

ORDINANCE NO. 2022-__

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENIFEE AMENDING
CHAPTER 5.01 ESTABLISHING A BUSINESS LICENSE AND REGULATION
PROGRAM**

WHEREAS, the California Legislature is empowered by the California Constitution to authorize local governments to regulate businesses; and

WHEREAS, the City Council of the City of Menifee ("City Council") previously added Chapter 5.01 to the City of Menifee Municipal Code ("Municipal Code" or "Code") to permit the City to license lawful business transacted in the City of Menifee ("City" or "Menifee"); and

WHEREAS, special business types require special investigation, review, and/or regulation in order to ensure the protection of public health, safety, and welfare of the community; and

WHEREAS, the City Council desires to amend and revise existing portions of Chapter 5.01 of the Municipal Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENIFEE HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 5.01 BUSINESS LICENSE AND REGULATION PROGRAM is replaced in its entirety within the Municipal Code with Exhibit 1 attached hereto.

SECTION 2. All ordinances and resolutions, or parts thereof in conflict with this Ordinance are hereby repealed.

SECTION 3. The City Manager is directed to take all necessary steps to give effect to this Ordinance. If necessary to facilitate the implementation of this Ordinance, the City Manager or his or her designee is authorized to make technical adjustments to the election district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Manager shall consult with the City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.

SECTION 4. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Menifee hereby declares the Council would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that anyone or more sections, subsections, sub-divisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional, invalid, or ineffective.

SECTION 5. This Ordinance shall become effective 30 days after adoption.

SECTION 6. The Mayor shall sign this ordinance and the City Clerk shall attest and certify to the passage and adoption of this Ordinance and cause this Ordinance to be published using the alternative summary and posting procedure authorized under Government Code Section 36933.

This Ordinance was introduced at a regular City Council meeting held on the 18th day of May, 2022 and **PASSED, APPROVED, AND ADOPTED** by the City Council at a regular meeting on the 1st day of June, 2022.

Bill Zimmerman
Mayor

APPROVED AS TO FORM:

Jeffrey T. Melching
City Attorney

ATTEST:

Stephanie Roseen
Acting City Clerk

EXHIBIT 1

CHAPTER 5.01 ESTABLISHING A BUSINESS LICENSE AND REGULATION PROGRAM

Section:

- 5.01.010 Purpose and authority
- 5.01.020 Definitions
- 5.01.030 Evidence of doing business
- 5.01.040 Business license required
- 5.01.050 Fees
- 5.01.060 Exemptions; filing claim of exemption
- 5.01.070 Additional license requirements for massage businesses
- 5.01.080 Additional license requirements for door-to-door solicitation
- 5.01.090 Additional license requirements for special business types
- 5.01.100 Business license requirements for all businesses
- 5.01.110 Business license; annual renewal
- 5.01.120 Compliance with other laws and regulations
- 5.01.130 Issuance, form and content of license
- 5.01.140 Grounds for business license denial
- 5.01.150 Grounds for license revocation
- 5.01.160 License reinstatements
- 5.01.170 Refunds
- 5.01.180 Posting of license
- 5.01.190 Transfer of business license
- 5.01.200 Duplicate license
- 5.01.210 Inspections and enforcement
- 5.01.220 Acceptance of this chapter
- 5.01.230 Powers and duties of the Finance Department
- 5.01.240 Unlawful business
- 5.01.250 Appeal
- 5.01.260 Violation; penalty

§ 5.01.010 PURPOSE AND AUTHORITY.

The purpose of this chapter is to provide for necessary regulation and provide a record system of businesses being conducted within the City of Menifee for the purpose of protecting the public health, safety, and welfare of City residents, as follows:

(A) Ensure that each business is conducted in compliance with applicable federal, state and local laws, regulations and ordinances.

(B) This chapter provides a means of identification and regulation for almost all businesses operating within the City in order to develop a list of all businesses and valuable information which

may be used by emergency responders, community development, building and safety, and economic development personnel and the public.

(C) This chapter specifically covers businesses which may require additional licensing investigations, such as massage businesses and establishments and others as may be designated from time to time.

(D) Approval and issuance of a business license shall be contingent on full compliance with, including but not limited to, applicable Municipal Code requirements, including all Fire Code, Building Code, Police and Zoning Code requirements and regulations.

(E) This chapter establishes a business license program and not a business license tax. This chapter is not intended to impose any form of taxation on the business community nor to collect in fees more money than is necessary to recover the administrative costs and mandatory State CASp fee(s) associated with processing an application for the issuance or renewal of a business license. No fee charged under the provisions of this ordinance shall be construed as a business license tax.

(F) This chapter is enacted pursuant to Business and Professions Code sections 460 and 16000 and article XI, section 7 of the California Constitution.

§ 5.01.020 DEFINITIONS.

For the purposes of this chapter, the following words and phrases shall have the following meanings:

ADULT BUSINESS. Any business establishment or concern which as a regular and substantial course of conduct sells, distributes, promotes, offers to its patrons, displays, advertises, rewards with, allows the performance of sexually oriented material, sexually oriented merchandise, and sexually oriented entertainment or any other products, services, or entertainment characterized by an emphasis on matters depicting, describing or relating to sexual uses or activities but not including those uses or activities, the regulation of which is preempted by State law. "Sexually oriented business" shall also include any establishment which, as a regular and substantial course of conduct, provides or allows performers, models, or employees to appear in any place in lingerie. For the purposes of this section, a business establishment or concern has established the provision of products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical parts as a regular and substantial course of conduct when one or more of the following conditions exist:

(1) The area devoted to adult merchandise and/or sexually oriented material exceeds more than 15 percent of the total display or floorspace area open to the public.

