

**CHAPTER V. BUSINESS REGULATIONS AND LICENSES**

- Article 1. Registration; Businesses, Occupations, Professions
- Article 2. Poolhalls, Billiard Halls and Amusement Centers
- Article 3. Drilling Oil and Gas Wells
- Article 4. Dances and Dance Halls
- Article 5. Temporary Sales
- Article 6. Taxicabs
- Article 7. Adult Entertainment Establishments and Adult Hotels
- Article 8. Erotic Dance Studios
- Article 9. Mobile Ice Cream Vendors
- Article 10. Pawnbrokers and Precious Metal Dealers
- Article 11. Fireworks; Sale and Discharge
- Article 12. Temporary Portable Business Permits
- Article 13. Door To Door Sales

**ARTICLE 1.  
REGISTRATION; BUSINESSES,  
OCCUPATIONS, PROFESSIONS**

5-501. Reserved.

5-102. INFORMATION PROVIDED. The registration of businesses shall include furnishing to the city clerk the following information:

- (a) Nature of the business;
- (b) Location of the business;
- (c) Business phone number;
- (d) The owner's and/or manager's home address and phone number;
- (e) Approximate square footage of floor space in the business;
- (f) A listing of any and all types of combustible substances which are used or kept on the premises which might create a special fire fighting problem.
- (g) The total number of all non-family employees, and the total number of all employees.
- (h) A certification by restaurant owners/managers that all employees have current food handlers' certifications issued by the Wichita/Sedgwick County Health Department.

(Ord. 404, Sec. 2; Ord. 547, Sec. 3; Code 2003; Code 2010)

- 5-103.           **INSPECTION.**  
    (a)       Application for registration will constitute permission, from applicant or their representatives, for inspection by the director of public works or his or her designee for the express purpose of determining that the applicant has complied with the current incorporated Uniform Building Code, National Electrical Code, zoning laws and all other relevant regulations of the city.  
    (b)       The clerk may request to inspect copies of all employee’s food handler’s cards at the time of a restaurant owner/manager’s application.  
              (Ord. 404, Sec. 3; Code 2003; Code 2010 )
- 5-104.           **REGISTRATION CERTIFICATE.** The city clerk, upon confirmation from the director of public works or his or her designee that the applicant is in compliance of existing codes and regulations, shall issue a registration certificate to each business registered. The holder thereof shall display the same in a conspicuous place in the place of business for which the certificate is issued. No business shall commence business operations prior to issuance of a registration certificate.  
              (Ord. 404, Sec. 4; Ord. 547; Code 2003)
- 5-105.           **TERM OF REGISTRATION.** Any registration secured under this article shall not be transferable. Upon a change of locations within the city, a business shall re-register without payment of the required fee.  
              (Ord. 404, Sec. 5; Ord. 547; Code 2003)
- 5-106.           **DOOR-TO-DOOR SALES.** No person, firm, association, company, corporation or other entity shall engage in making or attempting to make door to door sales in the city without first receiving a permit from the city clerk for “Door to Door” Sales pursuant to Article 12 of this Chapter. If the applicant is also subject to the business licensing requirement set forth in 5-101, the fee associated with obtaining this permit shall be waived. If a business is required to obtain both permits, both permits must be obtained prior to any door-to-door sales occurring within the City. Processing fees as set out in section 17-325 shall be due and payable at the time the application is submitted to the city clerk.  
  
              (Ord. 404, Sec. 8; Ord. 547, Sec. 106; Code 2003; Code 2010 )
- 5-107.           **PENALTY.** Any person, firm or corporation, company, partnership or other entity who shall be found guilty of violation of this article shall be subject to a fine in accordance with the general penalty provisions set out in section 1-121 of this code. Each day the violation is committed shall constitute a separate offense.  
              (Ord. 404, Sec. 8; Code 2003)

