

## **EXHIBIT B**

### **GENERAL CODE**

#### **CHAPTER III - BUSINESS REGULATIONS**

##### **SECTION 4: REGULATION OF MEDICAL TRANSPORTATION SERVICES**

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### **Sec. G-III 4.1 Purpose**

The purpose of this Section is to enact formal policies and regulations for licensing and regulating the operation of medical transportation services with the County of Nevada, to protect the public by assuring that medical transportation services operate safely and to assure that adequate medical transportation services will be provided in all areas of the County.

### **Sec. G-III 4.2 Definitions**

The following terms are defined as set forth below for the purposes of this Section:

A. **ADVANCED LIFE SUPPORT (ALS)** means special services designed to provide definitive pre-hospital emergency medical care, including, but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration of specified drugs and other medicinal preparations, and other specified techniques and procedures administered by authorized personnel under supervision of a base hospital as part of a local EMS system at the scene of an emergency, during transport to an acute care hospital, during inter-facility transfer, and while in the emergency department of an

acute care hospital until responsibility is assumed by the emergency or other medical staff of that hospital.

B. AGENCY VEHICLE means a vehicle, which responds to an emergency, the attendants of which may treat but not transport patients and is operated and equipped at the ALS level by a provider agency under a permit issued pursuant to this Section.

C. AMBULANCE means a vehicle, permitted by the local EMS Agency, specially constructed, modified, equipped, and used for the purpose of transportation of sick, injured, convalescent, infirm, or otherwise incapacitated persons who may require measures to prevent loss of life or worsening of a traumatic injury or illness, or have sudden need of medical attention.

D. AMBULANCE SERVICE means the operation of any ambulance within the County of Nevada.

E. APPLICANT means any person, organization, or service provider who applies for a permit under this Section.

F. BASIC LIFE SUPPORT (BLS) means emergency first aid and cardiopulmonary resuscitation procedures which, at a minimum, include recognizing respiratory and cardiac arrest and starting the proper application of cardiopulmonary resuscitation to maintain life without invasive techniques until the victim may be transported or until advanced life support is available.

G. BOARD means the Governing Board of Directors of the Local EMS Agency.

H. COUNTY means The County of Nevada, California and its agencies, departments, committees, boards and commissions.

I. DEPARTMENT OF PUBLIC HEALTH means the Nevada County Department of Public Health.

J. EMERGENCY MEDICAL SERVICES SUBCOMMITTEE (EMSS) means the Nevada County subcommittee of the Nevada County Operational Area Emergency Services Council established pursuant to Cal. Health & Safety § 1797.270. of the California

K. EMERGENCY MEDICAL SERVICES means the services utilized in responding to a medical emergency.

L. EQUIPMENT means the equipment required in an ambulance, air ambulance or agency vehicle pursuant to this Section and equipment standards established by the Local EMS Agency.

M. LOCAL EMS AGENCY means the agency, department, or office having primary responsibility for administration of emergency medical services in the County of Nevada or Local EMS Agency or region.

N. MEDICAL TRANSPORT VEHICLE means a vehicle, not an ambulance, specifically constructed, modified, equipped, or arranged to accommodate a stretcher or wheelchair and operated for the purpose of transporting sick, injured, convalescent, infirmed, or otherwise incapacitated persons not requiring urgent transportation.

O. PATIENT means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless and who may be transported in an ambulance, air ambulance or medical transport vehicle.

P. PERMIT means the document authorized/issued by the local EMS Agency on behalf of the Board which issues a permit for a service to provide emergency care and/or medical transportation in the County of Nevada.

Q. PERMITTEE means a person who holds a permit.

R. PERSON means an individual, trust, firm, partnership, association, corporation or public entity.

S. PILOT means a person who is certified as a commercial pilot by the Federal Aviation Administration.

T. PUBLIC ENTITY SERVICE means a service which is provided primarily as a public service by an agency of local government.

U. REPORTS means records upon such forms as may be provided or prescribed by the Local EMS Agency concerning the dispatch, emergency care, or transportation of any patient within or beyond the limits of Nevada County. Such reports shall be available for inspection at any reasonable time and copies of such records shall be filed upon written request of the Local EMS Agency within two (2) working days.

V. SERVICE means the operation of an ambulance, air ambulance, agency or medical transport vehicle to provide medical care or patient transportation within the County of Nevada.

W. STATE means the State of California.

X. STATION means a facility from which an ambulance, air ambulance or medical transport vehicle is operated.

Y. SUBSTATION means a subsidiary facility from which an ambulance, air ambulance or medical transport vehicle is operated.

Z. TRANSFER means the movement of a patient by ambulance, air ambulance or medical transport vehicle, from one hospital to another hospital, a medical facility, a home or other location.

AA. TRANSPORT means the movement of a patient by ambulance, air ambulance or medical transport vehicle.

BB. VOLUNTEER means an individual who:

1. Acts as a driver or attendant of an ambulance or medical transport vehicle;
2. Does not receive more than 50% of their annual income from the EMS provider that is claiming volunteer status.

CC. VOLUNTEER SERVICE means a service which:

1. Transports patients without compensation, other than reimbursements to defray the actual expenses of providing such service and;
2. Is either wholly or partly subsidized or otherwise operated under the auspices of some governmental or public agency, body or group, or any industrial or nonprofit corporation and;

3. Uses volunteers.

### **Sec. G-III 4.3 Service Requirements**

A. Except as provided in this Section, no person may furnish, operate, conduct, maintain, advertise or otherwise be engaged in, or profess to operate an ambulance, air ambulance or medical transport vehicle within the County of Nevada unless they hold a valid permit authorized/issued by the local EMS Agency pursuant to this Section.

B. A permit will be issued only when the permittee is in compliance with all applicable federal, state, and County codes and regulations, and County policies and procedures.

C. For the purpose of determining whether a service meets the requirements of this Section, the local EMS Agency may require the following information:

1. Location of storage, supply, or re-supply of drugs and controlled substances;
2. Station or substation location;
3. Location of business as listed on any business license;
4. Advertised business location, telephone number, and mailing address;
5. Site to which on-call employees respond when a request for service is received;
6. Location of back-up equipment supply or re-supply; and
7. Any additional information that may be required by the County or Local EMS Agency.

D. Whenever a service based outside Nevada County, but within the State of California, initiates a transport within Nevada County must hold a valid permit as described in this Section, unless otherwise exempted in this Section.

E. No permit is required if a valid provisional permit, issued by the local EMS Agency, exists.

F. A service permitted in accordance with this Section must provide emergency care to and transport any emergency patient regardless of the patient's ability to pay.

G. No permittee, under this Section shall cause or allow its ambulances, or air ambulances to respond to a location without receiving a specific request for that response, unless otherwise exempt.

#### **Sec. G-III 4.4 Initial Permit Application Procedures and Endorsement Levels**

A. Application for a permit must be made upon forms prescribed by the local EMS Agency in accordance with this Section. The local EMS Agency, after receipt of the completed application shall:

1. Confirm the applicant's approval as an ALS provider.
2. Cause an investigation to be made of the applicant, the applicant's proposed service and the information contained on the application and;
3. Upon completion of the investigation, either issue the permit or reject the application in writing on any grounds prescribed in this Section. The written rejection must set forth the reasons therefor and must notify the applicant of his right to appeal.

B. In accordance with the provision of this section, the local EMS Agency shall prepare an application form and shall require each applicant to furnish information as it deems necessary to determine the applicant's ability to meet the requirements of this Section.

C. The applicant must provide proof of insurance coverage as required by this Section.

D. The applicant must provide a statement of financial worth of the proposed ambulance service.

E. When the applicant is a firm or corporation, the officers, owners and managers shall provide their fingerprints for the purpose of identification and criminal background screening.

F. A permit expires on July 1, following the date of issuance, and must be renewed before that date. A renewal application must be submitted at least thirty (30) days

prior to the permit expiration date with the same requirements, limitations, terms and conditions applicable to issuance of a permit. A modified application form approved by the local EMS Agency shall be used for renewal applications for a permit.

G. The local EMS Agency shall not approve an application for operation unless that application is in compliance with the policies of the Local EMS Agency. The application shall include, at a minimum, a description of:

1. The name, current address, and certification level of the attendants who the service proposes to utilize;
2. How the service or agency proposes that its attendants will comply with requirements under this Section for continuing training and periodic certification;
3. Communications and 24-hour dispatch capabilities, including recording of telephone and radio communications of the service, recording maintenance and retrieval system, response times and the protocols used for dispatching the service;
4. How the equipment, supplies and drugs which the service uses on each BLS, ALS, or medical transport unit comply with Local EMS Agency policy; ambulances or air ambulances shall be removed from service if the unavailability of supplies/drugs interferes with the delivery of clinically necessary patient care.
5. How the service or agency proposes to maintain adequate medical records on the treatment of patients, and a general description of their internal quality assurance process and the individuals responsible;
6. The name of each base hospital to which patients will be transported;
7. The staffing necessary for the number of units to be operated by the service;
8. The service's plan for drug storage, supply and re-supply, including procedures to meet federal, state and local requirements;
9. The service's plan for handling and disposal of Biohazardous Materials;
10. The service's plan for Infection Control and;
11. The service's plan for the Incident Command System (ICS), and disaster training, equipment and supplies;
12. The schedule of proposed rates under which applicant will operate. Such rates may be based on a flat rate, or zone basis, time, mileage, or special service, or a combination thereof.



#### **Sec. G-III 4.5 Provisional Permits**

- A. The local EMS Agency may authorize/issue a provisional permit to operate an ambulance, air ambulance, or medical transportation service which is limited as to time, place and purpose, based on public need.
- B. No provisional permit may be issued for a period of time longer than six months.
- C. A provisional permit may be authorized for reissue at the discretion of the local EMS Agency, but in no case may more than one reissue be made.
- D. A provisional permit may be issued when the applicant is deemed by the local EMS Agency Medical Director to be ineligible for a regular permit because of an inability to meet, in the opinion of the local EMS Agency, any requirement of this Section and the service is deemed necessary for the safety of the public and not detrimental to patient care.

#### **Sec. G-III 4.6 General Requirements Pertaining to the Display and Use of Permits**

- A. Any permit or provisional permit issued pursuant to this Section shall be prominently displayed in the principal place of business of the permittee and shall not be altered or defaced in any way. If any official entry on any such permit is defaced, removed, obliterated or altered in any way, the permit shall be rendered immediately null and void and of no force and effect whatever.
- B. No permit issued pursuant to this Section is transferable.
- C. Each permitted vehicle shall display the issued permit decal in plain sight on each vehicle in the area deemed appropriate by the local EMS Agency.

