

ORDINANCE _____

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, CREATING A NEW MESA CITY CODE TITLE 6, CHAPTER 24 “ESCORT SERVICES” REQUIRING LICENSING FOR THE PROVISION OF SERVICES BY AN ESCORT, ESCORT ASSISTANT OR ESCORT BUREAU AND ESTABLISHING PENALTIES FOR VIOLATIONS THEREOF, AND AMENDING TITLE 6, CHAPTER 16 “SEXUALLY ORIENTED BUSINESSES”.

WHEREAS, Title 6, Chapter 16 of the Mesa City Code entitled “Sexually Oriented Businesses” currently governs the licensing of sexually oriented businesses in Mesa, AZ, including the licensing of escorts and escort agencies;

WHEREAS, the City Council was made aware of instances of unprofessional practices and unlawful activity on the part of certain elements of the escort industry, necessitating additional regulations of the escort industry above those currently set forth in the Mesa City Code;

WHEREAS, to enhance the integrity of the escort industry, while reducing unprofessional practices and unlawful activities, the City Council has determined that removing requirements for the escort industry from Title 6, Chapter 16 of the Mesa City Code entitled “Sexually Oriented Businesses” and creating an ordinance specific to the escort industry in Title 6, Chapter 24 of the Mesa City Code is necessary; and

WHEREAS, such amendments and additions to the Mesa City Code, strengthens the language related to the escort industry and clarifies the rights and responsibilities of escort licensees while continuing to protect the health and safety of the public.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. Mesa City Code Title 6, Chapter 24, entitled “Escort Services” is created as follows:

**CHAPTER 24
ESCORT SERVICES**

SECTION:

- 6-24-1: PURPOSE AND INTENT**
- 6-24-2: DEFINITIONS**
- 6-24-3: ADMINISTRATION**
- 6-24-4: LICENSE REQUIRED**
- 6-24-5: TERM OF LICENSE; LICENSE RENEWAL**
- 6-24-6: LICENSE APPLICATION AND FEES**
- 6-24-7: LICENSE APPLICATION INVESTIGATION**
- 6-24-8: ISSUANCE OF LICENSE; CHANGE IN INFORMATION**
- 6-24-9: ADDITIONAL REGULATIONS**
- 6-24-10: ESCORT BUREAU DUTIES**
- 6-24-11: ADVERTISING**
- 6-24-12: DENIAL, REVOCATION AND SUSPENSION OF LICENSE**
- 6-24-13: APPEALS**
- 6-24-14: PENALTIES**

6-24-15: EXCLUSIONS

6-24-1: PURPOSE AND INTENT

It is the purpose and intent of the City Council, by the adoption of this Chapter, to regulate the escort industry: (1) for the protection of the public from criminal activity (such as prostitution, assault, sex trafficking of adults and children, and human trafficking) and health risks through the spread of sexually transmitted diseases; and (2) for the preservation of the peace and welfare of the community.

6-24-2: DEFINITIONS

The below words and phrases, wherever used in this Chapter, shall be construed as defined in this Section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- (A) **APPLICANT:** A person who applies for a license issued pursuant to this Chapter and who, upon approval of the application, will be the licensee.
- (B) **BUSINESS SERVICES DIRECTOR:** The City's Business Services Director or his/her designee.
- (C) **CITY:** The City of Mesa, Arizona.
- (D) **CONSIDERATION:** Money or money's worth, payment, reward, fee, salary, commission, profit or anything regarded as a return given or suffered by one for the act or promise of another.
- (E) **CONTROLLING PERSON:** (A) any individual who has a ten percent (10%) or greater interest in the ownership or the earnings of the business of a licensee/applicant, and (B) any of the following persons for a licensee/applicant:
 - (1) The president or other executive officers of a corporation;
 - (2) Each general partner of a limited partnership or any partner of a non-limited partnership;
 - (3) The managing members or officers of a limited liability company/corporation; or
 - (4) A sole proprietor.
- (F) **ESCORT:** Any person, who for consideration acts as, advertises as, or is held out to the public as available for hire to consort with or to accompany another person(s) to social affairs, places of amusement or entertainment, within any place of public or private resort, including within any private quarters.
- (G) **ESCORT ASSISTANT:** Any person, not an escort, who for consideration:
 - (1) Assists an escort in the escort's services, including a person who drives an escort, provides scheduling or referral services, provides security services, offers or furnishes an escort, or introduces patrons to escorts; or