(2) The business or concern presents any type of live entertainment characterized by an emphasis on specified sexual activity or specified anatomical parts, at least four times in any month in any given year.

(3) The regular and substantial course of conduct of the business consists of or involves the sale, trade, display or presentation of services, products, or entertainment which are characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical parts.

APPLICANT. The person engaging in the business or such person's duly authorized representative.

BUSINESS. Means and includes professions, trades, vocations, enterprises, establishments, occupations, and all and every kind of calling, any of which are advertised, conducted, transacted-, or carried on for the purpose of earning in whole or in part a profit or livelihood, whether or not a profit or livelihood actually is earned thereby, whether paid in money, goods, labor, or otherwise. This

definition shall apply to business establishments whether or not the business' principal physical address is located within the City. A person shall not be deemed to be engaged in business solely by reason of receipt of dividend or interest income from passive investments. This definition also includes businesses that are operated at a fixed physical location and those that are operated on a mobile basis by a mobile-operator as defined herein. Any person or entity within the City that utilizes a hosted online platform to obtain payment for goods or services must comply with the business license requirements of this chapter. Subcontractor and sub-consultant business entities shall be subject to the business license requirements of this chapter.

CASp FEE. The mandatory state fee as enacted by Senate Bill (SB) 1186 and amended by Assembly Bill (AB) 1379, collected in addition to the City's base registration and business license fee, intended to increase disability access and compliance with construction-related accessibility requirements and to develop education resources for business to facilitate compliance with federal and state disability laws, as specified.

CITY. The City of Menifee, a municipal corporation of the state of California.

DISABLED. A person with a long-lasting physical, mental, or emotional condition. This condition can make it difficult for a person to do activities such as walking, climbing stairs, dressing, bathing, learning, or remembering. This condition can also impede a person from being able to go outside the home alone or to work at a job or business.

EMPLOYEE. Either:

(1) Any person engaged or employed by any business which business withholds, or is required to withhold, compensation for the purpose of paying state or federal taxes as required by the Franchise Tax Board or Internal Revenue Service; or

(2) Any person who is regarded as the employee of any business for purposes of the Workers Compensation laws of the State of California, including, without limitation, an agent working for, or engaged by, a real estate broker and which business is subject to the provisions of this chapter.

HOME OCCUPATION. Any occupation or business use, full- or part-time, conducted within a dwelling by a resident of the property. Use must be consistent with Menifee Municipal Code Title 9 and incidental to the residential use of the dwelling, which does not change the character of the surrounding area by generating more traffic, noise or storage of material than would be normally associated with a residential zone. A non-resident person cannot operate, be an agent, or employee of a home occupation business.

MOBILE FOOD FACILITY and MOBILE FOOD VENDOR. A mobile operator that sells or vends food, including ice cream.

MOBILE OPERATOR. Those businesses that are operated on a mobile basis utilizing a motor vehicle to visit customer locations to conduct business within the City. Examples of business that may constitute mobile operators, depending on the circumstances, include mobile, automobile, or other motor vehicle washing; pest control services; mobile carpet, drape, or furniture cleaning; concrete mixing or cutting; masonry; painting and coating; landscaping; pool and fountain cleaning; and Port-a-Potty or other portable toilet servicing; and taxi cabs, limousines or shuttles (as otherwise allowed by law). Mobile operator does not include sidewalk vendors.

MOBILEHOME PARK. A Mobilehome Park for purposes of this chapter shall have the same meaning as that defined in Health and Safety Code section 18214 as that section may be amended from time to time.

NON-PROFIT OR CHARITABLE ORGANIZATION. Any organization or entity considered exempt pursuant to IRS section 501 and/or California State Tax section 23701d.

PEDDLING. Any selling of merchandise which is transported from place to place in the course of approaching prospective customers or selling merchandise or services from door to door. A "peddler" is a person who engages in peddling. Peddling shall not include sidewalk vending or relate to sidewalk vendors.

PERSON. All domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, common law trusts, societies, and individuals advertising, conducting, transacting or carrying on any lawful business within the City other than as an employee. Person and persons shall also include the operator of a festival, fair, farmers' market, special event or similar event for which one person (the "organizer") obtains required permits and licenses and which includes other persons who sell or offer to sell goods and/or food at the event ("purveyors") through contract with the organizer or otherwise.

PERSONALLY IDENTIFIABLE INFORMATION (PII). In respect to Transportation Network Companies shall mean individually identifiable information about an individual driver collected by the local jurisdiction from that individual, including, but not limited to, all of the following:

- (1) A first and last name.
- (2) A residential address, including a street and City name.
- (3) An email address.
- (4) A telephone number.
- (5) A social security number.
- (6) Driver income or tax information.

RECREATIONAL VEHICLE (RV) PARK. means a tract of land upon which two (2) or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary or permanent living quarters for recreation or vacation purposes by campers, vacationers, or travelers.

RETAIL GREENHOUSES. All commercial greenhouses other than those that are licensed by the State of California in the "producer" category to grow and sell nursery stock in the amount of \$1,000 or more in one year and that are inspected by the County Agricultural Commissioner pursuant to California Food & Agricultural Code section 6701 et seq. and any applicable state regulations promulgated thereto.

RETAIL NURSERIES. All commercial nurseries other than those that are licensed by the State of California in the "producer" category to grow and sell nursery stock in the amount of \$1,000 or more in one year and that are inspected by the County Agricultural Commissioner pursuant to California Food & Agricultural Code section 6701 et seq. and any applicable state regulations promulgated thereto.