#### **Sec. G-III 4.7 Grounds for Disapproval of Permit Application/Endorsement of Service Level**

- A. The local EMS Agency may refuse to issue a permit for one or more of the following reasons:

1. Failure to provide a complete application or a determination by the local EMS Agency that the applicant fails to meet the requirements of this Section;
2. If the provider's owners, officers and managers have previously had an applicable permit revoked or the status is directly at issue, which effects its present ability to serve;
3. If the provider's owners, officers and managers have a criminal record, as verified by the FBI and/or the Criminal Intelligence and Investigation, which is substantially related to the qualifications, functions, and duties of operating a service;
4. If there is reasonable cause to believe that the provider's owners, officers and managers will not provide emergency medical services or medical transport in a manner that will promote the health and general welfare of persons within the County who may need to utilize the applicant's proposed services;
5. If the provider's owners, officers and managers do not have the required equipment for the units;
6. If the provider's owners, officers and managers have not demonstrated, utilizing standard accounting practices and principles, sufficient financial stability or capitalization of a service to assure that the service will be run in an efficient and business-like manner for a period of at least one year or cannot meet the insurance requirements of Section G-III 4.11;
7. If the provider's owners, officers and managers propose to operate a service within a service area where another ambulance service or entity has been granted an exclusive operating area;
8. If the applicant for a permit to operate an air ambulance does not meet the Federal Aviation rules for certification under FAR Part 91 or Part 135, or both, as published in the Federal Register, January 1, 1985, as may be amended from time to time;
9. If the provider's owners, officers and managers commit fraud or deception in the completion of the application and/or;
10. Failure to comply with all applicable federal, state and County codes and regulations and Local EMS Agency policies/procedures.

B. If an application for a permit to operate a service, or an endorsement authorizing services at the ALS level is denied by the local EMS Agency for failure to meet the requirements of this Section, the applicant shall be notified by personal service or by certified mail within ten working days of that fact, stating the reason or reasons therefore and the applicant's right of appeal as provided for in this Section. No right of appeal exists if the permit is denied pursuant to the provisions of this Section.

#### **Sec. G-III 4.8 County Approval Prerequisite to Obtaining Business License**

Receipt of business license issued by any local governmental entity does not constitute a permit to operate an ambulance or medical transport service until a permit as required by this Section has been authorized/issued by the local EMS Agency.

#### **Sec. G-III 4.9 Operation Standards and Procedures**

- A. Any unit, unless exempt, in order to be placed into service, must be inspected by the California Highway Patrol and the Local EMS Agency and must have a current "Statement of Safe Operating Condition" issued by the California Highway Patrol to determine if it complies with this Section.
- B. Each unit must be maintained in a safe operating condition, including all engine parts, body parts, and all other operating parts and equipment used in and on the unit. (Note: In this connection the local EMS Agency shall periodically, and at least annually, require each permittee to certify that they have had inspected every unit under their control and supervision and that, in the opinion of a professional mechanic, the unit is in safe operating condition. Successful completion of an annual California Highway Patrol Ambulance Inspection is acceptable. A written copy of this certificate shall be submitted to the local EMS Agency within ten days of the inspection.) In the case of an air ambulance, maintenance must be in accordance with Federal Aviation Rules parts 43, 91 and 135 as applicable.
- C. Each ambulance shall be equipped with at least one primary mobile two-way radio capable of establishing and maintaining communication with the base hospital on the UHF designated MED NET 1-10 frequencies and the local fire authority. Each ambulance shall also be equipped with at least one portable back up communication device (cellular telephone is acceptable.) All communications equipment must meet manufacturer's specifications for power, output and antenna.

- D. Units shall be equipped with such lights, sirens, and special marking to designate it as an ambulance as are required by the regulations of the California Highway Patrol covering operation and equipment of ambulances used for emergency services.
- E. Every unit operated in the County of Nevada shall currently comply with all applicable laws and local ordinances relating to health, sanitation and safety.
- F. Relatives of a patient and other persons may ride in an ambulance or medical transport vehicle at the discretion of the attendant(s). Restraints for utilization by each passenger riding in an ambulance or medical transport vehicle must be available in ambulances or medical transport vehicles. Attendants shall require that all persons utilize such restraints.
- G. An ambulance service or entity granted an exclusive operating area as part of the local EMS Agency plan, may adopt dispatch protocols and procedures which must be approved by the local EMS Agency.

#### **Sec. G-III 4.10 Required Personnel**

A. In addition to any other requirements contained herein, no service may utilize a driver or pilot to operate a unit unless:

1. They are familiar with the geographic area of the organization's service area;
2. They have adequate knowledge of all the hospitals within the organization's service area;
3. They can operate a two-way radio and;
4. They can drive a unit under emergency conditions.

The service provider shall keep on file confirmation of demonstrated knowledge/ability of A.1 through 4, signed by the employee and management.

B. Each service or agency must provide written notice to the local EMS Agency within ten (10) days of any change in units unless an alternate plan has been approved by the local EMS Agency.

C. Services may utilize only those drivers and attendants who are appropriately licensed, certified and accredited by California and/or the local EMS Agency.

D. Every advanced life support transport unit when in operation must be staffed, at a minimum, by two personnel, one of whom must be State licensed and locally accredited as an EMT-P and one of whom must be certified in the State of California as an EMT-I.

E. Every Basic Life Support transport unit when in operation must be staffed, at a minimum, by two personnel, both of whom must be certified in the State of California as an EMT-I.

F. An agency vehicle approved at the ALS level must have at least one California licensed and locally accredited EMT-P.

G. An operational air ALS unit should be staffed by two EMT-P's or two registered nurses and, as a minimum, must be staffed by no fewer than one EMT-P or authorized registered nurse and one EMT-I.

H. No person, service or agency shall be out of compliance with Cal Gov't Code § 8355, in matters relating to providing a drug-free workplace.

I. Air ambulance attendants used by a service must have training in aeromedical physiology, aircraft safety, emergency aeromedical procedures, and any other specialized training required by the Local EMS Agency based on current Association of Air Medical Services (AAMS) national standards.

#### **Sec. G-III 4.11 Insurance Requirements**

A. The permittee shall obtain and keep in force during the term of said permit the following insurance coverage issued by a company authorized to do business in the State of California. The required insurance coverage may be revised as deemed necessary by the local EMS Agency, Nevada County Risk Manager or the County Administrative Officer.

1. Comprehensive General Liability Insurance to include coverage for bodily injury, property damage, blanket contractual, and personal injury.
2. Workers' Compensation Insurance for Statutory Compensation Coverage.
3. Comprehensive Auto Liability, combined Single Limit Bodily Injury and Property Damage; minimum coverage for medical transport vehicles and coverage for all permittees must include owned auto, non-owned auto, hired auto, and cross liability or severability of interest clause in policy.
4. Professional Liability for all employees providing service. Error or omission and failing to render professional services coverage, and minimum limits for medical transport vehicles and all other permittees.

B. Said insurance shall contain coverage expressly recognizing the indemnification obligations assumed by the ambulance business or applicant in accordance with this Section but shall not be construed to limit in any manner the amount of ambulance business or applicant's liability thereunder; providing further, where permitted by the carrier, said insurance shall expressly name County and local EMS Agency, its governing board, agents, officers and employees as additional insured.

C. Said insurance shall not be subject to cancellation or reduction without sixty (60) days prior written notice to County and local EMS Agency. The insurance carrier shall serve written notice to the Nevada County Risk Manager and local EMS Agency.

D. Each unit placed in operation shall be included within the scope of the required insurance coverage and limits and shall be operated pursuant to the permit issued in accordance with this Section.

E. Certificate(s) of insurance satisfactory to the Nevada County Risk Manager and local EMS Agency must be approved before ambulance service commences.

F. The provisions of this section regarding liability insurance do not apply to services provided by the State of California or its departments, divisions or agencies.

G. Upon receipt of any notice of cancellation or non-renewal of an insurance policy, the Nevada County Risk Manager or local EMS Agency shall either (1) confirm

that the provider immediately reinstates insurance coverage prior to cancellation; (2) In the absence of substitute provider coverage, order the permittee to cease service in the County of Nevada and to surrender any permit issued pursuant to this Section; (3) see that the insurance is reinstated at the provider's expense; or (4) obtain substitute provider coverage until the matter is resolved at provider's expense.

#### **Sec. G-III 4.12 Vehicle Equipment**

A. All services must adhere to the Local EMS Agency equipment inventory list.

B. All medical equipment and supplies on an agency vehicle must be stored to promote security and protection from the elements.

#### **Sec. G-III 4.13 Requirements for Interior Configuration, Design and Dimensions of Ground Units**

A. Each ground ambulance unit placed in service after July 1, 1991, must, when purchased, be configured to meet the mechanical and electrical standards established by the United States Department of Transportation in its specifications designated Docket KKK A 1822, as amended from time to time.

B. In addition to meeting the requirements in this Section, ALS units must, where noted:

1. Have space as required by Docket KKK-A-1822, as amended from time to time;
2. Have additional shelf and other storage space sufficient for controlled substances including locked storage;
3. Have proper storage of other medical equipment and supplies to prevent patient injury in transit and;
4. Have a system which will control temperature adequately to maintain the integrity of the medical supplies and drugs as well as the health and safety of the patients and attendants.

### **Sec. G-III 4.14 Station Requirements**

A. Every station and substation used in a commercial or public entity service must meet the following requirements:

1. Local Building, Fire, Health, Sanitation and CalOSHA Codes;
2. Every station and substation must be properly located to permit any ambulance operating therefrom rapid and safe egress to a main thoroughfare;
3. Every station and substation must have adequate off-street parking space for all units operating therefrom;
4. Every station shall be in compliance with all applicable OSHA and ADA requirements;
5. Every station and substation must be in clean and sanitary condition and have suitable sleeping quarters for attendants who are scheduled to work a 24-hour shift which are private and separate from operational areas.

B. Every station and substation shall be inspected prior to the issuance of any permit and, thereafter, shall be inspected at least once yearly by County Risk Manager or local EMS Agency for the purpose of determining whether or not the station or substation is in compliance with this Section and any other Nevada County Department of Public Health regulations.

### **Sec. G-III 4.15 General Requirements Regulating Air Ambulances**

An air ambulance must, in addition to other requirements in this Section, comply with Local EMS Agency policies and procedures.

### **Sec. G-III 4.16 Drugs and Controlled Substances**

All administration, supply, re-supply, documentation, storage and security measures and destruction of drugs, controlled substances and hypodermic devices must be in compliance with all laws and regulations of the state and federal government, federal and state pharmacy regulations and the local EMS Agency. As used in this section, drugs and controlled substances have the meaning ascribed to them in State Board of Pharmacy Regulations. Any provider agency that stockpiles drugs shall have a medical director and/or a clinical pharmacist.



### **Sec. G-III 4.17 Required Reporting**

- A. Any change in a service's ambulance fleet must be filed by the permittee with the local EMS Agency within ten (10) days of its occurrence.
- B. Each service shall submit such additional operational information as required by local EMS Agency within 10 days.
- C. Whenever a unit is involved in a crash and/or experiences mechanical problems resulting in a mission failure, the local EMS Agency shall be notified immediately.
- D. Any alleged violation of this Section must be reported by the service provider, to the local EMS Agency.

### **Sec. G-III 4.18 Inspections**

- A. The Local EMS Agency shall inspect, or cause to be inspected, every unit before it is placed into use, and annually thereafter. Such inspections do not duplicate, and shall not be in lieu of, inspections performed or required by the California Highway Patrol.
- B. After inspection, a written report shall be prepared indicating every violation or omission of any requirements, standards or provisions contained in this Section with respect to the unit inspected. The report shall set a time period for correction of each violation or omission. A copy of the report shall be given to the permittee of the service concerned.
- C. In addition to the routine inspections required in this Section, the County and/or Local EMS Agency may make unannounced non-routine inspections of any ambulance, air ambulance or medical transport vehicle, station or substation regulated hereunder, for the purpose of determining whether or not any aspect of a service subject to this Section is, or is not, in compliance with this Section. A written report shall be prepared pursuant to this Section.