**ARTICLE 2.**  
**POOLHALLS, BILLIARD HALLS AND**

## AMUSEMENT CENTERS

- 5-201. LICENSE, REQUIRED. No poolhall, billiard hall and/or amusement center shall be operated, kept, maintained or conducted by any person within the city, until a license shall have been secured in accordance with the regulations, terms and conditions set out in this article.  
(Ord. 105-B, Sec. 5-201)
- 5-202. LICENSE APPLICATION REQUIRED. Application for the license required in the preceding section shall be made to the city clerk or the license collector over the signature of the person who will operate, maintain or conduct the place of business for which a license is sought, and shall set forth under oath of the applicant the following information and statements:
- (a) Citizenship and Residence. The applicant is a citizen of the United States and has been a resident of the state for two (2) years, and the county for six (6) months prior to filing an application;
  - (b) Conviction of Felony, etc. The applicant has not been convicted of any felony or crime involving moral turpitude five (5) years prior to the filing of an application;
  - (c) Name and Address. The names and addresses of the persons who will operate, maintain or conduct the place of business for which a license is sought;
  - (d) Location and Type of Business. The location and type of business to be conducted or operated and the name and location of any public church or school building or grounds located within three-hundred (300) feet from the place of business for which a license is sought;
  - (e) Description, etc., of Equipment. A description of the amusement equipment or furnishings to be operated or maintained, including the number and type of pool tables, billiard tables, domino tables and amusement devices;
  - (f) Duration of License, etc. The period of time for which a license is sought and whether application is being made for the renewal of an existing license formerly granted by the city and covering the place of business in question, all licenses expire December 31<sup>st</sup> of each year regardless of when the license was issued;
  - (g) Denial or Revocation of License. A statement as to whether the applicant has ever been denied a license or had a license revoked for the place of business for which application for a license is being made;
  - (h) Opening and Closing Hours. The hours and days of the week the place of business and amusement is to be open and closed;
  - (i) Miscellaneous. A statement that the applicant is familiar with the conditions imposed on his or her place of business by the terms of all laws of the city, and that place of business meets all health, fire and safety requirements of the city. No license shall be issued to any person who has not qualified under the preceding provisions of this section.  
(Ord. 105-B, Sec. 5-202)
- 5-203. APPROVAL OR DISAPPROVAL OF APPLICATION. Upon the filing of an application for a license as provided in this article, the applicant shall pay to the city

clerk or the license collector, the fees specified in the approved schedule of fees. Upon receipt of such application, together with the fees specified, the city license collector or city clerk shall forward a copy of the application to the office of the chief of police, who shall cause the location specified in the application to be inspected and the applicant for the license investigated. The chief of police shall coordinate with the building inspector in any inspection of a building or premises required or made by this article. If upon investigation and inspection it shall appear that the requirements of this article as well as the building code and fire and safety regulations will be fully met, such application shall be approved by the chief of police and given to the governing body with the chief's recommendations for the issuance of the license. The recommendations shall contain any conditions that the chief of police deems advisable upon which a license should be granted.

Upon receipt of the application for a license from the chief of police together with the chief's recommendations in respect thereto, the governing body shall review the application for final approval or disapproval. In the event the governing body shall approve the issuance of the license, the application therefor shall be returned to the city clerk or to the license collector, who shall immediately issue the license on the terms and conditions specified. In the event the application for a license is disapproved by the governing body, the application shall be returned to the city clerk or the license collector who shall immediately notify the applicant of the disapproval and refund to the applicant any license fees paid in with the application exclusive of any fees paid in and specified as application fees. Fees pursuant to section 17-312 of this code.

(Ord. 105-B, Sec. 5-203; Code 2003; Code 2007)

- 5-204. LICENSE FEES. Persons engaging in the operation of poolhalls, billiard halls and/or amusement centers shall be required to pay an annual license fee as set out in section 17-304, due January 1. This fee includes a maximum of five (5) billiard or pool tables, a maximum of five (5) domino tables and a maximum of ten (10) coin-operated amusement devices other than the foregoing tables. Any additional pool, billiard, domino tables or other coin-operated amusement devices shall be charged an annual fee as set out in section 17-304, due January 1. Tables or devices not in use must be dismantled, removed or a license paid therefor.

(Ord. 105-B, Sec. 5-204; Code 2003)

- 5-205. LICENSE REVOCATION. The governing body upon five (5) days written notice to the licensee holding any license regulated by this article shall revoke such license for any one of the following reasons:

(a) If a licensee has fraudulently obtained a license by giving false information in the application therefor;

(b) If the licensee has violated any of the provisions of this article or has become ineligible to obtain a license under this article;

(c) For the nonpayment of any fee required by the approved schedule of fees;

(d) For conviction of the licensee of a felony or any other crime of offense involving moral turpitude;

(e) If the licensee permits gambling on the premises or permits the placing of a capital prize on any amusement device or game of skill;

(f) If the licensee knowingly employs any person who has been convicted of any crime or felony involving moral turpitude within five years prior to the time of employment;

(g) If the licensee permits disorderly conduct, the use of vulgar or swear language, or any conduct tending toward a breach of the peace upon the premises or allows any person to be in an intoxicated condition in such place of business.

(Ord. 105-B, Sec. 5-205; Code 2003)

5-206. REGULATIONS OF PLACE OF BUSINESS. The blinds, curtains, windows, doors and other openings of any poolhall, billiard hall and/or amusement center shall at all times be so drawn, constructed and arranged that an unobstructed view may be had of the interior thereof from the entranceways or outside windows. Obstruction to sidewalk windows shall not extend higher than forty-eight (48) inches above the sidewalk level. No booth of any type in the poolhall, billiard hall and/or amusement center shall exceed the height of forty (40) inches at the back. All interiors shall be well lighted and all entrances and openings shall be subject to the approval of the chief of police and the city building inspector.

(Ord. 105-B, Sec. 5-206)

5-207. USE OF BELLS, BUZZERS UNLAWFUL. The use of bells, buzzers and other warning devices or signal calls or systems used in connection with the operation of a poolhall, billiard hall and/or amusement center are hereby prohibited.