SEXUALLY ORIENTED ENTERTAINMENT. Any type of live or pre-recorded performance, display, or the furnishing, providing, or procuring of figure models who pose in any manner which is characterized by its emphasis on matter depicting, describing or relating to sexual activities or anatomical parts, including films, motion pictures, videocassettes, slides or other photographic reproductions.

SEXUALLY ORIENTED MATERIAL. Any element of adult merchandise, or any book, periodical, magazine, photograph, drawing, sculpture, motion picture film, or other visual representation, characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical parts.

SEXUALLY ORIENTED MERCHANDISE. Sexually oriented implements and paraphernalia, which are designed or marketed primarily for the stimulation of sexual activity.

SIDEWALK VENDOR. A person(s) who sells food or merchandise from a sidewalk vending receptacle or from one's person, upon a public sidewalk or pathway.

SOLICITOR. Any person, whether principal or agent, whether a resident of the City or not, who goes from house to house or only one house, or upon any street, sidewalk, alley, or in any park or public place in the City, soliciting or taking orders for sales of goods, wares, merchandise, magazines, periodicals or other publications, regularly published newspapers excepted, or personal property of any nature whatsoever, or any coupon, certificate, ticket or card which is redeemable in goods, wares, merchandise or services, for future delivery, or for service to be performed in the future, whether or not such individual has, carries or exposes for sale, a sample of the subject of such order, or whether he or she is collecting advance payments on such orders, or who solicits, takes or attempts to take public opinion polls, consumer surveys, or by such contracts attempts to secure similar information. Such definition shall include any person who uses any building, motor vehicle or other place within the City for the primary purpose of exhibiting samples and taking orders for future delivery, or one who, as an invitee of a purchaser or prospective purchaser, or otherwise, solicits a sale, or exhibits any sample, or gives a demonstration, or makes a delivery within this City after a purchaser or prospective purchaser has been solicited or contacted by telephone, correspondence or other method of communication from within the City. Such definition shall also include the term "canvasser" and "door-to-door solicitor." This provision does not include noncommercial activities.

SPECIAL BUSINESS TYPES. Special business types are those listed under Section 5.01.080 and are so listed because of their operation, clientele, or other factors related to the business, require special investigation, review, and/or regulation in order to ensure the protection of public health, safety, and welfare of the community.

SPECIAL EVENT. An activity or series of activities, specific to an identifiable time and place, produced in conjunction with community organizations often held on public property, and which typically occur on a one-time basis or as an annual event. Such events may include but are not limited to weddings, street closures, filming, protests and rallies, block parties, fundraisers, street parties, runs, races, walks, and other community events. SPECIAL EVENTS may occur on streets and/or sidewalks, parks, and other City-owned property. For the purposes of this chapter, SPECIAL EVENTS shall not include privately sponsored events that are located on or in a rented City facility.

SUBCONTRACTOR and SUB-CONSULTANT. A business or person who is awarded a portion of an existing contract by a principal or general contractor of consultant.

TAXI CABS. A car licensed to transport passengers in return for payment of a fare, usually fitted with a taximeter, which is separate and distinct from a TNC business, as defined below.

TRANSPORTATION NETWORK COMPANY (TNC). A ride sharing service that connects persons in need of transportation with vehicle drivers (such as Uber, Lyft, Sidecar, etc.) TNC entities which reside within the City and operate more than 30 days within the preceding calendar year are subject to the business license and registration requirements of this ordinance. Personal identifiable information (PII), submitted by TNC entities shall not be disclosed on a publicly accessible Internet

website pursuant to California Business and Professions Code section 16550 et seq., "The Passenger Charter-party Carriers' Act."

VETERAN. All individuals who have served (even for a short time), but are not currently serving, on active duty in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard, or who served in the U.S. Merchant Marine during World War II. People who served in the National Guard or Reserves are classified as VETERANS only if they were ever called or ordered to active duty, not counting the four to six months required for initial training or yearly summer camps.

VETERAN-OWNED BUSINESS and DISABLED VETERANS BUSINESS ENTERPRISES (DVBE). A business certified by the U.S. Department of Veterans Affairs (VA) as a veteran-owned small business (VOSB) or service-disabled veteran-owned small business (SDVOSB), or a business certified by the State of California as a DVBE.

§ 5.01.030 EVIDENCE OF DOING BUSINESS.

(A) The following circumstances shall be considered evidence that a person is conducting business in the City:

(1) The report by reliable persons or other governmental agencies that the person is conducting business in the City;

(2) Where any person, by use of any sign, circular, card, brochure, telephone book, magazine, newspaper, website, electronic media or other publication, advertises, holds out or by any other means represents that the person is in business in the City;

(3) When any person holds an active license or permit issued by a governmental agency indicating that the person is doing business in the City;

(4) The filing of fictitious business name statement or be in the possession of a resale number issued by the state board of equalizations or the California Department of Tax and Fee Administration;

(5) Deliver, distribute, supply, manufacture, sell at retail or wholesale, or provide a service or generate revenue in any manner within the City.

(B) Notwithstanding any other provision to the contrary, a person may provide the Finance Department with a sworn statement (acceptable in form to the City) attesting that such person is not conducting business in the City. Such sworn statement shall be considered in determining if a license is required.

§ 5.01.040 BUSINESS LICENSE REQUIRED.