### **Sec. G-III 4.19 Enforcement**

- A. Enforcement of this Section is the primary responsibility of the local EMS Agency.

B. An appeal process is established by the local EMS Agency.

#### **Sec. G-III 4.20 Unprofessional Conduct**

A. A person exhibits unprofessional conduct if they fail to maintain that standard of performance, exercise that degree of skill, care, diligence and expertise, or manifests that professional demeanor and attitude which is ordinarily exercised and possessed by other persons in similar positions in California. Unprofessional conduct includes, without limitation:

1. The use of obscene, abusive, slanderous or threatening language;
2. The use of unreasonable force which unnecessarily increases or inflicts pain upon a patient;
3. Conviction of an offense, a diversion status, a nolo contendere guilty plea if the acts involved have a direct bearing on entrusting the person to serve the public;
4. Disclosing the contents of examinations for certification or re-certification;
5. Violation of the confidentiality of health records except as allowed or required by law or regulation;
6. Possessing, diverting or using medical supplies, equipment or drugs for personal or unauthorized use; and
7. Possession of any firearms or other weapons while on duty or engaged in the performance of pre-hospital care duties per local EMS Agency policy.

B. All incidents listed above shall be reported to the Local EMS Agency.

#### **Sec. G-III 4.21 Appeal Hearing Process**

An appeal process shall be established and administered by the local EMS Agency. Providers shall be provided with a copy of this appeal process.

#### **Sec. G-III 4.22 Circumstances for Revocation and/or Suspension of County of Nevada Service Permit Authorized by local EMS Agency**

A. Any permit may be revoked after inspection by the local EMS Agency, the service provider to whom the permit or endorsement was issued does not comply fully with this Section within a reasonable period of time after receiving any request or order of the local EMS Agency to do so. "Reasonable period of time" as used

herein, is that period of time necessary to take immediate action with due regard for the public interest and for the ordering of necessary supplies and/or parts.

B. If a permit or endorsement to operate a service is suspended or revoked, the local EMS Agency may request that the business licensing authorities immediately institute proceedings to revoke any business license or permit issued to the person operating the service.

C. If an exclusive operating area is granted, the permits of existing ambulance services within the exclusive operating area not granted such exclusive operating area or not determined to be part of an entity granted such exclusive operating area, shall be revoked upon written notice of the local EMS Agency. Such notice shall indicate the date and time when the permit is revoked.

#### **Sec. G-III 4.23 Grounds for Immediate Revocation or Suspension**

A. The local EMS Agency may take any immediate disciplinary action when the local EMS Agency has reason to believe that a permitted service has violated any section of this Code Section, or any applicable statute, regulation or code.

B. Written notice will be furnished to the permittee specifying the reasons for the proposed disciplinary action and informing the permittee of their right to file an appeal with the local EMS Agency; except that such hearing, if the permit is revoked for the reasons stated, shall not delay any immediate suspension ordered by the local EMS Agency.

C. A Notice of Revocation or Suspension may state that the effective date of the revocation or suspension is:

1. Immediate if the local EMS Agency has determined through investigation that such suspension or revocation is in the best interest of the public or;

2. Stayed pending formal appeal and review of the proposed action.

D. Any ambulance or medical transport service who is served a notice of proposed suspension or revocation, other than for Insurance issues or a Notice of Violation , has ten (10) working days from the date of the notice to appeal that action in writing to the local EMS Agency. Upon receipt of the appeal, the County or local EMS

Agency shall conduct an appeal hearing. In case of immediate suspension or revocation, the decision of the local EMS Agency is final.

#### **Sec. G-III 4.24 Notice of Violation**

- A. Whenever the local EMS Agency has reasonable cause to believe that any section of these regulations other than sections concerning insurance coverage, has been violated, the local EMS Agency shall cause written notice to be served upon the person or persons responsible for the alleged violation. Such notice shall be sent to the person or person's address of record and a copy to the employer of record.
- B. The notice shall specify:
  - 1. The section or sections of this Section alleged to be violated;
  - 2. The facts alleged to constitute the violation; and
  - 3. An order to take corrective action within a specified time.
- C. Such an order becomes final unless, within ten (10) working days from the date of the notice, it is appealed in writing to the local EMS Agency. Upon receipt of an appeal, the local EMS Agency shall refer it to the appeal process.
- D. Failure to comply with a Notice of Violation shall result in the issue being referred to the local EMS Agency.

#### **Sec. G-III 4.25 Complaints**

- A. Complaints regarding alleged violations of this Section shall be made in writing. The local EMS Agency may require the complainant to specify:
  - 1. The section of the Section alleged to have been violated;
  - 2. The date, time and location of the alleged violation;
  - 3. The person and/or service involved and;
  - 4. The circumstances or details which support the allegation of a violation.
- B. The complainant may be requested to personally present additional information to substantiate the complaint.

- C. Based upon information obtained from the complainant, the local EMS Agency shall make a determination whether to proceed with the investigation and to set a priority for conducting the investigation.
- D. The person and service alleged to be in violation shall be notified by the local EMS Agency.
- E. The complaint investigation may include a review of any applicable records, tapes, personal statements, affidavits or other items deemed relevant by the local EMS Agency. A summary report detailing the findings of the investigation shall be prepared.
- F. At the conclusion of the investigation, the complainant shall be afforded the opportunity to receive copies of all appropriate documents associated with the complaint investigation.
- G. The local EMS Agency shall determine if permit suspension or other any disciplinary action should be taken at any time during the complaint investigation process.
- H. When the Local EMS Agency is separate from County of Nevada Government, complaints received by the Nevada County Public Health Director that are potential violations of Cal. Health & Safety Code § 1798.200, shall be referred to the Local EMS Agency for necessary action.

#### **Sec. G-III 4.26 Compliance**

Except as otherwise provided herein, every service must be in compliance with this Section within 90 days after its adoption by the County of Nevada Board of Supervisors.

#### **Sec. G-III 4.27 Exemptions from Requirements for Permit**

The following shall be exempt from the provisions of this Section:

1. The occasional (not to exceed twice annually unless previously authorized by the local EMS Agency) use of a vehicle or aircraft not ordinarily used in the business of transporting persons who are sick or injured when an authorized form of approved medical transportation is not available in a critical care situation;
2. A vehicle or aircraft not ordinarily used in case of a major catastrophe or emergency, when services with permits are insufficient to render the services required;

3. Persons rendering service as attendants or air attendants in case of a major catastrophe or emergency when permitted attendants cannot be secured;
4. An ambulance or medical transport vehicle based and properly permitted outside the County shall be authorized to transport a patient to or through the County but shall not be authorized to transport patients originating in the County;
5. Volunteer attendants based outside the County of Nevada;
6. Units owned and operated by search and rescue organizations chartered by the State as corporations not for profit or compensation, or otherwise existing as nonprofit associations which are not regularly used to transport patients except as part of rescue operations; or
7. Units owned and operated by an agency of the United States Government or the State of California.

#### **Sec. G-III 4.28 Miscellaneous Requirements**

The following miscellaneous provisions on the operation of units within the County of Nevada apply with respect to any permit:

1. No one within the County of Nevada may operate a medical transportation service in violation of this Section.
2. Personnel records of all certified or permitted personnel are confidential and may only be made available to the person who is the subject of the records, the Local EMS Agency, or as provided by law. Investigation of personnel complaints shall be coordinated with the local EMS Agency.
3. A registered nurse employed by a service is subject to this Section. Any violation of this Section by a registered nurse may result in investigation by the local EMS Agency and possible referral to the California State Board of Registered Nurses.
4. It is the responsibility of the employer of record to forward any notice issued under this Section to a person or persons in their employ, which is undeliverable to the address of record, to that person or persons at their next work shift.
5. Public Entity services and ambulance services shall demonstrate availability of mutual and/or automatic aid agreements, with adjacent ambulance service areas, which ensure dispatch of the nearest appropriate ambulance. Mutual and/or

automatic aid agreements must be reviewed by the Nevada County Operational Area Emergency Services Council and the local EMS Agency.

### **Sec. G-III 4.29 Special Events**

- A. Permit applicants of high-risk and/or high-exposure events will be required to notify, in writing, the Office of Emergency Services (OES), the responsible law enforcement agency and the responsible fire protection agency 30 days prior to the event and have County of Nevada permitted ambulances with appropriate personnel and equipment present. Notification shall include:
1. Nature of the event;
  2. Anticipated attendance;
  3. Nature of the crowd;
  4. Geography and physical characteristics of the event site;
  5. Use of alcoholic beverages;
  6. Use of fireworks or other pyrotechnics;
  7. Amplified sound system; and
  8. Additional information pertinent to the event

The OES shall notify appropriate law and fire agencies upon receipt of the event notification.

- B. All permit applicants for special events expecting 2,500 participants and/or attendees shall submit appropriate medical plans, in a format established by the County, for approval by the County Public Health Officer. Public health and sanitation plans shall be submitted for approval to the Nevada County Public Health Officer. A copy of each of those plans shall be submitted to the responsible local law enforcement and fire protection authorities.
- C. Guidelines for the public health plans will be promulgated and approved by the Public Health Officer and guidelines for medical plans will be promulgated and approved by the County.

### **Sec. G-III 4.30 Ambulance Rates**

- A. The Board of Supervisors may adopt procedures for reviewing and regulating ambulance rates in the County. If regulated, ambulance permittees shall not charge more than the rates adopted by the Board of

Supervisors. Alternatively, the Board of Supervisors may allow the marketplace to set rates subject to subsections B and D of this Section.

- B. No charge shall be made for transporting uninjured or well persons who accompany a patient to an emergency care facility.
- C. If regulated, the schedule of rates may be adjusted by the Board of Supervisors upon the receipt of a permittee request addressed to the Clerk of the Board of Supervisors. Upon request by the Board of Supervisors, the local EMS agency shall submit a written report and recommendation to the Board of Supervisors within thirty (30) calendar days of the request. If rates are regulated, the Board of Supervisors shall conduct a public hearing regarding the requested rate increase.
- D. Any rate change, even those approved by the Board of Supervisors, as applicable, shall be effective thirty (30) days from the date of approval, if by the Board of Supervisors, and first publication, as a display public notice, in a daily newspaper of general circulation within the County at least two (2) times and not less than five (5) calendar days apart.
- E. Current rate categories and charges shall be posted at each permittee's place of business.

#### **Sec. G-III 4.31 Interfacility Transfers**

- A. Each ambulance provider participating in the transfer of patients with an ambulance will conform to all laws, rules and regulations, including but not limited to, set forth in the California Health and Safety Code and Local EMS Agency policies applicable to inter-facility transfer of patients, and pursuant to any formal transfer agreements, including mutual aid agreements, between transferring and receiving facilities involved.
- B. Treatment performed by ambulance personnel for the patient in transport, shall be provided with appropriate medical care, including personnel and equipment, according to the California Health and Safety Code and applicable Local EMS Agency policies.