(Ord. 105-B, Sec. 5-208)

5-208. GAMBLING UNLAWFUL. The playing of “kelly pool” and the maintenance of games of chance and gambling devices in any poolhall or billiard hall are hereby prohibited.

(Ord. 105-B, Sec. 5-209)

5-209. MINORS UNDER EIGHTEEN. No person under eighteen (18) years of age shall be permitted to visit, remain, play or be employed in any poolhall or billiard hall or amusement center unless such poolhall, billiard hall or amusement center shall conform to all of the following special conditions:

(a) No cereal malt beverages shall be sold or consumed on such premises.

(Ord. 105-B, Sec. 5-210; Ord. 582, Sec. 2; Code 2003)

5-210. POOLHALL, BILLIARD HALL, AMUSEMENT CENTERS OPEN TO CERTAIN OFFICIALS. All poolhalls, billiard halls or amusement centers shall be open at all times to law enforcement officers of the city, the state and the United States.

(Ord. 105-B, Sec. 5-212)

5-211. PENALTY. Any person in violation of any portion of this article shall be punished by a fine in accordance with the general penalty provisions set out in section

1-121 of this code. Each day the violation is committed shall constitute a separate offense.

(Ord. 105-B, Sec. 5-212; Code 2003)

- 5-212. **SPECIAL SUPERVISION.** In addition to the regular license fees required herein, the chief of police may determine, at any time, that special supervision shall be required in connection with the conduct of the pool hall, billiard hall and/or amusement center. In such event, the applicant shall pay an additional sum to help defray the cost of special supervision. The amount of special supervision to be paid, as set out in section 17-304, for the period of any time spent in the supervision of any particular business establishment hereunder. The chief of police shall designate personnel to supervise under the provisions hereof. If the chief of police shall not determine supervision to be necessary, the chief shall have the continuing right to make such finding of necessity of supervision in which event he or she shall, in writing, notify the city clerk and the licensee and within twenty-four (24) hours the licensee shall make arrangements for the cost of such special supervision. If the chief of police shall determine supervision to be no longer necessary, after having been instituted, he or she shall make such determination, in writing. The chief of police shall have the continuing right to ascertain that supervision is necessary under the provision hereof.

(Ord. 582, Sec. 3; Code 2003)

### **ARTICLE 3. DRILLING OIL AND GAS WELLS**

- 5-301. **DEFINITIONS.** A “well” or “wells” for the purposes of this article shall mean any well drilled, or to be drilled, or used, for the production of petroleum, natural gas, or the disposal of waste liquids produced therefrom.

(Code 1984; Code 2003)

- 5-302. **DRILLING PERMIT REQUIRED.** It shall be unlawful for any person to drill or commence operations for the drilling of a well at any place within the corporate limits of the city without first having obtained from the governing body a permit and authorization therefor as herein provided.

(Code 1984)

- 5-303. **SAME; FILING APPLICATION.** The applicant for a permit under this article shall file with the city clerk an application in writing conforming to the further provisions of this article, and shall at such time deposit with the city clerk a fee as set out in section 17-355, which shall, upon the granting of the permit, be paid into the city treasury to the credit of the general operating fund. In the event such permit is not granted, a portion of the fee set out in the approved schedule of fees shall be retained by the city as an application fee and credited to the above fund and the

balance shall be refunded to the applicant.  
(Code 1984; Code 2003)

5-304. SAME; CONSIDERATION OF APPLICATION. Any application for a drilling permit shall be submitted by the city clerk to the governing body at any regular or special meeting thereof no later than sixty (60) days after said application is filed with the clerk. Prior to submitting applications to the governing body, the city clerk shall publish, at least five (5) working days prior to the meeting at which the application shall be considered, notice in the official city newspaper of the time and place that the governing body shall meet and consider such applications. The consideration of applications may be continued from time to time until disposition thereon is reached, without any further notice publication.  
(Code 1984; Code 2003)

5-305. SAME; ISSUANCE. Upon determination that an application for a drilling permit satisfies the requirements and conditions of this article, the governing body shall authorize the issuance of said permit. Upon completion of any well authorized by said permit, the permittee shall file a completion report with the city engineer identifying the drilled depth of the well, depth of its surface casing, and the producing horizon developed. No more than one well shall be completed in the same producing horizon in a drilling unit.  
(Code 1984; Code 2003)

5-306. SAME; INFORMATION SUPPLIED. The applicant for any permit to drill a well in the city shall submit the following information and evidence as a condition for the granting of a permit hereunder:

(a) Satisfactory evidence that all owners of record of mineral interests or oil and gas leasehold interests in the area attributable or which might be attributed by unitization or declaration to drill-unit, where it is proposed to drill a well, have had an opportunity to join in the execution of the oil and gas lease of the applicant covering the land included in such unit or attributed areas, and that such owners of mineral interests or oil and gas leasehold interests have been notified in writing that the applicants propose to seek a permit for the drilling of a well on the unit described in such notice. In the event that such owners cannot with reasonable diligence be located, then affidavits setting forth the facts thereof may be substituted for the required proof of written notice.

