

Chapter 9.42

FORTUNETELLING AND OCCULT ARTS

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Section 9.42.010 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning given herein:

"Fortunetelling and occult arts" shall mean telling of fortunes and forecasting of futures by means of any occult, psychic power, faculty, force, clairvoyance, clairaudience, cartomancy, psychology, psychometry, numerology, hypnosis, phrenology, spirits, tea leaves or other such reading, mediumship, seership, augury, astrology, palmistry, necromancy, mindreading, telepathy or other craft, art, science, cards, talisman, charm, potion, magnetism, magnetized article or substance, cunning or foresight, crystal gazing, mysteries or magic of any kind or nature;

"Fortuneteller" shall mean any person who advertises by sign, circular, handbill, newspaper, periodical, magazine or other means whatsoever the practice of fortunetelling and/or occult arts, and shall include any person who advertises as a "psychic" or "spiritual reader" or "spiritual counselor" for the purpose of the practice of fortunetelling and/or the occult arts;

"Fee" shall mean for a fee, reward, donation, loan or receipt of anything of value in exchange for the practice of fortunetelling and occult arts;

"Establishment" shall mean the premises, location or place advertised for or purported to be used for the practice of fortunetelling and/or occult arts. (Ord. 5296 § 1, 1985)

Section 9.42.015 License required.

No person, association, partnership or corporation shall conduct, operate or advertise for an establishment in which the practice of fortunetelling and occult arts is carried on for pay, compensation or gratuity without obtaining and maintaining in effect a license as required by this chapter.

No licensee hereunder shall employ any person who practices fortunetelling and/or occult arts, or who offers to or solicits to perform fortunetelling and occult arts, or who holds himself/herself out to be a fortuneteller if said person does not hold a current, unrevoked license as required by this chapter.

No license shall be issued to any person who is not eighteen years of age or older. (Ord. 5296 § 1, 1985)

Section 9.42.020 Exemptions.

This chapter shall not apply to:

A. Any person solely by reason of the fact that he or she is engaged in the business of entertaining the public by demonstrations of mind reading, mental telepathy, thought conveyance, or the giving of horoscopic readings, at public places and in the presence of and within the hearing of other persons and at which no questions are answered, as part of such entertainment, except in a manner to permit all persons present at such public place to hear such answers, when not conducted in connection with the business of fortunetelling;

B. Any person who conducts or participates in any religious ceremony or service when such person holds a certificate of ordination as a minister, missionary, medium, healer or clairvoyant from any bona fide church or religious association maintaining a church and holding regular services, and having a creed or set of religious principles that is recognized by all churches of like faith; provided, further, that the fees, gratuities, emoluments and profits thereof shall be regularly accounted for and paid solely to or for the benefit of said church or religious association;

C. Nothing in this section shall be construed as exempting any person from the payment of any applicable business license fee which may be required to be paid by the licensing provisions of this Code. (Ord. 5296 § 1, 1985)

Section 9.42.025 Establishment.

Every person who engages in and is licensed for the practice of fortunetelling and occult arts shall maintain a fixed establishment for said practice, and shall maintain a current business license for said establishment as required by the licensing provisions of this code and shall conduct said practice only on the premises of the fixed establishment. (Ord. 5296 § 1, 1985)

Section 9.42.030 Classification of use.

The practice of fortunetelling/occult arts is a use similar to, compatible with and no more objectionable than those uses permitted in the RO - restricted office zone. (Ord. 5296 § 1, 1985)

Section 9.42.035 License application and renewal: fees.

An application for a license to practice fortunetelling and occult arts shall be made to a duly authorized representative of the Chief of Police under penalty of perjury on forms provided by the Chief of Police. The application to practice fortunetelling and occult arts shall be accompanied by an investigation filing fee of five hundred dollars, plus the fee charged by Department of Justice for fingerprint processing.

Said fees are not refundable in the event such application is denied.

Each license under this chapter shall expire on June 30th of the current year.

An unrevoked license may be renewed for one year on written application to the Chief of Police, made on or before May 15th of each year, accompanied by the required fees. Said application for renewal shall be made on a form provided by the Chief of Police.

The renewal application shall be accompanied by an investigation filing fee of two hundred fifty dollars. The first renewal fee for a license issued during the months of January, February or March shall be one-half the normal renewal fee. Licenses issued April, May or June of the current year shall expire June of the following year.