#### **Sec. G-III 4.32 Disaster Operations**

- A. Each permittee shall make ambulances available, when resources allow, to the Nevada County Office of Emergency Services during times of disaster or large



scale system emergencies in accordance with the Multi-Casualty Incident Plan. Ambulances shall report to a designated staging area via radio for direction. A designated dispatch center shall coordinate all dispatch functions for said ambulances during the event. All ambulances shall remain under the control of the Incident Commander until released.

- B. Permittee shall make every effort to call in off-duty personnel to staff additional ambulances as necessary to meet system demands.
- C. Permittee shall have on file with the Nevada County Office of Emergency Services and local EMS Agency, its disaster response and personnel call-back plan.
- D. All management and field personnel of permittee shall follow the guidelines and directions of the OES Region IV Multi-Casualty Incident Plan and the Nevada County Emergency Action Plan during the incident.
- E. At least once a year, permittee shall participate in an interagency organized disaster exercise. All of permittee's costs associated with their participation in the disaster exercise shall be the sole responsibility of the permittee.

#### **Sec. G-III 4.33 Reserved**

#### **Sec. G-III 4.34 Prohibited Acts**

- A. No person or service may represent, advertise or imply that it is authorized to provide ambulance or medical transport services unless the service has a current, valid permit issued by the local EMS Agency.
- B. No service or agency may use EMT-Ps and/or registered nurses unless the service or agency has a current, valid permit issued by the local EMS Agency and the service operates in accordance with all provisions of this Article.
- C. No person, service or agency shall be out of compliance with Cal. Gov't Code § 855, in matters relating to providing a drug-free workplace.

## **EXHIBIT B**

### **GENERAL CODE**

#### **CHAPTER III: BUSINESS REGULATIONS**

##### **SECTION 5 ENVIRONMENTAL HEALTH CERTIFICATE OF OPERATION**

###### **Sections:**

<b>Sec. G-III 5.1</b>	<b>Title</b>
<b>Sec. G-III 5.2</b>	<b>Authority</b>
<b>Sec. G-III 5.3</b>	<b>Reserved</b>
<b>Sec. G-III 5.4</b>	<b>Authorization of Fees</b>
<b>Sec. G-III 5.5</b>	<b>Cities</b>
<b>Sec. G-III 5.6</b>	<b>Scope</b>
<b>Sec. G-III 5.7</b>	<b>Restaurant</b>
<b>Sec. G-III 5.8</b>	<b>Retail Food Production and Marketing Establishment</b>
<b>Sec. G-III 5.9</b>	<b>Food Processing Establishment</b>
<b>Sec. G-III 5.10</b>	<b>Mobile Food Preparation Units</b>
<b>Sec. G-III 5.11</b>	<b>Reserved</b>
<b>Sec. G-III 5.12</b>	<b>Vending Machine</b>
<b>Sec. G-III 5.13</b>	<b>Food Vehicle</b>
<b>Sec. G-III 5.14</b>	<b>Roadside Stands</b>
<b>Sec. G-III 5.15</b>	<b>Public Swimming Pool</b>
<b>Sec. G-III 5.16</b>	<b>Permits Required</b>
<b>Sec. G-III 5.17</b>	<b>Violations of Conditions</b>
<b>Sec. G-III 5.18</b>	<b>Change in Conditions</b>
<b>Sec. G-III 5.19</b>	<b>Revoked Certificate</b>
<b>Sec. G-III 5.20</b>	<b>Application</b>
<b>Sec. G-III 5.21</b>	<b>Investigation: Issuance: Denial</b>
<b>Sec. G-III 5.22</b>	<b>Form</b>
<b>Sec. G-III 5.23</b>	<b>Term</b>
<b>Sec. G-III 5.24</b>	<b>Fees</b>
<b>Sec. G-III 5.25</b>	<b>Appeal</b>
<b>Sec. G-III 5.26</b>	<b>Decisions of the Health Director: Finality &amp; Validity</b>

<b>Sec. G-III 5.27</b>	<b>Appeals Procedure</b>
<b>Sec. G-III 5.28</b>	<b>Appeals: Hearing and Determinations</b>
<b>Sec. G-III 5.29</b>	<b>Public Health Certificates of Operation Non-Transferrable</b>
<b>Sec. G-III 5.30</b>	<b>Certificate: Revocation</b>
<b>Sec. G-III 5.31</b>	<b>Certificate: Revocation Petitions</b>
<b>Sec. G-III 5.32</b>	<b>Certificates: Revocation Hearings &amp; Determination</b>
<b>Sec. G-III 5.33</b>	<b>Scope</b>
<b>Sec. G-III 5.34</b>	<b>Standards</b>
<b>Sec. G-III 5.35</b>	<b>Restaurant</b>
<b>Sec. G-III 5.36</b>	<b>Retail Food Production &amp; Marketing Establishment</b>
<b>Sec. G-III 5.37</b>	<b>Food Processing Establishment</b>
<b>Sec. G-III 5.38</b>	<b>Mobile Food Preparation Units</b>
<b>Sec. G-III 5.39</b>	<b>Itinerant Restaurant</b>
<b>Sec. G-III 5.40</b>	<b>Vending Machines</b>
<b>Sec. G-III 5.41</b>	<b>Vending Machine or Vehicle Identification</b>
<b>Sec. G-III 5.42</b>	<b>Food Vehicle</b>
<b>Sec. G-III 5.43</b>	<b>Roadside Stands</b>
<b>Sec. G-III 5.44</b>	<b>Public Swimming Pool</b>
<b>Sec. G-III 5.45</b>	<b>Violations: Penalties</b>
<b>Sec. G-III 5.46</b>	<b>Violations: Nuisance and Abatement</b>
<b>Sec. G-III 5.47</b>	<b>Permits to Distribute: Granting: Expiration Fees</b>

**Sec. G-III 5.1 Title**

This Section may be known and may be cited and referred to as the Environmental Health Certificate of Operation Ordinance of the County of Nevada.

**Sec. G-III 5.2 Authority**

This Section is enacted pursuant to authority conferred by Cal. Health & Safety Code §§ 106500 – 119406.

**Sec. G-III 5.3 Reserved**

### **Sec. G-III 5.4 Authorization of Fees**

It is the purpose of this Ordinance to authorize the prescription of such fees as will pay the reasonable expenses of the Environmental Health Director incurred in such enforcement as to the establishments, businesses or activities for which an environmental health certificate of operation is required by this Section.

### **Sec. G-III 5.5 Cities**

The provisions of this Section shall apply within any City in the County when the Governing Body thereof consents to County Environmental Health administration for that City pursuant to Cal. Health & Safety Code §101375 ; and the schedule of fees authorized by this Section shall be applicable in the area in which the Environmental Health Director of this County enforces any statute, order, quarantine, rule or regulation prescribed by a State Health Director or Department relating to Public Health.

### **Sec. G-III 5.6 Scope**

For the purposes of this Section, unless the provisions or the context indicates otherwise, the terms and words defined in this Section shall have the meaning set forth in this Section.

### **Sec. G-III 5.7 Restaurant**

“Restaurant” shall mean any restaurant as defined by 21 CFR 1.328.

### **Sec. G-III 5.8 Retail Food Production and Marketing Establishment**

“Retail Food Production and Marketing Establishment” means any such establishment as defined by Cal. Health & Safety Code § 28802.

### **Sec. G-III 5.9 Food Processing Establishment**

“Food Processing Establishment” shall mean any establishment as defined by Section Cal. Health & Safety Code § 111955. **Sec. G-III 5.10 Mobile Food Facility**

“Mobile Food Facility” shall mean that term as defined by CCR tit. 17 Section 13601(a) of the California Administrative Code.

**Sec. G-III 5.11 Reserved**

**Sec. G-III 5.12 Vending Machine**

“Vending Machine” shall mean that term as defined by Cal. Health & Safety Code §113938.

**Sec. G-III 5.13 Mobile food facility**

“Food Vehicle” shall mean any “vehicle” as defined by Cal. Health & Safety Code § 113831.

**Sec. G-III 5.14 Roadside Stands**

“Roadside Stands” shall mean that term as defined by CCR tit. 17 Section 13640(k).

**Sec. G-III 5.15 Public Swimming Pool**

“Public Swimming Pool” shall mean that term as defined by Cal. Health & Safety Code § 115921.

**Sec. G-III 5.16 Permits Required**

No person shall maintain any of the following establishments, business or activities without a valid Public Health Certificate of Operation:

- A. Restaurant;
- B. Retail Food Production and Marketing Establishment;
- C. Food Processing Establishment;
- D. Mobile Food Preparation Unit;
- E. Reserved;
- F. Vending Machine;
- G. Mobile Food Facility ;
- H. Roadside Stand;

- I. Public Swimming Pool;
- J. Centralized Wastewater Collection, Treatment, and Disposal Systems.

**Sec. G-III 5.17 Violations of Conditions**

No person shall maintain any of the establishments or businesses or activities listed in violation of the conditions of an Environmental Health Certificate of Operation.

**Sec. G-III 5.18 Change in Conditions**

No person shall make a material change in any establishment, business, or activity listed above, without making application for a new Environmental Health Certificate of Operation.

**Sec. G-III 5.19 Revoked Certificate**

No person shall maintain any of the establishments, businesses, or activities listed above with a revoked Environmental Health Certificate of Operation.

**Sec. G-III 5.20 Application**

Any person required to apply for and obtain a certificate under the provisions of this Section shall prepare and submit to the Environmental Health Department an application for such certificate on forms provided for the purpose by the County.

**Sec. G-III 5.21 Investigation: Issuance: Denial**

The Environmental Health Director shall cause an investigation to be made of the facts stated in the application, and of the establishment, business, or activity for which the application is made. If the Environmental Health Director finds that the applicant is in compliance with the standards specified by this Section, the Environmental Health Director shall order the issuance of the Environmental Health Certificate of Operation. If they find that compliance with such standards can be obtained by the applicant, the Environmental Health Director may issue a Certificate subject to reasonable conditions. If they find that the applicant cannot comply with the standards specified by the Section, the Environmental Health Director shall deny the Certificate of Operation.

### **Sec. G-III 5.22 Form**

All certificates issued pursuant to this Section shall be in the form approved by the Board of Supervisors.

### **Sec. G-III 5.23 Term**

The term of an Environmental Health Certificate of Operation is one (1) year from July 1 of each year to June 30 of each succeeding year; every Environmental Health Certificate of Operation issued pursuant to the provisions of this Section shall terminate on June 30 following the date of issuance.

### **Sec. G-III 5.24 Fees**

Each application shall be accompanied by the fees prescribed by resolution of the Board of Supervisors. Said fees shall in no event exceed the actual cost to the County to conduct the services required to satisfy the requirements of this Section for issuance of an Environmental Health Certificate of Operation.

### **Sec. G-III 5.25 Appeal**

All decisions, determinations, and actions of the Environmental Health Director as to applications for Environmental Health Certificates of Operation may be appealed by the applicant to the Board of Supervisors.