(A) Unless otherwise exempt, every person conducting or carrying on a business as defined in this chapter anywhere in the City, including mobile and delivery businesses with headquarters located outside of the City that perform services, sales, or deliveries within the jurisdiction of the City, shall do the following:

(1) Complete and file the appropriate forms with the City and pay the applicable fee (including an inspection fee where required) for securing a business license.

(2) Secure a separate business license for each physical location (including branch establishments) of a business and for each separate business carried on at the same location, including booth rentals.

(3) Complete a background investigation if applying for a business license under a special business type.

(B) A business license is required of all businesses rendering services to or on behalf of the City of Menifee as a municipal agency.

§ 5.01.050 FEES.

Prior to conducting any business, each person shall pay all business license fees as determined by the City Council. Business license fees shall be prorated quarterly at the time that the business license is issued based on current fee schedule adopted by the City Council. In addition, the City Council shall set fees for Fire, National Pollutant Discharge Elimination System, Menifee Police Department along with any other regulatory inspections, penalties and supplemental license fees for specific businesses (e.g., massage).

(A) Eligible reduced fee businesses.

(1) U.S. veterans. A 100% reduction of the base fee and State CASp only will be granted to a veteran of the U.S. armed forces with proof of honorable discharge.

(B) Eligible reduced fee businesses for Menifee Based Businesses and residents.

(1) Seniors. A 50% reduction of the base fee only will be granted to Senior Citizens (62 and older) with proof of age. Business must be based in Menifee and owner must reside in Menifee.

(2) Disabled. A 50% reduction of the base fee only will be granted to a disabled person with proof of SSDI/SSI. Business must be based in Menifee and owner must reside in Menifee.

(C) One-day special event vendors. Out-of-City vendors qualify for a one-day special event license for a reduced fee as adopted by the City Council. This fee will only cover the community event date referred to on submitted and approved application.

§ 5.01.060 EXEMPTIONS; FILING CLAIM OF EXEMPTION.

(A) Business license exempt businesses. The following exempt businesses shall not be required to submit for or obtain a business license:

(1) **Café musicians.** Any person meeting the definition of café musician under California Business and Professions Code section 16000.5.

(2) **Businesses exempted by Federal or state law.** The provisions of this chapter shall not be deemed or construed to apply to any person transacting or carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State of California from the payment of such regulatory business license fees charged pursuant to this ordinance or otherwise exempt from the requirements for licensing hereunder.

(3) **Garage sales.** Including, but not limited to, yard, lawn, attic, patio, moving or rummage sales held to sell, exchange, trade or dispose of surplus household or personal goods belonging to those conducting the garage sale on their own residential premises, which sales may not be conducted during more than four 72-hour periods per year. Any sales proposed to occur more frequently will require land use and zoning approval through a temporary use permit (or other permit) as well as a business license.

(4) Part-time occupants. The provisions of this chapter shall not apply to any natural person under the age of eighteen or over the age of 65 engaged in any part-time occupation of less than 400 hours a year.

(5) Sidewalk and roadside vendors. As defined within Chapter 5.70 of the Menifee Municipal Code, vendors are regulated under Chapter 5.70 and, in order to qualify for an exemption hereunder, a vendor must meet each regulation set forth therein.

(6) Teachers or tutors. For the teaching of musical, artistic or educational subjects when the following conditions exist: (1) the teaching is done at the residence of the pupil; and (2) the teacher/tutor employs no assistants, does not display an advertising sign at the residence, and does not make a general practice of selling merchandise in connection with the teaching or tutoring.

(7) Transportation network company (TNC). TNC entities which reside in the City of Menifee but operated less than 30 days in the preceding calendar year and TNCs that do not reside within the City of Menifee are exempt from the business license requirement pursuant to California Business and Professions Code section 16550 et seq., "The Passenger Charter-party Carriers' Act."

(B) Fee exempt businesses. The payment of business license fees contained in this ordinance shall not be required for the following exempt businesses. However, a City license is still required.

(1) Residential care facilities. Residential care facilities which serve six or fewer persons shall not be subject to local registration fees.

(2) Domestic household help. 1) Any person in the employ of an individual homeowner; or 2) a baby sitter caring for a total of eight or fewer children, including the sitter's own children, at a given address. Persons engaged in domestic household help must still comply with all federal and state requirements regarding applicable registration and certifications.

(C) Business license fee exempt businesses. The payment of business license fees contained in this ordinance shall not be required for the following exempt businesses as long as a claim of exemption is filed with the City. Exemption from the business license fee will not exempt the business from the mandatory state CASp annual fee, subject to change per state regulations.

(1) Banks and financial institutions. Any state or national bank which pays an "in lieu" tax provided for in article 13, section 27 of the California Constitution.

(2) Commercial travelers/wholesale salesmen. Any commercial traveler whose business is limited to goods, wares, and merchandise sold or dealt in at wholesale within the State of California, and as defined and described in Business and Professions Code section 16002.

(3) Churches, temples or other places of worship. Churches, temples or other places of worship, to the extent their use is exclusively for the exercise of religion. This exemption shall not apply to other activities which are not undertaken for the exercise of religion, including, but not limited to, day schools, social service programs, and church-owned or operated business enterprises.

(4) Eligible military personnel. Pursuant to California Business and Professions Code sections 16000.7, 16001, 16001.5, 16001.7, and 16102, every soldier, sailor or marine of the United States who has received an honorable discharge or a release from active duty under honorable conditions from such service may hawk, peddle and vend any goods, wares or

merchandise owned by him, except spirituous, malt, vinous or other intoxicating liquor, and shall be exempted from the business license fee. Every such honorably discharged person claiming exemption under the provisions of this chapter shall exhibit to the City their honorable discharge, or a certified copy thereof, together with a certificate signed by a licensed physician, setting forth the physical disabilities of such honorably discharged or honorably released person, and stating whether, in the opinion of such physician, the disabilities render such person physically unable to obtain a livelihood by manual labor.

