business license for a food/vending establishment or business only when the City finds that the following location and time requirements are met:

1. The Location shall:
 - 1) Leave unobstructed a path for pedestrian passage on any sidewalk, a space not less than four (4) feet wide.
 - 2) Satisfy all other locational requirements of the City.
2. Notwithstanding the issuance of a License for a specific Location(s), such license shall be temporarily suspended if any City Department issues a permit for occupancy of the subject Location for street fairs, farmer's markets, temporary use, street or building construction, or other permitted activities. At the request of the Applicant, the City may, but is not required to, authorize a temporary relocation of the Mobile Food/Vending Service Unit under such circumstances. Any such authorization shall be in writing and available at the Mobile Food/Vending Service Unit for review by City officials.

In the event a temporary relocation is authorized by the City, no application for a location amendment shall be required under this Article if any City Department issues a permit for occupancy of the subject Location for street fairs, farmer's markets, temporary use, or other permitted activities as long as the Mobile Food Service Unit has a current and valid food service permit from the New Mexico Environmental Department.

(Ord. 2016-451, eff. 25-May-2016)

Sec. 11-9-6. Compliance.

All persons operating a Mobile Food/Vending Service Unit must comply with the following guidelines:

1. All vending vehicles and Mobile Service Food Units in or from which food is prepared or sold shall be constructed so that all equipment installed in any part of the vehicle shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.

2. All Mobile Food Service Units having equipment for the preparation of food shall be inspected and approved by the San Juan County fire department annually and shall display evidence of such approval in the Mobile Food Service Unit and shall provide a copy of such approval to the City of Aztec.
3. Proper refuse containers shall be provided to patrons pursuant to Chapter 21, Sec. 21-27 and Chapter 14, Sec. 14-63 to 14-67 of the Aztec City Code.
4. A special events license must be obtained by the owner of a business hiring a Mobile Food Service Unit to be upon its premises if the cab is to be detached from the vehicle and food dispensed there from.
5. The cab must be attached to the Mobile Food/Vending Service Unit while in business on a public street or public parking lot.
6. A business establishment which does not meet the definition of Mobile Food/Vending Service Unit will not be licensed under this article.
7. Prior approval from the City of Aztec is needed to conduct any business at the Community Center or in a city park or city parking lot at a park or other recreational facility and shall be subject to such conditions and restrictions as may be deemed appropriate by the department.
8. Mobile Food/Vending Service Units shall be maintained in good repair and in good sanitary condition at all times.
9. A mobile food/vending establishment shall be equipped with an attached refuse container. The operator must hold, store, and dispose of solid and liquid waste in a refuse container that complies with New Mexico Environmental Department, sanitation service and City Code requirements.
10. No on-site signs (sandwich boards, flags, arrow signs etc...) for advertising will be allowed.
11. Mobile Food/Vending Service Units cannot exceed a length of forty (40) feet and a width of eight (8) feet, not including the cab.
12. Mobile Food/Vending Service Units must be mobile and must be removed from the street or from the location where food is sold during those hours when not open for business.

(Ord. 2016-451, eff. 25-May-2016)

Sec. 11-9-7. Prohibited Conduct.

The following acts are prohibited by food vendors in the city. No person shall:

1. Notwithstanding any other provision of this Article, and with the exception of Mobile Food Service Units meeting the definition of Transporter, no Mobile Food Service Unit or Vendor shall peddle goods, wares or merchandise:
 - 1) In any zone district whose primary use is residential development;
 - 2) On property owned, leased or operated by the City of Aztec, unless the location and vendor have been approved by the City;
 - 3) Within one hundred (100) feet of the property line of any school or childcare facility; or
 - 4) Vend within one hundred (100) feet of any church while church is in session.
2. Vend on any street or sidewalk where vending is otherwise prohibited.
3. No Mobile Food/Vending Service Unit or Vendor shall peddle goods, wares or merchandise before sunset or after sunrise, unless the City has approved such sales.
4. Leave any stand or motor vehicle unattended for longer than ten (10) minutes. When leaving a stand or motor vehicle unattended the stand or motor vehicle must be turned off and locked or otherwise secured.
5. Store, park, or leave any stand overnight on any street or sidewalk, or park any motor vehicle other than in a lawful parking place, in conformance with city and state parking regulations.
6. Sell food or beverages for immediate consumption unless all required permits from the New Mexico Environmental Department have been obtained and refuse containers are available for use by patrons.
7. Leave any location without first picking up, removing and disposing of all trash or refuse within fifty (50) feet of the food/vending service location.
8. Allow any items relating to the operation of the vending or food service business to be placed anywhere other than in, on or under the stand or motor vehicle.
9. Set up, maintain or permit the use of any sign, table, crate, carton, rack, or any other device to increase the selling or display capacity of the stand or motor vehicle, where such items have not been described in the business license application and when all additional required permits have not been obtained from the City.
10. Solicit or conduct business with persons in a motor vehicle.
11. Sell anything other than that which is permitted under the license issued.
12. Sound or permit the sounding of any device which produces a loud and raucous noise; or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the general public. This section shall not be construed to prohibit bells, chimes or unamplified musical instruments if in compliance