### **Sec. G-III 5.26 Decisions of the Environmental Health Director: Finality & Validity**

The decision of the Environmental Health Director rendered pursuant to the provisions of this Section shall be final, unless appealed within thirty (30) days after such decision is rendered in writing and notice of the same is given to the applicant by certified mail.

### **Sec. G-III 5.27 Appeals Procedure**

Appeals from decisions of the Environmental Health Director shall be made in writing and shall specify and set forth the grounds for the appeal and shall be filed by the appellant with the Clerk of the Board. The matter shall be set for hearing no later

than thirty (30) days after such filing, and shall give the appellant and the Environmental Health Director no less than fifteen (15) days' written notice of such date of hearing.

### **Sec. G-III 5.28 Appeals: Hearing and Determinations**

Upon hearing the appeal, an Environmental Health Certificate of Operation shall be granted or granted upon conditions, if it is found that the establishment, business, or activity applied for meets the standards prescribed by this Section. In the event that such establishment, business or activity fails to meet the standards prescribed by this Section, the application shall be denied. Other conditions or requirements may be imposed, on a showing of good cause, for issuance of an Environmental Health Certificate of Operation.

### **Sec. G-III 5.29 Environmental Health Certificates of Operation Non-Transferrable**

Environmental Health Certificates of Operation issued under the provisions of this Section shall not be transferred, assigned, or set over by the Certificate to any other person. All Environmental Health Certificates of Operation issued under the provisions of this Section shall refer to and be limited to the establishment, business, or activity applied for. If such establishment, business, or activity is conducted upon a particular site, location, or address, such Certificate shall not be transferrable to any other site, location or address.

### **Sec. G-III 5.30 Certificate: Revocation**

Any Certificate of Operation issued pursuant to this Section may be revoked by the Board upon a petition by the Environmental Health Director if the Board finds that:

A. The establishment, business or activity has caused or becomes a public nuisance;  
or

B. The permittee has violated a condition of the Certificate of Operation; or

C. Due to a change of circumstances and conditions, the continuance of the establishment, business or activity is hazardous to the public health, welfare, or safety; or



D. The applicant for the Certificate of Operation made a material misrepresentation of fact; or

E. The establishment, business, or activity is maintained in violation of the standards described by this Section, or any State or Federal statute or regulation.

### **Sec. G-III 5.31 Certificate: Revocation Petitions**

A petition to revoke a Certificate of Operation shall be filed with the Clerk of the Board by the Environmental Health Director, accompanied by a statement of the grounds or reasons for such action. Upon receipt of such a petition, the Clerk of the Board shall set the matter for a public hearing and shall serve the permittee with a Notice of Hearing by mail and a copy of such petition, no less than fifteen (15) days prior to the hearing.

### **Sec. G-III 5.32 Certificates: Revocation Hearings & Determination**

Upon hearing the petition of the Environmental Health Director and the response of the permittee at such hearing, the Certificate of Operation may be revoked if it is found that any of the grounds set forth in this Section exist or have occurred. The petition for revocation shall be denied if it is found that none of such grounds for revocation exist or have occurred.

### **Sec. G-III 5.33 Scope**

Applications for the issuance of Environmental Health Certificates of Operation and petitions for the revocation of Environmental Health Certificates shall be determined in accordance with the standards prescribed by this Section.

### **Sec. G-III 5.34 Standards**

The standards shall consist of any statute, order, quarantine, rule or regulations prescribed by a state Director or department relating to Environmental Health or by this Section.

### **Sec. G-III 5.35 Restaurant**

The standards of a restaurant include those specified for restaurants by the California Restaurant Act (Cal. Health & Safety Code §§ 109857 - 111929.4.)

### **Sec. G-III 5.36 Retail Food Production & Marketing Establishment**

The standards for a retail marketing establishment include the rules specified for such an establishment by the Health and Safety Code of the State of California

### **Sec. G-III 5.37 Food Processing Establishment**

The standards for a food processing establishment shall include those specified for such establishments by the Health and Safety Code of the State of California

### **Sec. G-III 5.38 Mobile Food Preparation Units**

The standards for a mobile food preparation unit shall include those specified for such units by the Health and Safety Code of the State of California and regulations promulgated thereunder including all other regulations.

### **Sec. G-III 5.39 Reserved**

### **Sec. G-III 5.40 Vending Machines**

The standards for a vending machine shall include those specified for such machine the Health and Safety Code of the State of California

### **Sec. G-III 5.41 Vending Machine or Vehicle Identification**

A. Each vending machine shall have affixed thereon, in an accessible place, an identification plate made of durable material setting forth the model number or symbol of the machine and the serial number identifying each machine.

B. In addition, there shall be affixed to each vending machine or food vehicle a decal or other identification tag furnished by the Environmental Health Director

indicating that the required health certificate fee has been paid for the current fiscal year.

#### **Sec. G-III 5.42 Food Vehicle**

The standards for a food vehicle shall include those specified for such vehicles by the Health and Safety Code of the State of California.

#### **Sec. G-III 5.43 Reserved**

#### **Sec. G-III 5.44 Public Swimming Pool**

The standards for a public swimming pool include those specified for such pools by the Health and Safety Code of the State of California.

#### **Sec. G-III 5.45 Violations: Penalties**

Any person violating any of the provisions of this Section shall be guilty of a misdemeanor and, upon conviction thereof, may be punished by a fine or imprisonment, or both. Such person shall be deemed guilty of a separate offense for each and every day during a portion of which a violation of this Section is committed, continued, or permitted by such person.

#### **Sec. G-III 5.46 Violations: Nuisance and Abatement**

The operation of any business or activity that is listed in this Section, in violation of the provisions and standards of this Section is hereby determined to constitute a public nuisance. The maintenance and operation of such business or activity declared to be a public nuisance may be abated in any manner provided for by law.

#### **Sec. G-III 5.47 Permits to Distribute: Granting: Expiration Fees**

The Certificates required by the provisions of this Section may be granted at any time during the calendar year and shall remain in force until June 30 of the succeeding year unless sooner suspended or revoked for cause, and no Certificate shall be granted unless the applicant pays such fees as the Board of Supervisors may establish by resolution.

## **EXHIBIT B**

### **GENERAL CODE**

#### **G-III BUSINESS REGULATIONS**

#### **SECTION 6: PROHIBITING THE DISTRIBUTION AND DISPLAY OF DRUG PARAPHERNALIA**

##### **Sections:**

<b>Sec. G-III 6.1</b>	<b>Reserved</b>
<b>Sec. G-III 6.2</b>	<b>Definition</b>
<b>Sec. G-III 6.3</b>	<b>Display of Drug Paraphernalia</b>
<b>Sec. G-III 6.4</b>	<b>Distribution of Drug Paraphernalia</b>

**Sec. G-III 6.1**      **Reserved**

**Sec. G-III 6.2**      **Definition**

As used in this chapter, the following terms shall be ascribed the following meanings:

A. **BUSINESS** means a fixed location, whether indoors or outdoors, at which merchandise is offered for sale at retail.

B. **DISPLAY** means to show a patron or place in a manner so as to be available for viewing or inspection by a patron.

C. **PATRON** means a person who enters a business for the purpose of purchasing or viewing as a shopper, merchandise offered for sale at the business.

D. **DISTRIBUTE** means to transfer ownership or a possessory interest to another, whether for consideration or as a gratuity. "Distribute" includes both sales and gifts.

E. **CONTROLLED SUBSTANCE** means those controlled substances set forth in Cal. Health & Safety Code §§ 11054, 11055, 11056, 11057 and 11058 of the , identified as Schedules I through V, inclusive as said sections now exist or may hereafter be amended.

F. **DRUG PARAPHERNALIA** means all equipment, products, and materials of any kind which are intended by a person charged with a violation of this chapter for use in

planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of any law of the State of California. “Drug Paraphernalia” includes, but is not limited to, all of the following:

1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
3. Isomerization devices intended for use in increasing the potency of any species of plant which is a controlled substance;
4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
5. Scales and balances intended for use or designed for use in weighing or measuring controlled substances;
6. Dilutants and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, intended for use in cutting controlled substances;
7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining a controlled substance in violation of the law of the State of California;
8. Blenders, bowls, containers, spoons and mixing devices intended for use or designed for use in compounding controlled substances;
- 8.A Capsules, Balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substance;
9. Containers and other objects intended for use or designed for use in storing or concealing controlled substances; and
10. Hypodermic syringes, needles and other objects intended for use or designed for use in injecting, inhaling, or otherwise introducing a controlled substance in violation of the law of the State of California into the human body such as:
  - a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, or punctured metal bowls;
  - b. Water pipes;
  - c. Carburetion tubes and devices;

- d. Smoking and carburetion masks;
- e. Roach clips, meaning objects used to hold burning material of a controlled substance in violation of the law of the State of California that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons, and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Air-driven pipes;
- j. Bongs;
- k. Electric pipes; and
- l. Chillums.

In determining whether an object is “drug paraphernalia”, a court or other authority may consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. The proximity of the object to controlled substances;
3. The existence of any residue of controlled substances on the object;
4. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver to persons whom they know intend to use the object to facilitate a violation of the laws of the State of California relating to controlled substances;
5. Instructions, oral or written, provided with the object concerning its use;
6. Descriptive materials accompanying the object which explain or depict its use;
7. National and local advertising concerning its use;
8. The manner in which the object is displayed for sale;
9. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;
10. The existence and scope of legitimate uses for the object in the community; and
11. Expert testimony concerning its use.

G. PERSON means a natural person or any firm, partnership, association, corporation or cooperative association.

### **Sec. G-III 6.3            Display of Drug Paraphernalia**

A.    Except as authorized by law, it shall be unlawful for any person to willfully maintain or operate any business knowing, or under circumstances where one reasonably should know, that drug paraphernalia is displayed at such business unless such drug paraphernalia is completely and wholly kept, displayed or offered within a separate room or enclosure to which persons under the age of 18 years not accompanied by a parent or legal guardian are excluded. Each entrance to such a room or enclosure shall be signposted in reasonably visible and legible words to the effect that drug paraphernalia is kept, displayed or offered in such room or enclosure and that minors, unless accompanied by a parent or legal guardian, are excluded. .

B.    Except as authorized by law, no owner, manager, proprietor or other person in charge of any room or enclosure, within any place of business, in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away shall permit or allow any person under the age of 18 years to enter, be in, remain in or visit such room or enclosure unless that minor person is accompanied by their parent or legal guardian.

C.    Unless authorized by law, no person under the age of 18 years shall enter, be in, remain in, or visit any room or enclosure in any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred, or given away unless accompanied by their parent or legal guardian.

### **Sec. G-III 6.4            Distribution of Drug Paraphernalia**

Except as authorized by law, it shall be unlawful for any person to willfully distribute to another person drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the law of the State of California.