(5) Insurance companies. Any insurer which pays an "in lieu" tax provided for in article 13, section 28 of the California Constitution. As used herein, "insurer" does not include insurance brokers.

(6) Non-profit organizations. Non-profit organizations conducting occasional, seasonal, or sporadic sales or other business for fundraising purposes whether or not a temporary use permit is required. This exemption shall not apply to promoters employed by such non-profit institutions, corporations, organizations, or associations.

(7) Real estate auctioneers. Any real estate auctioneer whose permanent place of business is not within the City, and who is defined and described in California Business and Professions Code section 16002.1.

(8) Blind vending facility operator. Any blind vending facility operator who qualifies via registration with the California Business Enterprises Program shall have their business license fee waived pursuant to Welfare & Institutions Code section 19633.

(D) Claim of exemption.

(1) A claim of exemption shall be filed with the Finance Department by an entity claiming to be exempt on a form provided by the City. There shall not be a fee for filing such a claim of exemption. The claim of exemption shall be filed at the time in which the original application is submitted. The claim of exemption must be submitted annually at the time of business license renewal and must be accompanied by the mandatory State CASp annual fee and renewal application.

(2) The City may revoke the exemption privilege granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption or is in violation of any applicable law or regulation related to the business or property upon which the business is located.

(3) No person shall conduct any business activities unless that person is in possession of an effective business license or written approval from the City for an exemption.

§ 5.01.070 ADDITIONAL LICENSE REQUIREMENTS FOR MASSAGE BUSINESSES.

Before obtaining a business license, and as a condition of renewal and/or continuation of such business license, all massage businesses and establishments, as defined in Chapter 5.45 of this Code, shall comply with the requirements of that chapter. The City Council by resolution may set additional appropriate fees for such massage business licenses. Prior to obtaining a massage business license, a valid conditional use permit (CUP) must be active at the site of the proposed massage business or establishment. CUPs may contain a condition indicating that violations of any provision of this Chapter 5.01, Chapter 5.45, or any other provision of this Code, state, or federal law, will subject the CUP to revocation. A revocation of any CUP allowing for the operation of a massage business or

establishment shall prohibit a new CUP from being approved for a massage business or establishment at the same location for five (5) years.

§ 5.01.080 ADDITIONAL LICENSE REQUIREMENTS FOR DOOR-TO-DOOR SOLICITATION.

Before solicitors may obtain a business license, and as a condition of renewal and/or continuation of such business license, all solicitors, as defined, shall comply with the requirements of this Code. The City Council by resolution may set additional appropriate fees for such door-to-door business licenses. If a business is required to obtain a business license for commercial activity within the City pursuant to this chapter and conducts such business in a manner that also meets the definition of solicitor under this chapter, the business must obtain a license for both the commercial activity and the door-to-door solicitation business.

§ 5.01.090 ADDITIONAL LICENSE REQUIREMENTS FOR SPECIAL BUSINESS TYPES

Under this division, the Chief of Police or his/her designee shall investigate the background of the owner and persons managing or supervising the business as deemed appropriate, unless otherwise exempted in the Chief of Police's discretion. Such investigation is consistent with the City's land use authority and police powers to ensure the public health, safety, and welfare of the public. Applicants applying for a license under a special business type shall be fingerprinted and photographed and consideration shall be given to the criminal record, if any, the business responsibility of the firm and the owner (such as previous license revocations, denials, or citations). The City Council by resolution may set additional appropriate fees for fingerprinting services.

The following enterprises or activity types, including any independent contractors conducting the below activity, are designated as special business types:

- Adult Businesses
- Auctions and Auctioneers
- Antique Dealers
- Auto Dismantlers (Including Motorcycles)
- Bail Bond Enforcement
- Bingo Games, Organizations or Parlors
- Card Rooms
- Dance Facilities
- Handyman (Unless licensed by the State)
- Home Tutors or Educators (Unless Otherwise Exempt)
- Maid, Carpet Cleaning, Janitorial or House Cleaning
- Massage Businesses
- Mobile or Itinerate Food Sales
- Pool Halls
- Private Security Company (Unless Licensed by the State)
- Purchase or Sales of Metals, Including Scrap Metals
- Repossession or Storage of Autos
- Secondhand Stores & Pawnshops
- Solicitors
- Weapons and Arms Dealers & Sales of Gun Powder

The special business types listed above require special investigation, review, and/or regulation because:

1. The tendency of certain categories of enterprises to engage, whether intentionally or unintentionally, in the promotion of crime;
2. The tendency of certain categories of enterprises to be placed where criminal activity is heightened;
3. The patrons of certain categories of enterprises are vulnerable to fraudulent charging or other practices;
4. Certain categories of enterprises create health or safety risks which require special regulation; and
5. Certain categories of enterprises require access to private property, particularly residential property, or frequent residential neighborhoods, generating high risks to the safety of persons and property.

§ 5.01.100 BUSINESS LICENSE REQUIREMENTS FOR ALL BUSINESSES.

Any business not explicitly exempt per this chapter and located within City of Menifee boundaries as well as any business located out-of-City doing business within the City of Menifee boundaries shall file an application for a business license utilizing a form provided by the City. The application shall not be deemed filed unless the form has been filled out completely and accurately by the applicant and paid all applicable fees including but not limited to additional fees for additional inspections, late application or failure to register. By signing the application, the applicant agrees to be bound by all provisions of this chapter, including but not limited to those providing for access for inspections.