Licenses and fees required under this chapter shall be in addition to any license, permit or fee required under any other chapter of this code. (Ord. 5296 § 1, 1985)

Section 9.42.045 Application contents.

Any applicant for a license under this chapter shall submit the following information under penalty of perjury:

A. The full name and present residence and business address and telephone numbers of the applicant;

B. Any and all maiden, fictitious or other names ever used by the applicant;

C. Prior residence and business addresses used by the applicant during the five year period preceding the date of the application;

D. The birthdate and place of birth of the applicant;

E. The Social Security number and a California Driver's License or California Identification Card number or other satisfactory government-issued identification number of the applicant;

F. The applicant's height, weight, hair and eye color, and all distinguishing marks, scars or tattoos;

G. Business, occupation or employment history of the applicant for a period of five years preceding the date of application;

H. The name or names under which the applicant proposes to conduct said activity or practice and the business address of the premises where such practice is to be carried on in connection with a similar or other kind of business;

I. The name or names, both true or fictitious, and addresses of any and all persons, associations, partnerships or corporations holding an interest or involvement in said interest or involvement;

J. A statement of any and all criminal convictions, except minor traffic offenses not designated as a felony, including the nature thereof, where they occurred and the sentence therefor;

K. A list of fortunetelling or similar licenses currently or previously held by the applicant and whether any such license had been revoked or suspended and the reason therefor;

L. A list of at least three character references unrelated to the applicant by blood or marriage, and known to the applicant for at least five years. The list shall include true and fictitious names and current addresses and telephone numbers of said character references;

M. Such other identification and information as is necessary to discover the validity of the matters herein above specified as required to be set forth in the application. (Ord. 5461 § 2, 1986; Ord. 5296 § 1, 1985)

Section 9.42.050 Required information and documents.

Before the application is considered to be complete, the applicant must produce, provide and submit to the following:

A. A California Driver's License or California Identification Card, or other valid and satisfactory documentary evidence of the age and identity of the applicant.

1. To be "satisfactory", the documentary evidence of age and identity must be of official issue of some governmental agency, be currently valid and furnish a photograph, weight, height, color of eyes and hair, sex, age and/or date of birth and signature of the applicant. Birth certificates are not satisfactory identification as they do not include evidence of identity by description of the person named;

B. A photograph of the applicant, to be taken by an authorized employee of the Chief of Police at the time of application;

C. Fingerprints of the applicant, to be taken by an authorized employee of the Chief of Police at the time of application. (Ord. 5296 § 1, 1985)

Section 9.42.055 Separate license for individuals.

Each and every person engaged in or who proposes to engage in the practice of fortunetelling and occult arts shall file a separate and individual application as set forth in this chapter and shall pay separate and individual filing and renewal fees. This shall include persons who engage in said practice under one common establishment. (Ord. 5296 § 1, 1985)

Section 9.42.060 Notification of change.

Any person granted a license to practice fortunetelling and occult arts shall report immediately to the Chief of Police, or his authorized representative, any change of individuals, associations, partnerships or corporations having a financial interest in the fortunetelling establishment, or any transfer or interest in said establishment by such individuals, associations, partnerships or corporations.

Further, any person granted said license shall report immediately to the Chief of Police, or his authorized representative, any change of location or address of the fortunetelling establishment. Said change shall be approved by the Police Chief upon the determination that the provisions of this chapter have been fully met and upon the payment of a fifty dollar change of location fee. (Ord. 5296 § 1, 1985)

Section 9.42.065 Investigation.

The Chief of Police, or his authorized representative, shall conduct and complete an investigation of the moral character and reliability of the applicant and either grant or deny the license within a period of thirty days after the submission of the completed applications, except as provided by the following exceptions:

A. If good cause exists the Chief of Police may extend the period of investigation for a period of time not to exceed thirty days, provided that applicant is notified in writing that the investigation has not been completed;

B. If good cause exists the applicant may appear in person and submit a written request for a thirty day extension on a form provided by the Chief of Police. Said request must be submitted no later than five working days prior to the last day of the forty-five day period. Said request may or may not be granted by the Chief of Police. (Ord. 5296 § 1, 1985)

Section 9.42.070 Refusal to issue license.