**EXHIBIT B**

**GENERAL CODE**

**CHAPTER III: BUSINESS REGULATIONS**

**SECTION 7 RESERVED**



**EXHIBIT B**

**COUNTY OF NEVADA GENERAL CODE  
CHAPTER III: BUSINESS REGULATIONS  
ARTICLE 11- RESERVED**

**EXHIBIT B**

**GENERAL CODE**

**CHAPTER III – BUSINESS REGULATIONS**

**SECTION 13 ADULT BUSINESS LICENSES AND OPERATING  
REGULATIONS**

**Sections:**

<b>Sec. G-III 13.1</b>	<b>Reserved</b>
<b>Sec. G-III 13.2</b>	<b>Definitions</b>
<b>Sec. G-III 13.3</b>	<b>Regulations Non-Exclusive</b>
<b>Sec. G-III 13.4</b>	<b>Adult Business Regulatory License Required</b>
<b>Sec. G-III 13.5</b>	<b>Application—Renewals</b>
<b>Sec. G-III 13.6</b>	<b>Investigation and Action on Application</b>
<b>Sec. G-III 13.7</b>	<b>Grounds for Denial of Application</b>
<b>Sec. G-III 13.8</b>	<b>Re-Application and Renewals</b>
<b>Sec. G-III 13.9</b>	<b>Appeal of Application Decision</b>
<b>Sec. G-III 13.10</b>	<b>Operating Standards</b>
<b>Sec. G-III 13.11</b>	<b>Adult Business Offering Adult Live Entertainment— Additional Operating Requirements Sec. G-III 13.12 Adult Motion Picture Theater—Additional Operating Requirements</b>
<b>Sec. G-III 13.13</b>	<b>Employment of and Services Rendered to Persons Under the Age of Eighteen (18) Years Prohibited—Twenty-One (21) if Liquor is Served</b>
<b>Sec. G-III 13.14</b>	<b>Inspections</b>
<b>Sec. G-III 13.15</b>	<b>Transfer of Adult Business License</b>
<b>Sec. G-III 13.16</b>	<b>Suspension or Revocation of Adult Business License</b>
<b>Sec. G-III 13.17</b>	<b>Causes for Suspension or Revocation</b>

<b>Sec. G-III 13.18</b>	<b>Decision following Hearing</b>
<b>Sec. G-III 13.19</b>	<b>Appeal Procedures</b>
<b>Sec. G-III 13.20</b>	<b>Violations</b>
<b>Sec. G-III 13.21</b>	<b>Reserved</b>

Sec. G-III 13.1 Reserved

Sec. G-III 13.2 Definitions

In addition to any other definitions contained in the County Code, the following words and phrases shall, for the purpose of this chapter, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with any current provisions of the County Code, these definitions shall prevail.

A. ADULT ARCADE shall mean a business establishment to which the public is permitted or invited and where coin, card or slug operated or electronically, electrically or mechanically controlled devices, still or motion picture machines, projectors, videos, holograms, virtual reality devices or other image-producing devices are maintained to show images on a regular or substantial basis, where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing “specified sexual activities” or “specified anatomical areas.” Such devices shall be referred to as “adult arcade devices.”

B. ADULT RETAIL STORE shall mean a business establishment having as a regular and substantial portion of its stock in trade, “adult oriented material”.

C. ADULT BOOTH/INDIVIDUAL VIEWING AREA shall mean a partitioned or partially enclosed portion of an adult business used for any of the following purposes:

1. Where a live or taped performance is presented or viewed, where the performances and/or images displayed or presented are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas”; or
2. Where “adult arcade devices” are located.

D. ADULT BUSINESS shall mean:

1. A business establishment or concern that as a regular and substantial course of conduct operates as an adult retail store, adult motion picture theater, adult arcade, adult cabaret, adult motel or hotel, adult modeling studio; or

2. A business establishment or concern which as a regular and substantial course of conduct offers, sells or distributes “adult oriented material” or “sexually oriented merchandise,” or which offers to its patrons materials, products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” but not including those uses or activities which are preempted by state law.

E. ADULT CABARET shall mean a business establishment (whether or not serving alcoholic beverages) that features “adult live entertainment”.

F. ADULT CABARET DANCER shall mean any person who is an employee or independent contractor of an “adult cabaret” or “adult business” and who, with or without any compensation or other form of consideration, performs as a sexually oriented dancer, exotic dancer, stripper, go-go dancer or similar dancer whose performance on a regular and substantial basis focuses on or emphasizes the adult cabaret dancer’s breasts, genitals, and/or buttocks, but does not involve exposure of “specified anatomical areas” or depicting or engaging in “specified sexual activities”. “Adult cabaret dancer” does not include a patron.

G. ADULT HOTEL/MOTEL shall mean a “hotel” or “motel” (as defined in the County Code) that is used for presenting on a regular and substantial basis images through closed circuit television, cable television, still or motion picture machines, projectors, videos, holograms, virtual reality devices or other image-producing devices that are distinguished or characterized by the emphasis on matter depicting or describing or relating to “specified sexual activities” or “specified anatomical areas”.

H. ADULT LIVE ENTERTAINMENT shall mean any physical human body activity, whether performed or engaged in, alone or with other persons, including but not limited to singing, walking, speaking, dancing, acting, posing, simulating, wrestling or pantomiming, in which: (1) the performer (including but not limited to topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar performers) exposes to public view, without opaque covering, “specified anatomical areas”; and/or (2) the performance or physical human body activity depicts, describes, or relates to “specified sexual activities” whether or not the specified anatomical areas are covered.

I. ADULT MODELING STUDIO shall mean a business establishment which provides for any form of consideration, the services of a live human model, who, for the purposes of sexual stimulation of patrons, displays “specified anatomical areas” to be observed, sketched, photographed, filmed, painted,

sculpted, or otherwise depicted by persons paying for such services. "Adult modeling studio" does not include schools maintained pursuant to standards set by the Board of Education of the State of California.

J. ADULT MOTION PICTURE THEATER shall mean a business establishment, with or without a stage or proscenium, where, on a regular and substantial basis and for any form of consideration, material is presented through films, motion pictures, video cassettes, slides, laser disks, digital video disks, holograms, virtual reality devices, or similar electronically-generated reproductions that is characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

K. ADULT ORIENTED MATERIAL shall mean accessories, paraphernalia, books, magazines, laser disks, compact discs, digital video disks, photographs, prints, drawings, paintings, motion pictures, pamphlets, videos, slides, tapes, holograms or electronically generated images or devices including computer software, or any combination thereof that is distinguished or characterized by its emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" . "Adult oriented material" shall include "sexually oriented merchandise".

L. ESTABLISHMENT OF AN ADULT BUSINESS shall mean any of the following:

1. The opening or commencement of any "adult business" (as defined above) as a new business;
2. The conversion of an existing business, whether or not an "adult business," to any "adult business";
3. The addition of any "adult business" to any other existing "adult business";
4. The relocation of any "adult business"; or
5. Physical changes that expand the square footage of an existing "adult business" by more than ten percent (10%).

M. OWNER/LICENSE HOLDER shall mean any of the following: (1) the sole proprietor of an adult business; (2) any general partner of a partnership that owns and operates an adult business; (3) the owner of a controlling interest in a corporation or L.L.C. that owns and operates an adult business; or (4) the person designated by the officers of a corporation or the members of an L.L.C. to be the license holder for an adult business owned and operated by the corporation.

N. PERFORMER shall mean a person who is an employee or independent contractor of an adult business or any other person who, with or without any compensation or other form of consideration, provides "adult live entertainment" for patrons of an "adult business."

O. SEXUALLY ORIENTED MERCHANDISE shall mean sexually oriented implements, paraphernalia, or novelty items, such as, but not limited to: dildos, auto sucks, sexually oriented vibrators, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity or distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”.

P. SPECIFIED ANATOMICAL AREAS shall mean and include any of the following:

1. Less than completely and opaquely covered, and/or simulated to be reasonably anatomically correct, even if completely and opaquely covered human:
  - a. genitals, pubic region,
  - b. buttocks, anus, or
  - c. female breasts below a point immediately above the top of the areola; or
2. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

Q. SPECIFIED SEXUAL ACTIVITIES shall mean and include any of the following, irrespective of whether performed directly or indirectly through clothing or other covering:

1. Human genitals in a state of sexual stimulation or arousal; and/or
2. Acts of human masturbation, sexual stimulation or arousal; and/or
3. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; and/or
4. Masochism, erotic or sexually oriented torture, beating, or the infliction of pain, or bondage and/or restraints; and/or
5. Human excretion, urination, menstruation, vaginal or anal irrigation; and/or
6. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.3 Regulations Non-Exclusive

The provisions of this Chapter regulating adult businesses are not intended to be exclusive, and compliance therewith shall not excuse non-compliance with any other provisions of the County Code and/or any other regulations pertaining to the operation of businesses as

adopted by the County Board of Supervisors of the County of Nevada. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.4 Adult Business Regulatory License Required

All adult businesses are subject to the adult business regulatory license requirements of this Chapter as well as all other applicable ordinances of the County and laws of the State of California.

A. It shall be unlawful for any person to establish, operate, engage in, conduct, or carry on any adult business within the County of Nevada unless the person first obtains, and continues to maintain in full force and effect, an adult business regulatory license as herein required. Any occurrence of the “establishment of an adult business”, as defined in this Chapter, shall require a new application for an adult business regulatory license. The adult business regulatory license shall be subject to the development and operational standards of this Chapter and the underlying zone where the facility is located.

B. The Nevada County Community Development Agency shall grant, deny and renew adult business regulatory licenses in accordance with these regulations. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.5 Application—Renewals

A. License applicants shall file a written, signed and verified application on a form provided by the Licensing Department.

B. The completed application shall be accompanied by a non-refundable application fee. The amount of such fees shall be set by the County Board of Supervisors.

C. The completeness of an application for an adult business regulatory license shall be determined by the Nevada County Planning Department within ten (10) working days. If the Department determines that the license application is incomplete, the Department shall immediately notify in writing the license applicant of such fact and the reasons therefore, including any additional information necessary to render the application complete. Such writing shall be deposited in the U.S. mail, postage prepaid, immediately upon determination that the application is incomplete. Within ten (10) County business days following the receipt of an amended application or supplemental information, the Department shall again determine whether the application is complete in accordance with the provisions set forth above. Evaluation and notification shall occur as provided herein until such time as the application is found to be complete.

D. The fact that a license applicant possesses other types of state or county licenses does not exempt the license applicant from the requirement of obtaining an adult business regulatory license.

E. The license shall be renewed every two (2) years. The licensee shall file an application for renewal in accordance with this Code. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.6 Investigation and Action on Application

A. Upon receipt of a completed application and payment of the application fees, the application shall immediately be stamped as “Received” and, in conjunction with County staff, shall promptly investigate the information contained in the application to determine whether an adult business regulatory license shall be granted. Investigation shall not be grounds for the County to unilaterally delay in reviewing a completed application, nor is it grounds to extend the time period to conduct a hearing pursuant to this Section.

B. A written decision on the application for an adult business regulatory license within thirty (30) County business days of receipt of the complete application required by this Section. The failure to render any decision within the time frames established in any part of this Section shall be deemed to constitute an approval, subject to compliance with all operational standards and all County zoning requirements including those found in the Nevada County Codes governing Land Use and Development, specifically all zoning regulations, and shall be subject to appeal pursuant to this Code. The decision shall be hand delivered or mailed to the applicant at the address provided in the application and shall be provided in accordance with the requirements of this Code.