- (2) Acting as the agent for either an escort bureau or a patron, contacts or meets with patrons or escort bureaus at any location, whether that person is employed by the escort bureau or any other business, or is self-employed.
- (H) **ESCORT BUREAU:** Any person, who for consideration, furnishes, refers or offers to furnish or refer escorts, or provides, or offers to introduce, patrons to escorts; the definition includes, but is not limited to, services provided by an escort agency or escort service.
- (I) **HEARING OFFICER:** The Business Services Director or an independent contractor hired by the City to serve as a hearing officer to conduct a hearing and make an impartial determination on an appeal requested by a licensee/applicant pursuant to this Chapter.
- (J) **LICENSE:** A license issued pursuant to this Chapter.
- (K) **LICENSEE:** A person who is the holder of a valid license under this Chapter. A licensee includes an agent, servant, employee, controlling person or other person, while acting on behalf of that licensee, whenever such licensee is or would be prohibited from doing or performing an act or acts under this Chapter.
- (L) **LICENSING ADMINISTRATOR:** The City's Business Licensing and Revenue Collections Administrator or his/her designee.
- (M) **LICENSING OFFICE:** The division of the City's Business Services Department under the supervision of the City's Licensing Administrator.
- (N) **OFFER TO PROVIDE ACTS OF SEXUAL CONDUCT:** To offer, propose or solicit to provide sexual conduct to a patron including, but not limited to, conversations, advertisements and acts which would lead a reasonable person to conclude that such acts were to be provided or engaged in.
- (O) **PATRON:** Any person who agrees, arranges, contacts, pays or attempts to hire the services of an escort, escort assistant or escort bureau.
- (P) **PERSON:** A corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual (natural person). The definition includes a trustee, receiver, assignee or similar representative.
- (Q) **POLICE DEPARTMENT:** The City of Mesa Police Department.
- (R) **PROSTITUTION:** Engaging in or agreeing or offering to engage in sexual conduct with another person under a fee arrangement with that person or any other person.
- (S) **SEXUAL CONDUCT:** Includes any of the following committed by or on a person:
- (1) Oral contact with the penis, vulva, breast or anus. This definition does not include an act of breast-feeding by a mother.
- (2) Flagellation or torture by or on a person who is nude or clad in undergarments or in revealing or bizarre costume or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

- (3) Any direct or indirect fondling or manipulating of any part of the genitals, anus or female breast.
 - (4) Penetration into the penis, vulva or anus by any part of the body or by any object.
- (T) **SEXUALLY ORIENTED ESCORT:** An escort who:
- (1) Works for (as an agent, employee or independent contractor) or is referred to a patron by a sexually oriented escort bureau;
 - (2) Engages in advertising to make a reasonable person believe that acts of sexual conduct or sexual stimulation will be provided;
 - (3) Solicits, offers, agrees to provide or does provide acts of sexual conduct to a patron; or
 - (4) Accepts an offer or solicitation to provide acts of sexual conduct for a fee, in addition to the fee charged by the escort bureau.
- (U) **SEXUALLY ORIENTED ESCORT BUREAU:** An escort bureau which:
- (1) Engages in advertising to make a reasonable person believe that acts of sexual conduct or sexual stimulation will be provided by an escort;
 - (2) Uses as escorts persons known to have violated the law regarding prostitution;
 - (3) Solicits, offers or agrees to provide or does provide escorts who perform acts of sexual conduct to a patron; or
 - (4) Employs, contracts with, refers or provides to a patron, a sexually oriented escort.
- (V) **SEXUAL STIMULATION:** To excite or arouse the prurient interest, or to offer or solicit acts of sexual conduct as defined under “offer to provide acts of sexual conduct.”