(b) That the applicant has a valid oil and gas lease executed by persons owning at least fifty-one percent (51%) of the mineral interest included in the unit or attributed thereto, exclusive of streets and alleys, subject, however, to the provisions of the zoning ordinances relating to drilling of wells.

(c) Statements that the lease provide or is accompanied by an agreement in writing providing substantially as follows: That a royalty of at least one-eighth (1/8<sup>th</sup>) of the gross production of the well shall be distributed to the respective owners of the mineral rights within the unit pro rata; and that any owner, lessee, assigns or successors whose land shall not be under lease to the permittee, and shall be located

within the unit, shall have the right, within ten (10) days after the granting and publication notice of a permit for the drilling of any well to post with the city clerk a good and sufficient corporate surety bond, or a personal bond acceptable to the permittee, to guarantee payment of his, her, or their proportionate share of the cost of the drilling and operation of the proposed well and be thereby entitled to participate in the entire working interest in the well after payment of his or her share of expenses in the proportion that the mineral interest in the unit owned or leased by him or her bears to the total mineral interest contained in the unit.

(d) A map or plat of the area covered by the oil and gas lease, showing the proposed location of each well, together with the written consent of the owner of the land on which the well is proposed to be located to the drilling of the well on the land, which map or plat shall also show the location of all residences, buildings, and other structures within one-hundred fifty (150) feet of such proposed location. The map or plat shall be accompanied by a certificate of proper zoning from the city planning office.

(e) Agreements or statements showing reasonable and adequate plans for the handling and disposal of all drilling fluids, basic sediment, brines and other deleterious substances and wastes that may be produced in connection with the drilling and operation of the proposed well.

(f) Plans and drawings showing the facilities for the handling or storing of production of the proposed well subject to approval by the governing body.

(g) Statements of agreements that in the event the well is either nonproductive or abandoned, within sixty (60) days after the determination thereof, that all tools, equipment, and machinery used in connection with the drilling of the well shall be removed, and that the premises shall be fully restored to their original condition as soon as practicable and in no case more than sixty (60) days after such determination.

(h) Statements of agreement that if such well is productive, only the tools, machinery, structures and equipment necessary for the operation thereof shall be maintained at such well and that the premises surrounding the same shall be restored to their original condition as nearly as practicable and within sixty (60) days after completion of the well.

(i) An agreement with the lessors and with the lessee or lessees giving to the city, the option to purchase all natural gas produced from the lease at a rate of not exceeding the then going market price per each 1,000 cu.ft. thereof.

(Code 1984)

5-307. SAME; DURATION. The permit to drill a well shall be valid only in the event and for so long as the permittee shall faithfully comply with the conditions of this article and of the permit authorized in accordance therewith, and only so long as there is production from or other lawful use made of the well.

(Code 1984)

5-308. SAME; NONASSIGNABLE. No permit authorized by this article shall be assignable or assigned without the approval of the governing body.

(Code 1984)

5-309. AUTHORIZATION TO LAY PIPELINES. (a) If any applicant or any other party shall desire to lay pipelines in the streets, public grounds, or alleys in the city for transmission of petroleum, water or gas or any waste fluid from any well or drilling location within the boundaries of the city, authorization therefor, as provided by law, shall be obtained from the governing body as a prerequisite to such authorization.

(b) All crude oil transmission lines must meet A.P.I. specifications and wherever such transmission lines cross a thoroughfare they must be constructed in accordance with regulations of the state of Kansas and such transmission lines must be at least two feet from any utility line and shall be laid only upon the approval and under the direction of the city engineer. All salt water produced from any well in the city must be disposed of according to laws of the state of Kansas and the regulations promulgated by the Kansas State Corporation Commission.

(c) The person seeking authorization shall provide detailed plans and specifications for constructing and maintaining such pipelines and for restoration, so far as practicable, of streets, grounds and alleys, wherever damaged by such construction, to as good condition as existed immediately prior to the damage, which plans and specifications shall be approved by the city engineer prior to granting such authorization.

If city water is requested for any part of the drilling operation, applicant agrees to pay for water used at commercial rate, pay a connection fee for use of a city water meter, and comply with all city water connection requirements.

(Code 1984)

5-310. SURETY BONDS REQUIRED. (a) The applicant shall at the time of filing an application for a well permit, submit for the approval of the governing body a corporate surety bond executed by some bonding or surety company authorized to do business in the state, or a personal surety bond, in the amount of \$50,000 payable to the city, conditioned for the full and faithful compliance with all the terms and provisions of this article and the conditions of the permit authorized thereby, and to save and hold the city free and harmless from all suits or damages sustained by the city in the event that any claim for damage or injury is maintained against the city as a result of the activities of the applicant in drilling or operating a well. All such bonds shall be renewed immediately prior to their termination and shall remain in force and be binding upon the principal and surety unless canceled by giving thirty (30) days notice in writing to the city clerk, and the surety shall not be liable for any loss after the expiration of thirty (30) days from the date specified in the notice, except for loss occurring while the bond is in full force and effect. Upon the expiration of any such bond, a new bond shall be filed by the principal in such amount as in the case of an original bond.