C. Notwithstanding any provisions in this Section regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided for in this Section or may request a continuance regarding any decision or consideration by the County of the pending application. Extensions of time sought by applicants shall not be considered delay on the part of the County or constitute failure by the County to provide for prompt decisions on applications.

D. An application shall be granted or denied in accordance with the provisions of this Section, and so notify the applicant as follows:

1. The application shall be marked “Granted” or “Denied” with the date and signature of the County employee making the decision.
2. If the application is denied, a statement of the reasons for the denial shall be attached to the application.



3. If the application is granted, an adult business regulatory license shall be attached to the application.

4. The applicant is required to personally appear to sign for the license.

E. The approval of an application and issuance of an adult business regulatory license upon findings that the proposed business meets, or will meet, all of the development and operational standards and requirements of this Chapter, and the locational requirements of Codes governing Land Use and Development, unless the application is denied based upon one or more of the criteria set forth below s.

F. If the application is granted, the applicant may begin operating the adult business for which the license was sought, subject to strict compliance with the development and operational standards and requirements of this Chapter. The license holder shall post the license conspicuously in the premises of the adult business. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.7 Grounds for Denial of Application

The application shall be denied if the applicant fails to establish any of the following:

1. The adult business complies with the County's zoning requirements as to its underlying zoning designation and other locational requirements of the Nevada County Land Use and Development Codes, and Zoning Regulations.

2. The adult business complies with the development, operational or performance standards found in this Chapter.

3. The license applicant is at least eighteen (18) years of age, unless alcoholic beverages are to be served on premises, then twenty-one (21) years of age and subject to Alcoholic Beverage Control ("ABC") regulations.

4. The applicant has not been convicted or pled guilty to offenses set forth in this Code.

5. The required application fees have been paid.

6. The application complies with licensing requirements of this Code. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.8 Re-Application and Renewals

A permittee, applicant or substantially related entity wherein the new application is made by an individual or previous entity exercising management or oversight or control of the adult facility, cannot re-apply for an adult business regulatory license for a particular

location within one (1) year from the date of prior denial. Renewals are subject to the information requirements of the original application. A review of law enforcement responses to the licensed business and a criminal background check, at the applicant's expense, shall be required prior to any renewal. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.9 Appeal of Decision

Any affected person may appeal the decision in writing within ten (10) days in accordance with the provisions of this Code. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.10 Operating Standards

A. Hours of Operation: It shall be unlawful for any owner, operator, manager, employee or independent contractor of an adult business to allow such adult business to remain open for business, or to license any employee, independent contractor or performer to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 2:00 a.m. and 9:00 a.m. of any day excepting an "adult hotel/motel."

B. Exterior Lighting Requirements: All exterior areas, including parking lots, of the adult business shall be designed consistent with the County Codes governing Land Use and Development : Lighting, and in addition illuminated at a minimum of 1.50 foot-candles, maintained and evenly distributed at ground level with appropriate devices to screen, deflect or diffuse the lighting in such manner as to prevent glare or reflected light from creating adverse impacts on adjoining and nearby public and private properties. Inoperable and/or broken lights shall be replaced within 24 hours.

C. Interior Lighting Requirements: All interior areas of the adult business excepting therefrom adult hotels/motels shall be illuminated at a minimum of 1.00 foot-candles, maintained and evenly distributed at floor level. Inoperable and/or broken lights shall be replaced within 24 hours, excepting an "adult hotel/motel."

#### D. Regulation of Adult Booth/Individual Viewing Area:

1. No adult booth/individual viewing area shall be occupied by more than one individual at a time;
2. Each adult booth/individual viewing area within the adult business shall be visible from a continuous and accessible main aisle in a public portion of the establishment, and shall not be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing the entire interior of the adult booth/individual viewing area from the main aisle. Any adult business may have more than one manager station in order to ensure compliance with this regulation. At all

times, the manager station(s) shall be maintained to ensure a clear line of sight into the interior of the adult/booth individual viewing area. Further, no one shall maintain any adult booth/individual viewing area in any configuration unless the entire interior wherein the picture or entertainment that is viewed is visible from the manager station(s). The entire body of any patron in any adult booth/individual viewing area must be visible from the main aisle and the manager station(s) without the assistance of mirrors or any other device;

3. No doors are permitted on an adult booth/individual viewing area. No partially or fully enclosed adult booth/individual viewing areas or partially or fully concealed adult booth/individual viewing areas shall be maintained;

4. No holes or other openings shall be permitted between adult booths/individual viewing areas. Any such hole or opening shall be repaired within 24 hours using “pop” rivets to secure metal plates over the hole or opening to prevent patrons from removing the metal plates;

5. No beds, couches or chairs with a sitting area greater than 24” wide shall be permitted in an adult booth/individual viewing area;

6. When a booth is occupied the manager must be at the station.

E. On-Site Manager: All adult businesses shall have a responsible person who shall be at least 18 years of age and shall be on the premises to act as manager at all times during which the business is open. No performer may serve as the manager. The individual(s) designated as the on-site manager shall provide their name to the County Department to receive all complaints and be given by the owner and/or operator the responsibility and duty to address and immediately resolve all violations taking place on the premises. The responsible person shall in no way obstruct law enforcement in the execution of their duties.

F. Security: All adult businesses shall employ security guards in order to maintain the public peace and safety, based upon the following standards:

1. Adult businesses featuring live entertainment shall provide at least one security guard at all times while the business is open;

2. If the occupancy limit of the premises is greater than 35 persons, an additional security guard shall be on duty;

3. Security guard(s) shall be charged with preventing violations of law and enforcing compliance by patrons with the requirements of these regulations. Security guard(s) shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of state law. No security guard required pursuant to this subsection shall act

as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard;

4. Between the hours of 8:00 p.m. and thirty (30) minutes after the established closing time of the facility, security guard(s) shall regularly patrol the parking lot and adjacent outdoor areas of the facility to maintain order therein and prevent any illicit or nuisance activity;

5. Additional security may be required based on occupancy maximums established by the County building department and/or applicable fire department.

G. Interior of Premises: No exterior door or window on the premises of an adult business shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque coverings at all times.

H. Displays of Adult Oriented Materials: All displays of materials characterized or distinguished on matters describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this Code, shall be completely screened from public view as viewed from adjacent sidewalks or public rights-of-way.

I. Signs: All adult businesses shall comply with the following sign requirements, in addition to those of the Nevada County Land Use and Development Codes. Should a conflict exist between the requirements of the Nevada County Codes governing Land Use and Development and this subsection, the more restrictive shall prevail.

1. If an adult business does not serve alcohol, it shall post a notice inside the establishment, within ten feet (10') of every entrance used by customers for access to the establishment, stating that persons below the age of eighteen (18) years of age are prohibited from entering onto the premises or within the confines of the adult business. This notice shall be posted on a wall in a place of prominence. The dimensions of the notice shall be no less than six inches (6") by six inches (6"), with a minimum typeface of 25 points. If the adult business serves alcohol, it shall comply with all notice and posting requirements of the Alcoholic Beverage Control Department. Identification shall be required as necessary to ensure compliance with this Section.

2. No adult oriented material shall be displayed in window areas or any area where it would be visible from any location other than within the confines of the adult business.

J. Regulation of Public Restroom Facilities: If the adult business provides restrooms for patron use, the restrooms shall be free from adult oriented material. Only one (1) person shall be allowed in each restroom at any time., Access to restrooms for patron use shall not require passage through an area used as a dressing area by performers.

K. Trash: All interior trash cans shall be emptied into a single locked trash bin lined with a plastic bag or with individually bagged trash at least once a day. At least four (4) times a

day, the front and rear exteriors of any adult business, along with the parking lot, shall be inspected for trash and debris and any trash and debris found shall be immediately removed and placed into a single locked trash bin lined with a plastic bag. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.11 Adult Business Offering Adult Live Entertainment—Additional Operating Requirements

The following additional requirements shall apply to adult businesses providing adult live entertainment:

1. No person shall perform adult live entertainment for patrons of an adult business except upon a permanently fixed stage at least 18 inches (18") above the level of the floor, and surrounded with a three-foot (3') high barrier or by a fixed rail at least thirty inches (30") in height. No patron shall be permitted on the stage while the stage is occupied by a performer(s) and/or adult cabaret dancer(s). This provision shall not apply to an individual viewing area where the performer is completely separated from the area in which the performer is viewed by an individual by a permanent, floor to ceiling, solid barrier.
2. No performer or adult cabaret dancer shall be within six feet (6') of a patron, measured horizontally, while the performer or adult cabaret dancer is performing adult live entertainment. While on stage, no performer or adult cabaret dancer shall have physical contact with any patron, and no patron shall have physical contact with any performer or adult cabaret dancer.
3. As to off stage performances, no performer or adult cabaret dancer shall perform "adult live entertainment" off stage. As to an adult cabaret dancer performing off stage, a distance of at least six feet (6') shall be maintained between the adult cabaret dancer and the patron(s) at all times. During off stage performances, no adult cabaret dancer shall have physical contact with any patron, and no patron shall have physical contact with any adult cabaret dancer.
4. In addition, while on the premises, no performer or adult cabaret dancer shall have physical contact with a patron and no patron shall have physical contact with a performer or adult cabaret dancer, which physical contact involves the touching of the clothed or unclothed genitals, pubic area, buttocks, cleft of the buttocks, perineum, anal region, or female breast with any part or area of any other person's body either before or after any adult live entertainment or off stage performances by such performer or adult cabaret dancer. Patrons shall be advised of the no touching requirements by signs and, if necessary, by employees, independent contractors, performers, or adult cabaret dancers of the establishment. This prohibition does not extend to incidental touching.
5. Patrons shall be advised of the separation and no touching requirements by signs conspicuously displayed and placed on the barrier between patrons and performers and

utilizing red or black printing of letters not less than one inch (1") in size. And, if necessary, patrons shall also be advised of the separation and no touching requirements by employees or independent contractors of the establishment.

6. All employees and independent contractors of the adult facility, except therefrom performers while performing on the fixed stage, while on or about the premises or tenant space, shall wear at a minimum an opaque covering which covers their specified anatomical areas.

7. Patrons shall not throw money to performers, place monies in the performers' costumes or otherwise place or throw monies on the stage. If patrons wish to pay or tip performers, payment or tips may be placed in containers. Patrons shall be advised of this requirement by signs conspicuously displayed and placed on the barrier between patrons and performers and utilizing red or black printing of letters not less than one inch (1") in size. If necessary, patrons shall also be advised of the tipping and gratuity requirements by employees or independent contractors of the adult business.

8. The adult business shall provide dressing rooms for performers, that are separated and exclusively dedicated to the performers' use and which the performers shall use. Same gender performers may share a dressing room. Patrons shall not be permitted in dressing rooms.

9. The adult business shall provide an entrance/exit to the establishment for performers that is separate from the entrance/exit used by patrons, which the performers shall use at all times.