6-24-3: ADMINISTRATION

It shall be the duty and responsibility of the Licensing Administrator to administer the provisions of this Chapter. Pursuant to this duty, the Licensing Administrator shall issue, renew, deny, suspend, or revoke licenses in accordance with this Chapter.

6-24-4: LICENSE REQUIRED

- (A) Any person desiring to engage in, conduct or carry on, in or upon any premises or real property located or situated within the City, the activities of an escort, must first obtain and maintain in effect a current, unrevoked and unsuspended license issued pursuant to the provisions of this Chapter.
- (B) Any person desiring to work or perform services as, conduct, manage, operate, or maintain an escort bureau located or situated within the City, or whose escorts or escort assistants will work in the City, must first obtain and maintain in effect a current, unrevoked and unsuspended license issued pursuant to this Chapter.

- (C) Any person desiring to work or perform services as an escort assistant upon any premises or real property located or situated within the City must first obtain and maintain in effect a current, unrevoked and unsuspended license issued pursuant to this Chapter.

6-24-5: TERM OF LICENSE; LICENSE RENEWAL

- (A) Any license issued pursuant to this Chapter: (i) is non-transferable; (ii) shall be valid for a term of one (1) year from the date of issuance; and (iii) may be renewed by a licensee in accordance with this Chapter and such renewal shall be valid for a term of one (1) year.
- (B) To renew a license, the completed renewal application must be submitted by the licensee, with the applicable fee, no later than forty-five (45) calendar days prior to the expiration of the license; failure to do so shall mean that the license will expire at the end of the term of the license and will be deemed non-renewable. Licensees who fail to apply to renew their license must file a new application for a license and, if their license has expired, may not operate until a new license has been issued. The Licensing Office is authorized to obtain necessary information to update the original license application and to determine whether the license should be renewed.

6-24-6: LICENSE APPLICATION AND FEES

- (A) Any person desiring to obtain a license or renew an existing license to operate as an escort, escort assistant or escort bureau shall make application to the Licensing Office. An application must be accompanied by the applicable application or renewal fee established by the City. All fees are nonrefundable and are not prorated, except as otherwise required by law. Neither the filing of an application for a license, nor payment of an application or renewal fee, shall authorize the conducting of the business of an escort, escort assistant or escort bureau until such license has been granted or renewed.
- (B) Each application for a license shall consist of the information set forth in this Subsection (B). Each applicant must provide, at a minimum, all of the following information, as applicable, in order to obtain a license:
 - (1) Applicant's full legal name, business name, all telephone numbers and email addresses under which applicant will be doing business or advertising, website(s), business entity information, and legal (business) address of the applicant (which may not be a P.O. Box).
 - (2) If the applicant is an individual (natural person) or sole proprietorship:
 - (a) Applicant's physical description, and date and place of birth;
 - (b) Applicant's addresses of primary residence and the dates of residence at each address for the ten (10) year period immediately preceding the date of the application;
 - (c) Applicant's business, occupation, and employment history for the ten (10) year period immediately preceding the date of the application, including addresses and dates of employment; and
 - (d) A current picture identification document, issued by a governmental agency, demonstrating applicant has reached the age of eighteen (18) years.

- (3) If applicant is applying for a license to operate as an escort bureau:
 - (a) The address at which the applicant desires to do business that is open to the public or patrons;
 - (b) The true names and residential addresses of all persons employed or intended to be employed as escorts; and
 - (c) All business names, trade names or fictitious names under which the escort bureau is doing business or advertising.
- (4) The names and contact information of all controlling persons for the applicant.
- (5) Any other names by which the applicant or a controlling person is or has been known by.
- (6) The mailing address for the purpose of receiving City notices and other licensing correspondence relating to the applicant/licensee or the enforcement of this Chapter.
- (7) The business or regulatory license history of the applicant for the ten (10) year period immediately preceding the date of application: whether the applicant, while operating under a business or regulatory license issued by a governmental jurisdiction, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such suspension or revocation.
- (8) Applicant's felony and misdemeanor convictions for the ten (10) year period immediately preceding the date of application, excluding those for civil traffic offenses, and the grounds for such convictions.
- (9) For an applicant that is a business entity, the Articles of Incorporation, Articles of Organization or Certificate of Limited Partnership, together with any amendments thereto.
- (10) A detailed description of the exact nature of the business to be conducted.
- (11) Such other identification or information as the Police Department or Licensing Office may require: (i) in order to discover the truth of the matters required to be set forth in the application; or (ii) that is relevant to the issuance of a license pursuant to the requirements of this Chapter.