(b) In the event that any permittee shall have furnished such bond as required for a permit and there shall be no unsatisfied claim upon such bond at the time of the application for a subsequent permit to drill a well, no further bond shall be required for any subsequent permit, but in such event there shall be endorsed on the bond the identification of the subsequent permit for which the bond is made applicable;

provided, that if there shall be an unsatisfied claim against the permit, the governing body, at its discretion, may require an additional bond in the aforesaid amount or any lesser amount as may be determined.

(c) The amount of the surety bond heretofore required may be reduced to \$5,000 from and after the completion of any well upon filing a new or amended bond conditioned and approved as in the case of the original bond, except for the amount. Such bond shall be renewed and filed during the continued operation of the well and for a period of six (6) months thereafter or until the premises have been cleared of obstructions and restored to their original condition as required by this article.

(Code 1984; Code 2003)

5-311. **INDEMNITY OR CASUALTY INSURANCE REQUIRED.** The applicant for a well permit shall submit a policy of indemnity or casualty insurance, issued by some responsible insurance company authorized to do business in the state, and naming the city as co-insured, insuring against injuries, loss or damage for which the applicant may be liable as the result of the drilling, operation or maintenance of any well or any structure or machinery appurtenant thereto. Such insurance coverage shall be in the following amounts:

\$300,000--for injury to any one person in any occurrence;

\$500,000--for injury to more than one person in any occurrence;

\$500,000--for loss or damage to property in any one occurrence.

A copy or certificate of the policy shall be deposited with the city clerk, together with a certificate by the insurance company that such insurance is in force and shall not be canceled without thirty (30) days' written notice thereof to the city. Such insurance shall be renewed immediately prior to the end of the term thereof and shall be maintained during the entire period of drilling or operation of a well.

(Code 1984)

5-312. **DRILLING SITE.** All wells hereafter commenced or drilled within the city limits shall be drilled as nearly as practicable on a location consisting of at least ten (10) acres. The governing body at the time of the granting of a license or a permit as hereinbefore provided may permit such variations as may be deemed necessary in the amount of acreage required, the location of the drill site, and the shape of the location, depending upon geographical factors, and topographical features of the land embraced by the location. No well shall be drilled within one-hundred fifty (150) feet of any residence or commercial building or buildings unless the governing body shall determine otherwise, based upon a satisfactory showing that all residences or commercial building or buildings will be adequately protected.

(Code 1984)

5-313. **SPECIFIC DRILLING AND PRODUCTION REGULATIONS.** The issuance and continued validity of a permit and the authorization for the drilling or operation of a well, authorized thereby, shall be conditioned upon compliance by the permittee with all applicable state laws and regulations and also the following rules and regulations and any departure therefrom shall constitute a violation of this article:

(a) The surface pipe must run and set at least ten (10) feet into the Wellington Shale and in no event less than three-hundred (300) feet into the ground.

(b) The surface pipe must be solidly cemented from top to bottom on the outside of the pipe.

(c) Adequate precautions shall be taken and necessary well head safety devices used at all times during the drilling and completion of the well; and all drill stem tests shall be reverse circulated to confine fluids to pits in accordance with the most acceptable practices.

(d) Locations and equipment shall at all times during drilling operations be fenced by either a temporary portable type snow fencing at least four (4) feet high or other fencing equally acceptable.

(e) Upon completion of a well, the pumping unit, tank battery and other permanent production equipment shall be enclosed within a chain or wire mesh fence six (6) feet in height supported by steel posts set in concrete to a depth of at least eighteen (18) inches; and on top of such fence there shall be placed and maintained a protruding extension of three barb wires, the lowest of which shall be at least seven (7) feet above ground, extended on bars at an angle of forty-five (45) degrees to the outside, and all gates forming a part of such fence shall be kept closed and locked at all times except when in active use by the operator.

(f) All slush ponds and pits shall be of metal or concrete construction.

(g) All waters produced from any well shall be disposed of underground in accordance with regulations of the Kansas Corporation Commission or the State Board of Health.

(h) At no time shall fluids of any kind be run into or stored in earthen pits.

(i) All pumping units shall be set on a steel or concrete base and the surface of the ground around the well shall be graded to surrounding ground.

(j) All pumping units must be electrically driven and equipped with belt safety guards.

(k) All petroleum storage tanks shall be of a vapor tight construction. No gas or fumes from any storage tank, oil separator or casing head shall be allowed to escape into the open air without burning; and such waste products from tanks, separators and casing heads shall be vented and burned at a height at least five (5) feet above the nearest adjacent buildings to the site, but in no event less than thirty (30) feet above the ground level.

(l) All storage tanks shall be located within a diked area not less than two (2) feet in height covering an area sufficient to contain and hold one and one-half (1 ½) times the entire liquid capacity of all tanks therein.