with all other applicable provisions of the City Code including, but not limited to Sec. 12-125 (Unreasonable Noise).

13. Allow customers to block pedestrian or vehicular traffic.
14. Dispose of liquid or other waste in City storm drains, streets, gutters, anywhere on public property, or in waste bins or containers not belonging to their business.
15. Wave, flag or motion to vehicles on the street.
16. No vendor vending from a motor vehicle shall:
 - 1) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police, emergency or sanitation vehicles.
 - 2) Stop, stand or park a vehicle upon any street or permit it to remain there except on the roadway at the curb for the purpose of vending there from.
 - 3) Stop, stand or park a vehicle upon any street for the purpose of selling, or sell on any street under any circumstances when parking, stopping or standing has been prohibited by signs or curb markings or is prohibited by statute or ordinance.
 - 4) Remain in any one place for a period longer than necessary to make a sale after having been approached or stopped for that purpose.
 - 5) Stop, stand or park a vehicle within twenty-five (25) feet of any intersection, except that vehicles vending products likely to attract children as customers shall park curbside when stopping to make a sale as close as possible to a pedestrian crosswalk without entering the intersection or otherwise interfering with the flow of traffic.
 - 6) Operate a Mobile Food/Vending Service Unit while stopped between the curb lines of any public street without the motor vehicle's hazard lights being in operation and without taking all other reasonable precautions to ensure the safety of patrons.
 - 7) Allow any fluids to be discharged from a vending vehicle.
 - 8) Park within one hundred (100) feet of flammable fuels.

(Ord. 2016-451, eff. 25-May-2016)

Sec. 11-9-8. Transitional Period.

Each Mobile Food/Vending Service Unit transacting business within the city shall apply for and obtain a business license in compliance with this article within thirty (30) days from the effective date of this article. Any Mobile Food/Vending Service Unit having a current business license

shall make new application within thirty (30) days following the effective date of this article but shall not be required to pay an additional fee to obtain the license.
(Ord. 2016-451, eff. 25-May-2016)

ARTICLE X. ADULT ORIENTED BUSINESSES

DIVISION 1. IN GENERAL**Sec. 11-10-1. Application Required.**

No person, partnership, corporation, or other organization shall establish or operate an adult oriented business establishment as defined in Chapter 18, of the Aztec City Code without first obtaining a special use permit, a business license from the city, and fully complying with the requirements of Chapter 18 of the Aztec City Code.

DIVISION 2. LICENSE**Sec. 11-10-2. Application Information; License Fee.**

The Aztec Business License Officer shall require of the applicant the following information:

1. The name, address, and business organization of the applicant and the location where the applicant intends to transact business.
2. A specific description of the nature of the business to be transacted.
3. If the applicant is an individual, the Business License Officer shall obtain the current residence address of the applicant together with the applicant's social security number. If the applicant is a partnership, the applicant shall disclose the names of all partners. If the applicant is a corporation, the applicant shall disclose the state of incorporation, the date of incorporation, the name and address sufficient for service of process of the registered agent within New Mexico and of each officer and director of the corporation. Further, the Business License Officer shall obtain the social security number of each officer or director of the corporation, it being the intention of this provision that the social security number shall be utilized to assist in obtaining background information on the officers and directors of the corporation. If applicant is other than an individual, the applicant shall name a managing agent and provide that person's address and social security number.
4. The applicant shall provide evidence that the corporation is either a New Mexico corporation or is authorized and qualified to do business in the State of New Mexico.
5. The applicant shall provide the necessary state and federal tax identification numbers.
6. Such application shall be accompanied by a fee as provided in Chapter 16 Fee Schedule Article VIII, Business Registration and License Fees. The license shall be renewed annually as outlined in Section 11-10-5 of this chapter.