6-24-7: LICENSE APPLICATION INVESTIGATION

- (A) Any applicant for a license shall present the completed application to the Licensing Office containing all of the information requested on the application and corresponding documents as prescribed in this Chapter.
- (B) Each person applying for a license and the controlling persons for the applicant shall submit a full set of fingerprints to the City in a manner approved by the Licensing Office. The fingerprints will be submitted to the Arizona Department of Public Safety to be used to obtain a state and federal criminal records check in accordance with A.R.S. § 41-1750 and Public Law 92-544. The Arizona Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation.

- (C) The Police Department, on behalf of the Licensing Office, will receive and review the criminal history record information resulting from the criminal records check set forth above, including conviction and non-conviction data, of license applicants and controlling persons for the purpose of evaluating the fitness of applicants/licensees and controlling persons in connection with the issuance, renewal, suspension or revocation of a license. Such information shall be used only for the purpose of such evaluation or for the purpose of supporting and defending a denial, non-renewal, suspension or revocation of a license.
- (D) The Police Department shall have a reasonable time within which to investigate the application and background of the applicant and controlling persons. Based on such investigation, the Police Department shall recommend to the Licensing Office approval or denial of the license in accordance with this Chapter.

6-24-8: ISSUANCE OF LICENSE; CHANGE IN INFORMATION

- (A) Every license shall be issued in accordance with applicable law including, but not limited to, A.R.S. § 41-1080 and Arizona Revised Statutes Title 9, Chapter 7, Article 4 (Municipal Regulations). No license shall be issued to an individual if the individual does not present one (1) or more of the documents listed in A.R.S. § 41-1080, indicating the individual's presence in the United States is authorized under federal law and complies with the Arizona Legal Workers Act.
- (B) When any change occurs regarding the written information provided to the City required in an application, the applicant/licensee shall give written notification of such change to the Licensing Office within ten (10) calendar days after such change.

6-24-9: ADDITIONAL REGULATIONS

- (A) Any person licensed as provided in this Chapter must operate under the name or conduct business under the designation specified in such license.
- (B) Any escort bureau licensed as provided in this Chapter must only conduct business at the location specified in such license and post their license in a conspicuous place upon the business premises.
- (C) No escort bureau shall employ as an escort any person under eighteen (18) years of age.
- (D) No escort, escort assistant or escort bureau shall furnish any escort or accept employment from any patron or person to be escorted or introduced, who is under eighteen (18) years of age.
- (E) No person is permitted to operate or perform services as a sexually oriented escort or sexually oriented escort bureau, regardless of license.
- (F) Each licensee operating as an escort or escort assistant shall carry their issued license upon his or her person when acting as an escort or escort assistant, and produce the same for inspection upon request, along with a government issued photo identification.
- (G) Escorts are prohibited from: (i) sexual conduct with patrons; (ii) groping the clothing covering a patron's genitals or groping the clothing covering the breasts of a female patron; (iii) touching himself or herself, or asking a patron to touch himself or herself, on the genitals, buttocks or breasts (of a female patron); or (iv) requesting that a patron take off his or her clothing so as to expose the patron's genitals or breasts (female patron).

6-24-10: ESCORT BUREAU DUTIES

- (A) The escort bureau shall provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the service to be performed.
- (B) The escort bureau, in terms of permitting consequences, is responsible and liable for the acts of all its employees, independent contractors and agents while working for the escort bureau including, but not limited to, telephone receptionists and escorts who are referred by the escort bureau while the escort is with the patron.
- (C) An escort bureau shall not advertise, offer, solicit, or agree to provide escorts for sexual conduct. An escort bureau shall employ or provide only escorts who possess an escort license issued pursuant to this Chapter.
- (D) No escort bureau may use, do business under, or advertise a telephone number until that number has first been reported to the Licensing Office on a form prescribed by the Licensing Office for that purpose.
- (E) No escort bureau may use a business name, trade name or fictitious name until that name has first been reported to the Licensing Office on a form prescribed by the Licensing Office for that purpose.