(m) All production equipment, structures and premises shall at all times be maintained and kept in a clean, sanitary and tidy condition; and all structures shall be of incombustible materials.

Permittees shall comply with any applicable state laws or regulations when those laws or regulations establish more stringent requirements than those set forth in this section.

(Code 1984; Code 2003)

- 5-314.        **ADDITIONAL REQUIREMENTS BY GOVERNING BODY.** At the time of granting any permit under the provisions of this article, the governing body may make requirements in addition to those contained therein as may be reasonably necessary for the protection of persons and property in the city.  
                  (Code 1984)
- 5-315.        **LICENSES.** (a) A license fee is hereby levied upon the owner or operator of every completed and operated well in the corporate limits in the following amount:  
                  Producing petroleum or gas wells as set out in section 17-355.  
                  Such fees shall be paid to the city clerk within not more than twenty (20) days after completion of any well. The city clerk thereupon shall issue a license which shall be valid for a period of twelve (12) calendar months from and after completion date of such well. The license shall not be transferable nor prorated for any unused period. The fees so paid shall be deposited in the city treasury to the credit of the general operating fund and budgeted for the payment of the costs of administration of this article.  
                  (b) The license herein required shall be renewed annually and the fee therefor paid at twelve (12) month intervals from the date of the first license and until the operation of any well so licensed shall be discontinued, the well abandoned, and the premises cleared as provided by section 5-306.  
                  (Code 1984; Code 2003)
- 5-316.        **ABANDONED WELLS.** All abandoned wells which shall not be used and equipped for disposal purposes shall be filled and plugged in accordance with applicable laws, rules and regulations of the state.  
                  (Code 1984; Code 2003)
- 5-317.        **ADDITIONAL REQUIREMENTS.** At the time of granting any permit under the provisions of this article, the city may make such requirements in addition to those contained herein as may be reasonably necessary for the protection of persons and property in the city or in the territory likely to be affected by the drilling or operation of the well or wells.  
                  (Code 1984)
- 5-318.        **REVOCAION OF PERMIT OR LICENSE.** Upon any violation of the conditions of any permit, license, authorization or any other provisions of this article, the governing body may, upon a hearing, after five (5) days written notice by mail or personal service to a person committing such violation, or if the address of the permittee or licensee is unknown and cannot be found in the city after the expiration of five (5) days of the date of publication of notice of any such hearing in the official city newspaper, revoke such permit, license or authorization, providing; however, that if in the judgment of the governing body restitution is made for any damage occasioned by such violation, together with adequate provisions to prevent any further violation by such permittee or licensee, the governing body may waive revocation of any permit or license, but the same shall not affect any penalty

otherwise provided for the violation of this article.  
(Code 1984)

5-319. CORPORATE RESPONSIBILITY AND LIABILITY. Any corporation, and the officers thereof, making application for a permit or license hereunder, shall be responsible and liable to the city for all damages to the city occasioned by the operation of wells and shall ensure compliance with all provisions of this article.  
(Code 1984; Code 2003)

5-320. PENALTY. Any person, business, entity, firm, or corporation hereafter drilling or commencing operations for the drilling of any wells in violation of this article, or thereafter pumping or operating any well in violation of this article, shall, upon conviction thereof, be punished by a fine of not less than \$200 nor more than \$500 or by imprisonment in jail for not more than thirty (30) days, or both such fine and imprisonment. Each day's violation of this article shall be deemed a separate offense.  
(Code 1984)

#### **ARTICLE 4. DANCES AND DANCEHALLS**

5-401. DEFINITIONS. The following words, as used in this article, shall for the purpose of this article, have the meanings respectively ascribed to them in this section:

(a) Public Dance: Shall mean any dance or ball to which admission may be obtained by payment of a fee, or by the purchase, possession of, or presentation of a ticket, token or pass; or for which a charge is made for the care of clothing or other property; or any other dance, the rules or requirements for admission to which are not based on personal selection or invitation and to which the public generally may obtain admission with or without payment of fee.

(b) Nonprofit Dance: Shall mean any dance held by a fraternal, social, school, church or other nonprofit organization which operates such dance or dancehall merely incidental to its principal purpose. Nonprofit status shall mean exemption from taxation as determined by the Internal Revenue Code.

(c) Dancehalls: Any room, hall, floor, pavilion, building or part thereof used for the purpose of conducting a dance or ball.

(d) Restaurant Dance: Shall mean any business establishment having public dancing and deriving every month of the calendar year fifty percent (50%) or more of its gross revenue from the sale of food or drink, including cereal malt beverages.

(e) Outside Dance: Shall mean any dance not held in an enclosed building.  
(Code 1971, Sec. 5-501; Code 1984; Code 2003)

5-402. LICENSE REQUIRED. It shall be unlawful for any person either as owner, principal, officer, designee, or employee, to conduct any public dance, public

dancehall or restaurant dance without having first obtained a license from the city clerk.