(A) The application shall contain all of the following information:

- (1) The business's name, DBA, physical address, mailing address, phone number, fax number, email address, parcel number, start date, and ownership type;
- (2) If a business ownership type requires a FEIN (Federal Employee Identification Number), one shall be provided;
- (3) The applicant's name, address, telephone numbers (home, business and mobile), email and fax number; and the name of a person authorized to accept service of process;
- (4) The name, telephone number and address of the person to notify in the event of an emergency;
- (5) If the business is advertised to the public by name or designation other than the legal name of the applicant, that name or designation and proof of filing and publishing of a fictitious business name statement;
- (6) The State Board of Equalization or The California Department of Tax and Fee Administration Resale certificate if a resale certificate is required by the State Board of Equalization or the California Department of Tax and Fee Administration;
- (7) A detailed description of the nature of the business (including both current and future uses must be disclosed), including, but not limited to, a listing of all federal, state, county and other required permits or licenses, including any state permit or license number and category (e.g. contractors);

(8) Evidence that any and all state, federal and/ or county permits or certificates required to conduct the applicable business or profession have been lawfully acquired. No application shall be deemed final until adequate evidence of such permits or certificates have been shown;

(9) An assessment of the possible regulatory compliance of the business, including but not limited to, specific information regarding storage of materials, disposal of materials, fire risk, use of hazardous materials, type of services provided and specifically whether such services include massage, mobile operators, sidewalk vendors, or other businesses which may be determined to have additional regulatory requirements;

(10) Any other information necessary to determine appropriate regulatory requirements applicable to the business or deemed necessary by the City; and

(11) The signature of the applicant or corporate agent acknowledging under penalty of perjury that the information provided on the application is true and correct to the best of that person's knowledge and that the applicant or corporation is responsible for all applicable fees.

(B) By signing the application, the applicant and business agree to be bound by all provisions of this chapter, including but not limited to the provisions for inspection.

(C) Approval of license is contingent on the written verification from the Building and Safety, Police, Community Development, Fire and other departments as needed.

(D) The license shall be deemed null and void if the license application contains any false or misleading information. It shall be considered a violation of this Code, punishable as set out herein, to intentionally give any false or misleading information on the application.

(E) Notwithstanding the requirements of the California Public Records Act, the information requested by subdivisions (2) and (4) of subsection (A) of this section and any personally identifiable information deemed confidential under Business and Professions Code section 16550 et seq. shall be, to the extent allowed by law, considered confidential and will not be made available to the public.

§ 5.01.110 BUSINESS LICENSE; ANNUAL RENEWAL.

(A) A business license must be obtained by any business-, unless explicitly exempt in this chapter, before commencing business in the City.

(B) The first business license obtained by a business shall be valid through December 31 of that year no matter what date it was obtained.

(C) Thereafter, business license shall be valid from January 1 or the date of renewal issuance, whichever is last, through December 31 of each year.

(D) The business license shall be renewed annually by the filing of a renewal application on a form provided by the City, accompanied by payment of the appropriate fee, if applicable, not more than 60 calendar days prior to the expiration of the current license. The renewal application and fee shall be delinquent after December 31 of each year. Any License Fee that becomes delinquent for more than 60 calendar days will automatically be subject to applicable penalties.

(E) The City may send a courtesy notice of renewal to each person holding a business license approximately 60 days before December 31 of each year (i.e., by the beginning of November of each year). Any notice shall be mailed to the business mailing address set out in the application and shall remind the person of the requirement to renew their business license and how to do so. Failure of the City to send or the person to receive a renewal notice does not waive the renewal requirement.

(F) A business license will close and renewals on said account will no longer be accepted on or after June 1st of the year following the expiration date, if renewal application and payment is not received. A license may be subject to the reinstatement process, which requires payment of any reinstatement fees, if applicable.

(G) All business license renewal applications submitted after the effective date of this chapter shall comply with all requirements in this chapter unless otherwise exempted.

§ 5.01.120 COMPLIANCE WITH OTHER LAWS AND REGULATIONS.

(A) The fact that a business license has been issued does not authorize or legalize any business or business activity which violates any federal, state or local governmental statute, ordinance, public or private rule or regulation, or CC&R's, nor shall the issuance of a business license be construed as permitting a home occupation or business in a zone or land use district where such businesses are otherwise not permitted.

(B) In any trade or profession where an additional City, county, state or federal license or permit is required, such license or permit shall first be exhibited to the Finance Department before a City business license will be issued. Specifically, a mobile food vendor or mobile food facility selling food will be required to comply with County Department of Environmental Health Services requirements, including but not limited to County Ordinance No. 580, as it may be amended from time to time. However, the City is not responsible for verifying or confirming the validity of any other license, permit or requirement.

(C) A home occupation business license shall not be issued until an applicant has obtained all necessary City land use entitlements or City building permits to operate the business at its location. In applying for a building permit or other entitlement for a business, the applicant shall provide the business license account number. Notwithstanding anything to the contrary, this subsection shall not act to waive any CC&R requirements which must be met separately.

§ 5.01.130 ISSUANCE, FORM AND CONTENT OF LICENSE.

(A) A license will not be issued until an application has been completed and filed with the City, all applicable fees have been paid, and all City officers or departments required to investigate the application have approved such issuance. However, the City shall make every attempt practicable to complete any review or investigation within 20 working days of receipt of the completed application with all supporting documentation. If a license is not issued within 20 working days of the receipt of the application, the applicant shall be informed of the reason(s) why the license has not yet been issued or will not be issued.