6-24-11: ADVERTISING

No person is permitted to advertise or hold out to the public the availability of an escort, escort assistant or escort bureau without first obtaining a license therefore as provided in this Chapter, whether the actual business of an escort, escort assistant or escort bureau, as defined in this Chapter, is performed. The license number must be prominently displayed in such advertisements and prefaced with the letters “COM” to indicate a City of Mesa license number. This number must be included in all written, audio or electronic media advertisements.

6-24-12: DENIAL, REVOCATION AND SUSPENSION OF LICENSE

- (A) Denial. In addition to any penalties set forth in this Chapter, a license issued pursuant to this Chapter (renewal or new) will only be granted if all of the below requirements of this Subsection (A) are met; the failure to meet any of the requirements will result in denial of the application.
 - (1) The required fees have been paid.
 - (2) The application, applicant and activities conform in all respects to the provisions of this Chapter, the ordinances of the City and laws of the State of Arizona.
 - (3) The applicant has not made a material misrepresentation of fact in the application.
 - (4) The applicant has provided in a timely manner all information required herein or reasonably necessary for issuance of the license.
 - (5) Neither the applicant or a controlling person has been convicted, in a court of competent jurisdiction, within the last ten (10) years, of a felony or misdemeanor, involving fraud,

prostitution, pimping, pandering, lewd conduct, indecent exposure, pornography, sexual misconduct or sexual assault, or any other offense involving moral turpitude.

- (6) The applicant has not had a license similar to the one issued pursuant to the provisions of this Chapter issued by another governmental authority, revoked within the ten (10) year period immediately preceding the date of the filing of the application.
- (7) The applicant or a controlling person does not owe a current debt to the City related to any open or closed account maintained or formerly maintained with the City (see Mesa City Code Title 1, Section 32).
- (8) Applicant or a controlling person does not have:
 - (a) An outstanding warrant for his or her arrest; or
 - (b) Pending charges in a court of competent jurisdiction of the type listed in Section 6-24-12(A)(5). A renewal license may be issued if the licensee or a controlling person has a felony or misdemeanor charge of the aforementioned type pending in a court of competent jurisdiction; however, the issuance of such renewal license shall not prevent the City from taking any action prescribed in this Chapter against the licensee should the licensee or controlling person be convicted of the pending charge.

(B) Suspension.

- (1) In addition to any penalties set forth in this Chapter, a license shall be suspended if, during the term of the license, the Licensing Administrator determines that a licensee or controlling person has violated any of the provisions of this Chapter; however, the violation of certain provisions of this Chapter, as specifically set forth in Subsection (C) below, will result in revocation, rather than suspension, of a license.
- (2) The penalty for a suspension of a license shall be:
 - (a) For the first suspension of a license during a twenty-four (24) month period, the license will be suspended up to fourteen (14) calendar days.
 - (b) For the second suspension of a license during a twenty-four (24) month period, the license will be suspended a minimum of fifteen (15) calendar days up to a maximum of thirty (30) calendar days.
 - (c) For the third suspension of a license during a twenty-four (24) month period, the license will be revoked in accordance with Subsection (C) below.

(C) Revocation.

- (1) In addition to any penalties set forth in this Chapter, a license shall be revoked if during the term of the license, the Licensing Administrator determines:
 - (a) Licensee or a controlling person is convicted of a felony or misdemeanor criminal offense:

- (i) Involving fraud, prostitution, pimping, pandering, lewd conduct, indecent exposure, pornography, sexual misconduct or sexual assault, or any other offense involving moral turpitude;
 - (ii) Involving untrue, fraudulent, misleading, or deceptive advertising; or
 - (iii) Having a reasonable relationship to the functions of an escort, escort assistant or escort bureau.
- (b) On two (2) or more occasions within a twenty-four (24) month period, an employee, independent contractor or agent of the licensee, while working for the licensee, is convicted of a felony or misdemeanor offense involving fraud, prostitution, pimping, pandering, lewd conduct, indecent exposure, pornography, sexual misconduct or sexual assault, or any other offense involving moral turpitude. For the purpose of this Section 6-24-12(C)(1)(b):
 - (i) In applying the twenty-four (24) month provision, the date of the commission of an offense will be used to calculate the time period; and
 - (ii) The two (2) or more offenses subjecting the license to revocation do not have to be: (a) violations of the same statute or ordinance so long as they are offenses of the type listed above in Section 6-24-12(C)(1)(b); or (b) committed by the same person, so long as they are committed by an employee, independent contractor or agent of the licensee while working for the licensee.
- (2) If a license is revoked, the licensee and controlling persons may not apply for a license for a period of one (1) year from the date of revocation.
- (D) A licensee will be notified of any denial, suspension or revocation of the license via a mailing method capable of tracking delivery. The cause for such denial, revocation or suspension shall be set forth in the notice. The decision to deny, suspend or revoke a license may be appealed in accordance with Section 6-24-13 (Appeals).

6-24-13: APPEALS

- (A) Any party aggrieved by a decision of the Licensing Administrator under this Chapter may appeal the decision by requesting a hearing within ten (10) calendar days of issuance of a notice of the decision from the Licensing Administrator or Licensing Office. Service of any notice issued pursuant to this Chapter shall be complete upon mailing to the address of record for the licensee or applicant on file in the Licensing Office. If a hearing is not requested within ten (10) calendar days of issuance of the notice, the decision of the Licensing Administrator will be deemed final, the aggrieved party having waived their right to appeal the decision by failing to request a hearing.
- (B) The appeal must meet the following requirements: (i) it must be mailed to the Licensing Office and be postmarked no later than ten (10) calendar days after the issuance of the notice of the decision; and (ii) it must set forth the grounds upon which the person is appealing the decision. If an appeal meets the requirements of this Subsection (B), a hearing with a Hearing Officer will be scheduled within thirty (30) calendar days of receipt of the appeal, or at such later time agreed upon by the aggrieved party and the City. The failure of an appeal to meet the aforementioned requirements shall entitle the Business Services Director to deny the appeal, making the decision of the Licensing

Administrator final.

- (C) All proceedings before a Hearing Officer shall be informal and without a jury, except that testimony shall be given under oath or affirmation. The technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. No prehearing discovery shall be permitted, unless the Hearing Officer determines good cause exists otherwise. The Hearing Officer is authorized to make such orders as may be necessary or appropriate to fairly and efficiently determine the truth and decide the case at hand. The filing of an appeal will suspend the decision of the Licensing Administrator, except for decisions to deny a new application, until such time as the Hearing Officer has rendered their decision.
- (D) The Hearing Officer will render a decision within sixty (60) calendar days of a hearing, unless the Hearing Officer provides notice to the parties that additional time is needed, but in no event shall a Hearing Officer take longer than one hundred twenty (120) calendar days to render a decision. The decision of the Hearing Officer is final. An appeal of the Hearing Officer's decision may be made in accordance with Arizona Revised Statutes, Title 12, Chapter 7, Article 6 (Judicial Review of Administrative Decisions).

6-24-14: PENALTIES

- (A) Among other penalties that may apply, any person who violates any provision of this Chapter, whether or not the act is specifically stated as being unlawful, shall be guilty of a class one misdemeanor. Upon conviction, persons shall be punished by a fine not to exceed the amounts set forth in this Section 6-24-14(A) and may also be punished by an imprisonment for a period not to exceed six (6) months.
 - (1) A person convicted of any offense listed in this Chapter shall pay a fine not less than five hundred dollars (\$500.00).
 - (2) If within a period of thirty-six (36) months a person is convicted of a second violation of this Chapter, the person shall pay a fine not less than one thousand dollars (\$1,000.00).
 - (3) If within a period of thirty-six (36) months a person is convicted three or more times of a violation of this Chapter, the person shall pay a fine not less than one thousand five hundred dollars (\$1,500.00).
- (B) In addition to the fines set forth in Subsection (A), in accordance with A.R.S. § 13-803, upon conviction of a violation of this Chapter, an enterprise (as that term is defined in A.R.S. § 13-105) may be punished by additional fines, so long as the total amount of fines for the conviction of a violation does not exceed twenty thousand dollars (\$20,000).
- (C) Each violation continued shall be a separate offense, punishable as described herein.
- (D) The denial, suspension or revocation of a license is not a defense to prosecution.