(Code 1971, Sec. 5-502; Code 1984)

5-403. LICENSE EXCEPTION. Nothing in this article shall be construed to require any license for any nonprofit dance.

(Code 1971, Sec. 5-503)

5-404. LICENSE FEE. For any dance requiring a license, a fee as set out in section 17-323 shall be paid for any dance that is to be held when the same shall not be for more than three (3) consecutive days. In all other instances, for specific locations, an annual fee as set out in section 17-323 will be charged each year on a calendar year basis.

(Code 1971; Sec. 5-502; Code 1984; Ord. 602-A; Code 2003; Code 2007)

5-405. HOURS OF DANCING. It shall be unlawful for any owner, operator or manager of a dancehall, or other dance licensee as herein defined, to permit dancing at the location designated on such license application between the hours of 2:00 a.m. and 12:00 noon each day of the week.

(Code 1971; Sec. 505; Ord. 602; Code 2003)

5-406. APPLICATION FOR LICENSE. Before any license shall be granted or issued for the conduct of a dance or dancehall, an application shall be completed and filed with the city clerk, setting forth over the signature of the applicant, the following facts:

(a) The name and address of the applicant and telephone number where the applicant can be reached between the hours of 8:00 a.m. and 5:00 p.m. daily.

(b) Name and auspices under which such dance or dancehall or place where the dance is to be held;

(c) Location of the proposed dance or dancehall;

(d) Date or dates for which the license is desired;

(e) Hours the dance or dancehall is to be opened and closed;

(f) A statement that the applicant is familiar with the conditions imposed by the terms of this article and that the dance or dancehall meets all health, fire and safety requirements of the laws of the city and those imposed herein;

(g) A statement of person or persons to be in the actual management and control of any dance and whether or not such person has been convicted of any charge involving intoxicating liquor or moral turpitude.

(Code 1971, Sec. 5-506; Code 2003)

5-407. REVIEW AND APPROVAL OF APPLICATION BY CHIEF OF POLICE AND BUILDING INSPECTOR. Upon the filing of any application required by this chapter and the payment of any required fee, the city clerk shall forward a copy of the application to the chief of police and the building inspector, each of whom shall, after reviewing said application and making appropriate inquiry and investigation, whether the premises and application comply with the provisions hereof. In the event the

chief of police and building inspector approve the application as conforming with the requirements of this chapter, the city clerk shall issue the license applied for. If the chief of police or building inspector determine that the application does not comply with the provisions of this chapter, the clerk shall notify the applicant that the license shall not be granted and promptly refund the application fee.

(Code 1971, Sec. 5-507; Code 2003)

- 5-408. **SPECIAL SUPERVISION FEE.** In addition to the regular license fees required herein, the chief of police may determine that special supervision shall be required in connection with the conduct of the dance or operation of the dancehall to be licensed. In such event, the applicant shall pay an additional sum to help defray the cost of special supervision. The amount of special supervision to be paid shall be as set out in section 17-323, for the period of any time spent in the supervision of any particular dance or dancehall. The chief of police, in addition to his or her approval or disapproval of the application shall indicate such necessity and the applicant shall, prior to the issuance of such license, pay the sum to be calculated as aforesaid to the city clerk when such application shall be for a period of three (3) days or less and, in the instance of a license for a longer period, the applicant shall pay a deposit as set out in section 17-323. When a deposit, as set out in section 17-323 shall be paid the amount to be paid to the supervising officer shall be credited against such deposit and, upon notice by the police department, such licensee shall be required to advance an additional amount as set out in section 17-323 to be used for such purposes with any unused amounts to be returned to the licensee. The chief of police shall designate personnel to supervise the dance under the provision hereof. If the chief of police shall not determine supervision to be necessary at the time of the original granting of the license, the chief shall have the continuing right to make such finding of necessity of supervision in which event he or she shall, in writing, notify the city clerk and the licensee and within twenty-four (24) hours the licensee shall pay additional sums for deposit as herein provided. If the chief of police shall determine supervision to be no longer necessary, after having been instituted, he or she shall make such determination, in writing, and at such time any unused deposit shall be returned to the licensee, although even if such supervision shall be terminated, the chief of police shall have the continuing right to ascertain that supervision is necessary under the provisions hereof.

(Code 1971, Sec. 5-508; Code 2003; Code 2007)

- 5-409. **LICENSE NOT TRANSFERABLE.** No license issued under the provisions of this article shall be transferred from person to person, entity to entity or from one location to another.

(Code 1971, Sec. 5-509; Code 2003)

- 5-410. **BUILDING STANDARDS.** No license shall be granted for a dance or dancehall until the sanitary, building code, zoning ordinance, fire prevention and safety regulations of the city are fully complied with, and it shall be unlawful and a violation of the article to maintain or conduct a dancehall without at all times complying with

all sanitary, building code, zoning ordinance, fire prevention and safety regulations of the city. In addition to the aforesaid matters of compliance the building within which such dances are to be conducted must comply with the following:

(a) There shall be separate toilet facilities for men and women;

(b) Capacity of patrons of the dances shall not exceed the safety limits as provided under the building code of the city for new construction for public uses contemplated herein.