The Chief of Police shall not issue or grant a license if any of the following occurs:

A. An applicant fails to or refuses to furnish the information and documents required by this chapter or who submits false or misleading information on said application;

B. The fortunetelling establishment does not comply with the City's building, fire, health or zoning regulations;

C. Upon receiving satisfactory evidence that the applicant has been convicted of, or has entered plea of guilty or nolo contendere to any violation of the provisions of this chapter or any

other law or ordinance relating to morals, theft, fraud or narcotics or other restricted drugs, unless the Chief of Police finds that the offense regulated occurred more than five years or more before the date of application.

Denial of a license shall be given to the applicant in writing and shall specify the grounds for such denial. Notice of the denial of the license shall be deemed to have been served upon personal service of the applicant or when deposited in the United States Mail with postage prepaid and addressed to the applicant at his or her last known address. (Ord. 5296 § 1, 1985)

Section 9.42.075 Revocation.

The Chief of Police shall revoke any license upon any grounds for which he may have refused the issuance thereof or upon conviction or upon a plea of guilty or nolo contendere for any violation of this chapter or the operation of the establishment does not comport with the peace, health, safety and general welfare of the public.

To revoke a license the Chief of Police, or his authorized representative, shall serve upon the holder thereof, a written notice either by personal service or by deposit in a United States Mail receptacle with appropriate postage affixed, to the address shown on the application or otherwise more recently of record, that said license shall be revoked effective upon personal service or five days after the date of mailing of said notice.

A revoked license shall be immediately surrendered to the Chief of Police or his authorized representative. (Ord. 5296 § 1, 1985)

Section 9.42.080 Appeal.

A Notice of Appeal must be deposited with the City Clerk within thirty days after denial of the application or revocation of the license has been served. Upon the filing of a Notice of Appeal, the revocation of a license shall remain in effect until such time as a decision has been rendered.

Upon the filing of the written Notice of Appeal, the City Clerk shall set the matter for hearing before the Public Safety Committee, which hearing shall be within thirty days after the date of said notice. The Public Safety Committee shall receive a copy of the denial or revocation notice and shall conduct a hearing to determine whether or not the license should be granted or reinstated. The scope of evidence presented to the Public Safety Committee shall be limited to evidence regarding the reasons for denial or revocation. The burden of proof shall be upon the appellant/applicant.

The decision of the Public Safety Committee shall be final with no right of further appeal to the City Council. (Ord. 5296 § 1, 1985)

Section 9.42.085 Location of establishment.

No person shall conduct, carry on or engage in the practice of fortunetelling and/or occult arts except in an area where the City's zoning laws, rules and regulations allow such activity. (Ord. 5296 § 1, 1985)

Section 9.42.090 Hours permitted.

It shall be unlawful to keep open to the public or to conduct the activity and practices defined in this chapter on any day of the week between the hours of twelve midnight and eight a.m. (Ord. 5296 § 1, 1985)

Section 9.42.095 Inspection.

The City's Police Chief, Fire Chief and Building Official and their authorized representatives, shall have the right to enter the fortunetelling establishment from time to time

during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with applicable building, fire or electrical regulations and the provisions of this chapter. (Ord. 5296 § 1, 1985)

Section 9.42.100 Records.

Every person, association, partnership or corporation operating a fortunetelling establishment under a license as herein provided shall keep accurate business records.

Said records shall be maintained and open for inspection for a period of three years and shall be kept on the premises of the fortunetelling establishment. Failure to keep and maintain said records as provided in this section shall be grounds for suspension or revocation. (Ord. 5296 § 1, 1985)

Section 9.42.105 Display of license.

The license issued to a fortuneteller shall be prominently displayed at the licensed premises. (Ord. 5296 § 1, 1985)

Section 9.42.110 Compliance and penalty.

No person shall commence, engage in, carry on or advertise that he or she will engage in or carry on any fortunetelling or occult arts activity as described in this chapter without first having procured a license as required by the licensing provisions of this chapter, or without complying with any and all regulations of such activity contained in this or any other ordinance of the City.

Failure to comply with the provisions contained in this chapter shall constitute a separate violation of this chapter for each and every day that such activity is so advertised, engaged in or carried on.

Revocation of a license shall not be a defense against prosecution. (Ord. 5296 § 1, 1985)

Section 9.42.115 Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the chapter. The City Council declares that it would have passed this chapter and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional. (Ord. 5296 § 1, 1985)