6-24-15: EXCLUSIONS

The requirements of this Chapter shall have no application, no effect upon, and shall not be construed as applying to any of the following:

- (A) Employment agency services, except that any employment agency which provides escorts as defined herein, must obtain a license as required by this Chapter.
- (B) A sexually oriented business with a valid, unsuspended license to operate issued pursuant to Mesa City Code Title 6, Chapter 16.
- (C) An organization which is qualified for exemption from taxation of income under A.R.S. § 43-1201.
- (D) The participants in an auction held for the purpose of raising funds for a charitable cause or organization at which individuals, who personally receive no consideration, are auctioned off to serve as an escort on a one-time-only basis and where no sexual conduct is advertised to or does in fact take place between the participants; such events are commonly referred to as a date auction.

SECTION 2: Mesa City Code Title 6, Chapter 16, entitled “Sexually Oriented Businesses” is amended as follows:

- A. Specific definitions in Section 6-16-1 (Definitions) are amended as set forth below:

~~“ESCORT: A person who for tips or any other form of consideration agrees or offers to act as a companion or date for another person and who offers to privately model lingerie, to perform a striptease, to appear in a state of nudity or semi-nudity, to display any specified anatomical areas, or perform any specified sexual activities.”~~

~~“ESCORT AGENCY: A person or business that furnishes, offers to furnish, or advertises to furnish escorts for a fee, tip, or other consideration.”~~

~~“SEXUALLY ORIENTED BUSINESS: An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or any combination of the foregoing.”~~

- B. Section 6-16-2 (Classification) is amended as set forth below:

~~“6-16-2: CLASSIFICATION:~~

~~Sexually oriented businesses are classified as follows:~~

- ~~(A) Adult arcades;~~
- ~~(B) Adult bookstores or adult video stores;~~
- ~~(C) Adult cabarets;~~
- ~~(D) Adult motels;~~
- ~~(E) Adult motion picture theaters;~~
- ~~(F) Adult theaters;~~
- ~~(G) Escort agencies;~~
- ~~(GH) Nude model studios;~~
- ~~(HI) Sexual encounter centers;~~
- ~~(IJ) Adult novelty stores; and~~
- ~~(JK) Any combination of classifications set forth above.”~~

- C. Section 6-16-15 (Additional Regulations for Escort Agencies) is amended as set forth below:

~~“6-16-15: ADDITIONAL REGULATIONS FOR ESCORT AGENCIES: (RESERVED)”~~

~~(A) — An escort agency shall not employ any person under the age of eighteen (18) years.~~

~~(B) — A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.~~

~~(C) — An escort agency shall obtain a sexually oriented business license if its business or office location is in the City or if it furnishes any person who acts as an escort in the City.~~

D. Section 6-16-23 titled “Exclusions” is created and added to Title 6, Chapter 16 of the Mesa City Code with the following language:

“6-16-23: EXCLUSIONS:

THE LICENSING REQUIREMENTS OF THIS CHAPTER SHALL HAVE NO APPLICATION, NO EFFECT UPON, AND SHALL NOT BE CONSTRUED AS APPLYING TO ESCORTS, ESCORT ASSISTANTS OR ESCORT BUREAUS WITH A VALID, UNSUSPENDED LICENSE TO OPERATE ISSUED PURSUANT TO MESA CITY CODE TITLE 6, CHAPTER 24.”

SECTION 3: RECITALS. The recitals above are fully incorporated in this Ordinance by reference.

SECTION 4: EFFECTIVE DATE. The effective date of this Ordinance shall be thirty (30) days following adoption by the Mesa City Council.

SECTION 5: PRESERVATION OF RIGHTS AND DUTIES. This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

SECTION 6: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 9th day of January, 2017.

APPROVED:

Mayor

ATTEST:

City Clerk