Sec. 11-10-3. Disqualifying Factors.

1. An application for an adult oriented business license shall be denied for the following reasons:
 - 1) The denial of a special use permit in accordance with Chapter 26 of the Aztec City Code.
 - 2) Evidence that the owner, registered agent, resident manager, or any officer or director of any corporation has been convicted or pled guilty to any felony or misdemeanor involving a crime of moral turpitude including, but not limited to, sex offenses or violation of child pornography laws or other laws restricting or regulating the dissemination of adult oriented material within the five years preceding the date of this application.
 - 3) If the applicant is a corporation, failure to supply evidence that the corporation has qualified and is authorized to do business in the State of New Mexico.
2. Within two (2) working days after receipt of a completed application for an adult oriented business license, the Business License Officer shall transmit a copy of the application to the Aztec Police Department who shall perform a background check on the officer, directors, partners, managing agent, and owner of the business. Said background check shall be completed not less than twelve (12) working days following the transmission of the same to the Chief of Police. The applicant shall be notified of the date that the application is transmitted.

Sec. 11-10-4. Issuance of License.

In the event that the application is completed, the background check of the applicant indicates that no owner, partner, officer, director or managing agent has been convicted of any of those offenses which would disqualify the applicant from obtaining a license, and in the event a special use permit has been granted by the Aztec City Commission, the Business License Officer shall issue a business license to the applicant.

Sec. 11-10-5. Annual Renewal.

The applicant shall annually renew the license and shall submit to the background check set forth herein. In the event the application is filed prior to the expiration of the existing license, the applicant shall be entitled to continue business until such time as notified that any disqualifying factor has been determined.

Sec. 11-10-6. Revocation of License.

Any business license issued pursuant to this section may be revoked upon any of the following conditions:

1. The revocation and/or the expiration of the special use permit by the Aztec City Commission.

2. The subsequent conviction of any owner, officer, director or managing agent of the business of any of the crimes which would have disqualified the licensee from obtaining a license.
3. Any subsequent change in these portions of the Aztec City Code governing adult oriented businesses resulting in a change in state or federal law which authorizes the City of Aztec to exercise greater control over the same.

Sec. 11-10-7. Revocation Procedures.

Any revocation of an adult oriented business license shall be conducted in accordance with the provisions as provided in Article II of this chapter.

Sec. 11-10-8. Transition Period.

Any adult oriented business transacting business as of the effective date of this article shall apply for a new license pursuant to Section 11-10-5 prior to the expiration of any current business registration.

ARTICLE XI. BODY ART ESTABLISHMENTS

DIVISION 1. LICENSE**Sec. 11-11-1. Application Requirements; License Fee.**

1. All applicants wishing to engage in the business of body art must:
 - 1) Demonstrate and provide proof to the Business License Officer that the applicant has been issued a current and valid license under the State of New Mexico "Body Art Safe Practices Act," (NMSA 1978, §3-61-17B) as it may be amended or revised); and
 - 2) Pay to the City of Aztec the body art establishment business license fee as provided in Chapter 16 Fee Schedule Article VIII, Business Registration and License Fees.
2. Prior to receiving an annual renewal of the business license for a body art establishment, each business owner must provide evidence to the Business License Officer that the body art establishment successfully passed a state inspection pursuant to the Body Art Safe Practices Act during the preceding calendar year. In the event that the body art establishment has not been inspected by the state through no fault of the business owner, the owner may apply to the City Commission for an extension of time allowing the business to operate temporarily until an inspection can be performed.

Sec. 11-11-2. Special Event for Mobile Body Art Business License; License Fee.

- 1) Demonstrate and show proof to the Business License Officer that the applicant has been issued a current Special Event license under the State of New Mexico "Body Art Safe Practices Act," (NMSA 1978, §3-61-17B) as it may be amended or revised); and
- 2) Pay to the City of Aztec the body art establishment business license fee as provided in Chapter 16 Fee Schedule Article VIII, Business Registration and License Fees.

Sec. 11-11-3. Reserved.