(B) The issuance of a business license shall not be deemed evidence that a person, organization, institution, firm or corporation operating a business in the City is in fact in compliance with all ordinance rules or regulations of the City or that the person has applied for or has been issued all permits or certificates which otherwise may be required.

(C) A business license shall be prepared and issued upon approval by the Finance Department.

(D) Each license shall state on its face the following:

- (1) The name of the business or person to whom the license is issued;
- (2) The location of the business;

- (3) The date of the issuance of the license;
- (4) The expiration date of the license;
- (5) The license control number, unique to each license;
- (6) The official seal of the City; and
- (7) Such other and further information as the City Council or Finance Department shall deem appropriate.

§ 5.01.140 GROUNDS FOR BUSINESS LICENSE DENIAL.

A business license of any type or renewal of a license of any type may be denied or revoked for any of the following reasons, including, but not limited to:

- (A) The application is not on the form provided or does not contain the required information;
- (B) The application or supplementary submitted information contains materially false or incorrect information;
- (C) Noncompliance with requirements of this chapter, the Menifee Municipal Code or otherwise applicable regulations;
- (D) The vehicle to be used in the business is inadequate or unsafe for the purpose for which it is to be used, or the building or structure where the business is located does not comply with all laws;
- (E) The business would interfere with or unreasonably obstruct the free flow of vehicular traffic, with other means of travel on any public street, or with pedestrian traffic on the sidewalks;
- (F) Appropriate permits for the business have not been obtained from the state, county or City;
- (G) The conduct of the business or activity will be contrary to law;
- (H) The conduct of the business or activity will interfere with the preservation of peace, health, safety or welfare of the public;
- (I) The business does not comply with applicable Community Development, Building and Safety, Fire, and/or Police requirements and/or other regulations;
- (J) The applicant failed to provide the requested information in connection with the application submitted to the City, preventing the Chief of Police from making his or her determination as to suitability to conduct or work at the business;
- (K) Based on facts and circumstances discovered by the background investigation which indicate acts of deceit, fraud, or other acts of moral turpitude and the applicant's statements on the business license application, the Chief of Police or their designee reasonably determines that the applicant would not conduct the business enterprise in a law-abiding manner or would conduct the business in a manner that would subject patrons of the business enterprise to risk of harm or criminal, deceitful or otherwise unethical practices:
 - 1. A general or limited partnership or a partnership which possesses an ownership interest in the enterprise;
 - 2. A joint venturer in a joint venture which possesses an ownership interest in the business and if one or more of the joint venturers is a partnership or corporation, those partners,

directors or stockholders to whom the requirements of this section would apply if the partnership or corporation were the sole owner of the enterprise;

3. A sole proprietor when the enterprise is a sole proprietorship;
4. A director, when either a commercial or non-profit corporation possesses an ownership in the business; or
5. A member of a governing body or other board or committee to which management is entrusted, when an unincorporated association possesses an ownership interest in the business; or
6. A president, general manager, vice-president, chief assistant manager, secretary, treasurer or any officer with equivalent or similar authority employed or retained by the firm possessing an ownership interest in the business;

(L) That a basis for denial of the license as authorized by this Code exists, including, but not limited to, provisions governing adult oriented businesses, massage establishments, card rooms, and bingo halls;

(M) Notwithstanding such information in this subsection, an application shall not be denied solely on the basis that a person has been convicted of a felony if the person has obtained a certificate of rehabilitation under Penal Code section 4852.06 et seq., or that the person has been convicted of a misdemeanor if the person has met all applicable requirements of the criteria of rehabilitation developed to evaluate the rehabilitation of a person when considering the denial of a license under Penal Code section 4852(6);

(N) The applicant has previously had their license revoked pursuant to this Code and the applicant is applying for a new business license for the same or another use;

(M) The Finance Director shall also deny an application for renewal of any business license type if he/she determines that one or more conditions applicable to the previous license have been violated or the business does not comply with City, state, federal or otherwise applicable Codes, rules, regulations or laws.

§ 5.01.150 GROUNDS FOR LICENSE REVOCATION

A business license of any type or renewal of a license of any type may be suspended for not longer than three years or revoked during its term if the Finance Director finds in writing:

- (1) That any grounds for denial of an initial application exist, including but not limited to, untrue statements made in the application or an arrest and/or conviction of a crime that may inhibit the person's ability to conduct the business in a law abiding manner; or
- (2) The business is operated in a manner, or is housed on premises, or within a building which violates, or is in violation of any City, state, federal, or otherwise applicable Codes, rules, regulations or laws; or
- (3) The holder of the license has violated one or more conditions imposed upon the license.

§ 5.01.160 LICENSE REINSTATEMENTS

A business license of any type may be reinstated by the Finance Director or his/her designee if the business license was canceled or was expired and the business continued business operations within

the City. Reinstatement of a business license may include the submittal of a reinstatement application and payment of any accrued penalties, reinstatement fee(s), or any additional fees as set by City Council.

§ 5.01.170 REFUNDS.

Each business license initial and/or renewal application shall be accompanied by a mandatory filing or renewal fee in an amount determined by resolution of the City Council along with any additional applicable fees, including but not limited to zoning review and state CASp fees due at the time of application and/or renewal.

(A) The license fee is to compensate the -City for the cost of administering this chapter, and such fee is not refundable, with the exception where a business license issuance or business license renewal is not approved, in which case, the base fee will be refunded along with the State CASp Fee.

(B) Notwithstanding the foregoing, zoning review fees are not refundable.

(C) Business was found to be outside of City limits.