10. The adult business shall provide access for performers between the stage and the dressing rooms that is completely separated from the patrons. If such separate access is not physically feasible, the adult business shall provide a minimum three-foot (3') wide walk aisle for performers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the performers capable of (and which actually results in) preventing any physical contact between patrons and performers and the patrons must also be three feet (3') away from the walk aisle. Nothing in this Section is intended to exempt the adult business from compliance with the provisions of Title 24 of the California Code of Regulations pertaining to handicapped accessibility. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.12 Adult Motion Picture Theater—Additional Operating Requirements

The following additional requirements shall apply to adult motion picture theaters:

A. If the theater contains a hall or auditorium area, the area shall comply with each of the following provisions:

1. Have individual, separate seats, not couches, benches, or the like, to accommodate the maximum number of persons who may occupy the hall or auditorium area;
2. Have a continuous main aisle alongside the seating areas in order that each person seated in the hall or auditorium area shall be visible from the aisle at all times; and
3. Have a sign posted in a conspicuous place at or near each entrance to the hall or auditorium area which lists the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the hall or auditorium area.

B. If an adult motion picture theater is designed to permit outdoor viewing by patrons seated in automobiles, it shall have the motion picture screen so situated, or the perimeter of the establishment so fenced, that the material to be seen by those patrons may not be seen from any public right-of-way, child day care facility, public park, school, campground or camp, religious institution or any residentially zoned property occupied with a residence, which may include, but not be limited in those properties zoned R1, R2, R3, RA and AG. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.13 Employment of and Services Rendered to Persons Under the Age of Eighteen (18) Years Prohibited—Twenty-One (21) if Liquor is Served

A. Employees/Independent Contractors: Employees and independent contractors of an adult business must be at least eighteen (18) years of age. It shall be unlawful for any owner, operator, manager, partner, director, officer, shareholder with a ten percent (10%) or greater interest, employees, or other person in charge of any adult business to employ, contract with, or otherwise retain any services in connection with the adult business with or from any person who is not at least eighteen (18) years of age. If liquor is served at the adult business, employees and independent contractors of the adult business must be at least twenty-one (21) years of age. If liquor is served at the adult business, it shall be unlawful for any owner, operator, manager, partner, director, officer, shareholder with a ten percent (10%) or greater interest, employee, or other person in charge of any adult business to employ, contract with, or otherwise retain any services in connection with the adult business with or from any person who is not twenty-one (21) years of age. Said persons shall exercise reasonable care in ascertaining the true age of persons seeking to contract with, be employed by, or otherwise service the adult business, with identification verification and any additional requirements as may be imposed by Alcoholic Beverage Control licensing.

B. Patrons: Patrons of an adult business must be at least eighteen (18) years of age. It shall be unlawful for any owner, operator, manager, partner, director, officer, shareholder with a ten percent (10%) or greater interest, employee, independent contractor, or other person in charge of any adult business to permit to enter or remain within the adult business

any person who is not at least eighteen (18) years of age. If liquor is served at the adult business, patrons must be at least twenty-one (21) years of age. If liquor is served at the adult business, it shall be unlawful for any owner, operator, manager, partner, director, officer, shareholder with a ten percent (10%) or greater interest, employee, independent contractor, or other person in charge of any adult business to permit to enter or remain within the adult business any person who is not at least twenty-one (21) years of age, said persons shall exercise reasonable care in ascertaining the true age of persons entering the adult business.

C. X-Rated Movies: The selling, renting and/or displaying of X-rated movies, videotapes, digital video disks (DVDs), compact disks (CDs) and laser disks shall be restricted to persons over eighteen (18) years of age. If an establishment that is not otherwise prohibited from providing access to the establishment to persons under eighteen (18) years of age sells, rents, or displays movies, videos, DVDs, CDs or laser disks that have been rated "X" or rated "NC-17" by the motion picture rating industry ("MPAA"), or which have not been submitted to the MPAA for a rating, and which consist of images that are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas, said movies, videos, DVDs, CDs, and laser disks shall be located in a specific section of the establishment where these items are not visible to persons under the age of eighteen (18) and from which persons under the age of eighteen (18) shall be prohibited. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.14 Inspections

Each owner, operator, manager, employee or independent contractor of an adult business or other person in charge of an adult business shall permit representatives of the Sheriff's Department, County Health Department, applicable Fire Department, Planning Department, Code Compliance Division and other County departments, to inspect the adult business for the purpose of insuring compliance with the laws and operating standards applicable to adult businesses at any time it is occupied or open for business. Such inspections shall be conducted in a reasonable manner. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.15 Transfer of Adult Business License

A. A license holder shall not operate an adult business under the authority of an adult business license at any place other than the address of the adult business stated in the application for the license.



B. In the event of a transfer of ownership of the adult business, the new owner shall be fully informed of the requirements of this Chapter, including the operational and development standards herein.

C. In the event of a transfer of the adult business or the adult business license, the transferee must provide the Licensing Department with the applicant information as set forth in Section G-III 13.5 of this chapter, at least twenty-one (21) days prior to the transfer. The application shall be reviewed in accordance with above Section on application. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.16 Suspension or Revocation of Adult Business License

On determining that grounds for license suspension or revocation exist, the Licensing Department shall furnish written notice of the proposed suspension or revocation to the license holder. Such notice shall set forth the time and place of a hearing and the ground or grounds upon which the hearing is based, the pertinent County Code Sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the license holder, or shall be delivered to the license holder personally, at least ten (10) days prior to the hearing date. Hearings pursuant to this Section shall be noticed in accordance with California Gov't Code §§ 65091 and 65905 conducted by the Licensing Department or their designee, which may include a third party hearing officer. Hearings pursuant to this Section shall be conducted in accordance with procedures established by the Licensing Department but, at a minimum, shall include the following:

1. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing upon the issues and may be represented by counsel.
2. The hearing shall not be bound by the formal rules of evidence.
3. Any hearing under this Section may be continued for a reasonable time for the convenience of a party or a witness at the request of the license holder. Extensions of time or continuances sought by a license holder shall not be considered delay on the part of the County or constitute failure by the County to provide for prompt decisions on license suspensions or revocations.
4. The decision may be appealed in accordance with Section G-III 13.19. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.17 Causes for Suspension or Revocation

The license to operate may be suspended and an order for the adult business to close issued, pending a suspension or revocation hearing if it is determined that the closure is necessary

to protect the public health and safety. A license may be suspended or revoked based on the following causes arising from the acts or omissions of the license holder, or an employee, independent contractor, partner, director, or manager of the license holder:

A. The building, structure, equipment, or location used by the adult business fails to comply with all provisions of these regulations and this Section relating to adult businesses, including the adult business operational standards contained in Section G-III 13.10 above and Nevada County Land Use and Development Code, Chapter II, Zoning Regulations, and all other applicable building, fire, electrical, plumbing, health, and zoning requirements of the County of Nevada County Code;

B. The license holder has failed to obtain or maintain all required County licenses;

C. The license holder has made any false, misleading, or fraudulent statement of material fact in the application for an adult business license;

D. The license is being used to conduct an activity different from that for which it was issued;

E. That an individual employed by, or performing in, the adult business (whether classified as an employee or independent contractor) has been convicted of two (2) or more sex-related offenses that occurred in or on the licensed premises within a twelve (12) month period and was employed by, or performing in, the adult business at the time the offenses were committed;

F. That the use for which the approval was granted has ceased to exist or has been suspended for six (6) months or more;

G. That the transferee/new owner of an adult business or adult business license failed to comply with the requirements of this Chapter;

H. The license holder, partner, director, or manager has knowingly allowed or permitted, or has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the adult business; or a licensee has been convicted of violating any of the following state laws on the premises of the adult business:

1. Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation;
2. Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur;
3. Any conduct constituting a criminal offense which requires registration under Cal. Penal Code § 290;
4. The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Cal. Penal Code §§ 315, 316, 318 or subdivision (b) of Section 647 ;

5. Any act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including, but not limited to Sections 311 through 313.4;
6. Any act constituting a felony involving the sale, use, possession, or possession for sale of any controlled substance specified in Cal. Health & Safety Code §§ 11054, 11055, 11056, 11057, or 11058;
7. An act or omission in violation of any of the requirements of this Chapter if such act or omission is with the knowledge, authorization, or approval of the license holder or is as a result of the license holder's negligent supervision of the employees or independent contractors of the adult facility. This includes the allowance of activities that are or become a public nuisance which includes the disruptive conduct of business patrons whether on or immediately off the premises where such patrons disturb the peace, obstruct traffic, damage property, engage in criminal conduct, violate the law and otherwise impair the free enjoyment of life and property. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.18 Decision following Hearing

After holding the hearing in accordance with the provisions of this Section, if the Licensing Department finds and determines that there are grounds for suspension or revocation, the Department shall impose one of the following:

- A. Suspension of the license for a specified period not to exceed six (6) months; or
- B. Revocation of the license.

The Licensing Department shall render a written decision that shall be hand delivered or overnight mailed to the license holder within five (5) days of the public hearing.

In the event a license is revoked pursuant to this Section, another adult business license to operate an adult business shall not be granted to the licensee or an entity related to the licensee within twelve (12) months after the date of such revocation. (Ord. 2352. (07/10/2012))

#### Sec. G-III 13.19 Appeal Procedures

After approval, denial, suspension or revocation of a license, any affected person may appeal the decision to the County Board of Supervisors in writing within ten (10) days after the written decision.

A. Consideration of an appeal of the decision shall be at a public hearing, notice of which shall be given pursuant to California Gov't Code §§ 65091 and 65905 and which hearing shall occur within thirty (30) days of the filing or initiation of the appeal.

B. The County Board of Supervisors action on the appeal of the decision shall be by a majority vote of the members present and upon the conclusion of the de novo public hearing, the County Board of Supervisors shall grant or deny the appeal. The County Board of Supervisors' decision shall be final and conclusive and shall be rendered in writing within four (4) County business days of the hearing, such written decision to be mailed to the party appealing the Licensing Department's decision.

C. In reaching its decision, the County Board of Supervisors shall not be bound by the formal rules of evidence.

D. Notwithstanding any provisions in this Section regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided for in this Section or may request a continuance regarding any decision or consideration by the County of the pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the County or constitute failure by the County to provide for prompt decisions on applications.

E. Failure of the County Board of Supervisors to render a decision to grant or deny an appeal of a license denial within the time frames established by this Section shall be deemed to constitute an approval of the adult business license.

F. The time for a court challenge to a decision of the County Board of Supervisors is governed by Cal. Civ. Proc. § 1094.8.

G. Notice of the County Board of Supervisors' decision and its findings shall include citation to Cal. Civ. Proc. §§ 1094.8.

H. Any applicant or license holder whose license has been denied pursuant to this Section shall be afforded prompt judicial review of that decision as provided by Cal. Civ. Proc. § 1094.8. (Ord. 2352. (07/10/2012))

### Sec. G-III 13.20 Violations

Any owner, operator, manager, employee or independent contractor of an adult business violating or permitting, counseling, or assisting the violation of any of these provisions regulating adult businesses shall be subject to any and all civil remedies, including license revocation. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.

In addition to the remedies set forth in above, any adult business that is operating in violation of these provisions regulating adult businesses is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation.

The restrictions imposed pursuant to this Section constitute a licensing process, and do not constitute a criminal offense. Notwithstanding any other provision of the County of Nevada County Code, the County does not impose a criminal penalty for violations of the provisions of this Ordinance related to sexual conduct or activities. (Ord. 2352. (07/10/2012))

Sec. G-III 13.21Reserved