Editor's Note: Section 11-11-3 was repealed by Ordinance 2017-459 which eliminated approval of Body Art Establishments by the City Commission.
(Ord. 2017-459, eff. 17-July-2017)

Sec. 11-11-4. Minors.

1. Administering permanent body art on any person under the age of eighteen (18) is prohibited.
2. Proof of age will be shown by a government-issued photo identification accompanied by at least one other government-issued document showing proof of age, such as a birth certificate.

3. It shall be unlawful for any owner, manager or other person in charge of a body art establishment to knowingly allow a person under the age of eighteen (18) to be admitted into a body art establishment.

Sec. 11-11-5. State Inspections.

If a body art establishment fails to successfully pass a state board inspection, the body art establishment shall suspend body art activities until it passes a re-inspection.

ARTICLE XII. CARNIVAL RIDES

DIVISION 1. IN GENERAL**Sec. 11-12-1. Requirements.**

1. No person shall operate a carnival ride without a policy of insurance in an amount not less than three million dollars (\$3,000,000) against liability for injury to persons arising out of the operation of the carnival ride.
2. Either a copy of the policy furnished to the insured or a certificate stating that the insurance required by this section is in effect shall be filed with the Business License Officer along with Business License Application.
3. The policy shall contain a schedule listing by name and serial number each carnival ride insured by the policy. In the event of additions or deletions of carnival rides during the policy terms, such changes shall be shown on a change endorsement, a copy of which shall be submitted to the department and the local government entity.
4. In the event of policy cancellation by either the insured owner or operator or the insurance company, the insured shall furnish notice of the cancellation to the City of Aztec, Business License Officer, no later than ten days prior to cancellation.
5. No person, owner or operator of a carnival ride shall operate any carnival ride without obtaining a certificate of inspection for each ride by an inspector of the department or its designee and shall include the certificate of inspection with the Business License application. The owner or operator shall annually have each carnival ride inspected and annually file the certificate of inspection. The certificate of inspection shall state that the carnival ride operator or owner has had the rides independently inspected by a national amusement ride safety official class 1, 2 or 3 inspector within twelve (12) months of the operation of the ride within the state and whether any deficiencies noted by the engineer have been corrected. In addition, the owner or operator of the ride shall inspect the ride each day the ride is operated before any member of the public is permitted to board the ride. The owner or operator shall keep a current log of such inspections which shall be available for review by local enforcement officials during operating hours.
6. The insured shall pay a fifty dollar (\$50.00) per carnival ride per inspection filing fee with the department and must submit proof of payment with the Business License application.

DIVISION 2. LICENSE**Sec. 11-12-2. License Fee; Security.**

If license is granted by the Business License Officer, a license fee as provided in Chapter 16 Fee Schedule Article VIII, Business Registration and License Fees, shall be paid. Security is required between the hours of 6:00 pm and closing. Security will be provided only through Aztec Police Department and the fees shall be paid as provided in Chapter 16, Fee Schedule,

Business Registration and License Fees. A minimum of two (2) police officers will be on duty during the required hours of 6:00 pm to closing.

Sec. 11-12-3. Penalties.

1. The local law enforcement agency shall have the authority to enforce the provisions of the Carnival Ride Insurance Act. Any person who does not maintain liability insurance on a carnival ride, operates a carnival ride or authorizes the operation of a carnival ride that does not have insurance, does not annually have his carnival rides inspected or does not file the proper certificates as set forth in the Carnival Ride Insurance Act is guilty of a misdemeanor and upon conviction the court shall impose a fine per day for the operation of each ride.
2. Violations of any of the provisions of this article are punishable as provided in Section 1-12.

Sec. 11-12-4. Liability; Limitations.

No provision of the Carnival Ride Insurance Act (NMSA 1978, §57-25-1 to §57-25-6) shall be construed to place any liability on the state, department or on the municipality with respect to any claim by any person, firm or corporation relating to a carnival ride or to any injury or damages arising from a carnival ride.

Sec. 11-12-5. Exemptions.

The provisions of the Carnival Ride Insurance Act (NMSA 1978, §57-25-1 to §57-25-6) shall not apply to nonprofit organizations that own and operate a carnival ride ten days or less each year.

State law reference - Similar definitions, NMSA 1978, §57-25-1 to 57-25-6.