§ 5.01.180 POSTING OF LICENSE.

(A) Every business license shall at all times be posted in a conspicuous place upon the premises where such business is conducted and shall be produced in response to a request from the Finance Department, duly authorized law enforcement officers, and City Code enforcement officers.

(B) Mobile operators shall have the license or a copy of it available in their vehicles.

§ 5.01.190 TRANSFER OF BUSINESS LICENSE.

(A) When a registered license is transferred to a new residence of the same applicant within the City, or a licensed business is transferred from one location to another location within the City, the current license may be amended in writing by the Finance Department to authorize the conduct of the business at the new location with a submittal and -City approval for a "request for transfer of business license" without requiring a new business license fee but subject to a business address change fee and zoning review and fee.

(B) A home occupation's relocation to a commercial location, an out-of-City license transferring to an in-City location and a commercial location relocation to a residential location will require a new application for a business license.

(C) Otherwise, application for any transfer or assignment shall be filed on a form provided by the City for that purpose prior to the effective date of the transfer or assignment. The transfer application shall not be deemed filed unless the form has been filled out completely and accurately by the licensee or such person's duly authorized representative and current fees paid including a change of address fee.

(D) A transfer or assignment from one person to another is not allowed.

§ 5.01.200 DUPLICATE LICENSE.

A duplicate license certificate may be issued to replace any license issued hereunder which has been lost or destroyed where such license holder submits a statement of such fact and provides payment of a duplicate license fee in the amount established by resolution of the City Council.

§ 5.01.210 INSPECTIONS AND ENFORCEMENT.

(A) For the purpose of enforcing the provisions of this chapter, a building and safety inspector, fire inspector, Code enforcement officer, peace officer or other authorized agent employed by the City may enter free of charge, at any reasonable time, any place of business for which a business license has been granted or which is required by this chapter to make inspections. The purpose of such entry shall be to inspect the premises, grounds, facilities and structures located therein for compliance with all applicable requirements imposed by the provisions of this chapter, the Menifee Municipal Code, state/local building and Fire Code requirements, and all other applicable requirements. It shall be unlawful for any such person to fail or refuse to make available the necessary access.

(B) When the business license application indicates that there may be additional regulatory issues regarding the home occupation or business (including, but not limited to, the disposal of materials in a manner requiring compliance with National Pollutant Discharge Elimination System requirements or storage of materials in a manner which may constitute a fire risk) which could impact public health, safety or welfare, the Finance Department shall require the applicant to deposit an additional fee equal to the cost of a regulatory inspection. Such regulatory inspection fees may be collected on an annual basis along with the business license fee. The fee shall fund the cost of an annual inspection. If the inspection is not performed within the one year period, the holder of the license may request that the fee be refunded or credited toward the following year's fees.

(C) The City may initiate enforcement actions against business license holders whose business premises are found upon inspection to be in violation of such requirements and will be subject to license revocation. In addition to any other costs or penalties, the business license holder shall be liable to the City for the costs of such inspection and subsequent inspections. An annual inspection cost shall be added to such license fee. Any unpaid inspection costs shall be added to fees owing and no license shall be issued until amounts outstanding are paid in full.

(D) The City may report any and all municipal code violations to state, federal, or other regulatory agencies and organizations.

§ 5.01.220 ACCEPTANCE OF THIS CHAPTER.

By doing business within the City, applying for a business license and any renewal thereof, each business agrees to be bound by the provisions of this chapter, to cooperate with the City for enforcement of this chapter, and authorizes the City and its agents and employees to obtain and verify information regarding that business as well as to engage in reasonable inspections and investigations and to provide access therefor.

Conditional Use Permits issued pursuant to this Code relating to massage businesses shall contain a condition requiring full compliance with this Chapter and all provisions of Chapter 5.45 of this Code regulating such activity. Failure to comply with the provisions of this Chapter, Chapter 5.45, or any other conditions subjects the Conditional Use Permit to revocation pursuant to Title 9 of the Code.

Conditional Use Permits issued for other special business types not including massage businesses may contain a condition to comply with other provisions of this Code, as applicable.

§ 5.01.230 POWERS AND DUTIES OF THE FINANCE DEPARTMENT.

(A) The Finance Department may enforce the provisions of this chapter with duly authorized law enforcement officers, Code enforcement or building and safety officers. The Finance Department shall have the authority to enter, examine all places of business within the City and the business's license records or business vehicles to confirm compliance with this chapter.

(B) The Finance Department performing the duties under this chapter shall have access to state and local summary criminal history information in order to fulfill their duties. Labor Code section 432.7, Stats. 1974 and Ch. 1321 shall apply to such information.

(C) Subject to the City's retention schedule, the Finance Department shall keep a record of all business licenses issued, the term, to whom issued, the location of the business, the amount of the fee paid and any other information as directed by the City Council.

§ 5.01.240 UNLAWFUL BUSINESS.

A determination under this chapter may be appealed as set out in Menifee Municipal Code section 2.04.050. No business license issued pursuant to this ordinance shall be construed as authorizing the conduct of or continuance of any occupation, use or activity of any kind which is prohibited by this Municipal Code, state or federal law or regulation.

§ 5.01.250 APPEAL.

A determination under this chapter may be appealed as set out in Menifee Municipal Code section 2.04.050.

§ 5.01.260 VIOLATION; PENALTY.

A violation of this chapter is a violation of the Menifee Municipal Code and is a misdemeanor. A violation of this chapter also constitutes a public nuisance. This chapter may be enforced by the City by any available means, including, but not limited to, administrative citation or injunction.