(c) There shall be at least two (2) exits from any area in which the dance is being conducted and shall have additional exits as may be necessary to comply with the building code of the city under the rules of new construction for purposes herein contemplated.

(Code 1971, Sec. 5-510)

5-411. **BUILDING CONDITIONS.** It shall be unlawful to maintain or conduct a dancehall unless the same shall be kept clean, well ventilated and brightly lighted at all times when open for use. All stairways, halls, passageways and rooms adjacent to such dancehall shall likewise be kept well lighted at all times when the dancehall is in use.

(Code 1971, Sec. 5-511)

5-412. **BUILDING CAPACITY AND SAFETY.** It shall be the duty of the city building inspector to determine the number of persons who can safely be accommodated at any one time in a building, premises or location where any dancehall shall be maintained or dance conducted. The building inspector shall indicate the rated capacity at the time of rejection or approval of the application and, should the city subsequently change such rated capacity, notify in writing, the licensee of such change in rated capacity.

(Code 1971, Sec. 5-512)

5-413. **REGULATIONS AND RESTRICTIONS.** It shall be the duty of every owner, lessee, manager or person in charge of any dancehall, or other dance licensee as herein defined, to enforce the strict observance of the following regulations:

(a) Employment of Minors. No person under the age of 21 years of age shall be employed where cereal malt beverages or alcoholic liquor are sold, dispensed or consumed; except any person under 21 years of age who is at least 18 years of age may be employed as a server as defined by K.S.A. 41-2610.

(b) Minors as Patrons. No person under the age of 21 shall remain at the premises of any dancehall, public dance or restaurant dance where cereal malt beverages or alcoholic liquor are sold, dispensed or consumed. This subsection shall only apply to any person under the age of 21 years who is at least 18 years of age and employed as a server as defined by K.S.A. 41-2610; or if the person under the age of 21 years of age is accompanied by his or her parent or legal guardian.

(c) Intoxication of Patrons. No person shall knowingly sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person who is incapacitated person, or any person who is physically or mentally incapacitated by the consumption of such liquor.

(d) Profanity. No profanity, indecent language or vulgar conduct shall be permitted at a public dance, restaurant dance or within a dancehall at any time.

(e) Gambling. Games of chance or gambling in any form are prohibited.  
(Code 1971, Sec. 5-513; Code 2003, Code 2004)

5-414. UNLAWFUL ADMITTANCE. It shall be unlawful for any person to make any false statement as to his or her age for the purpose of gaining admission to, or remaining in any dance or dancehall, or for the purpose of enabling any other person to gain admission to or remain in any dance or dancehall where cereal malt beverages or alcoholic liquor are sold, dispensed or consumed.

(Code 1971, Sec. 5-514; Code 2003)

5-415. REVOCATION OF LICENSE. In addition to any other penalty herein provided or otherwise provided by law, any violation of this article by an owner, principal, officer, agent, or employee or the licensee shall constitute grounds for revocation of any license issued hereunder.

(Code 1971, Sec. 5-516; Code 2003)

5-416. PENALTY. Any person violating any provision of this article shall, upon conviction thereof, be fined in accordance with the general penalty provisions set out in section 1-121 of this code. Each day the violation is committed shall constitute a separate offense.

(Code 1971, Sec. 5-515; Code 2003)

## **ARTICLE 5. TEMPORARY SALES**

5-501. PERMIT REQUIRED FOR TEMPORARY SALE FROM RESIDENCE. No person or entity shall conduct, hold or transact a sale, commonly known as a garage sale, yard sale, estate sale, rummage sale, auction, etc. within the city without having first obtained a sale-from-residence or auction permit from the city clerk. No person shall conduct, hold or transact such a sale more than once within any six (6) month period and any such sale shall not continue for more than three (3) consecutive calendar days.

(Ord. 363, Sec. 1; Code 2003; Code 2010)

5-502. PERMIT FEE. A sale from residence or auction permit fee, as set out in section 17-373 and 17-307, shall be assessed to the permit applicant and collected by the city clerk upon issuance of said permit.

(Ord. 363-A; Ord. 363-B, Sec. 1; Code 2003, Code 2006; Code 2007; Code 2010)

5-503 TEMPORARY SALE FROM COMMERCIAL PROPERTY.

(a) A temporary sale, including sale of second hand goods, from a commercial property that has a current Business Registration Permit in conformance with Article 1 of this Chapter shall be permitted to operate temporary sales. Any such sales shall conform with all other provisions of this code, including the zoning code.

(b) Any commercial property that is not licensed to operate in conformance with Article 1 of this Chapter shall not hold temporary sales or sales of second hand goods.

(c) Any sale held in violation of this Article shall be immediately shut down by action of the Chief of Police or the Public Works Director, or their designee, and a citation shall be issued to the operator.

(Code 2010)

5-504. PENALTY. Any person violating any provision of this article shall, upon conviction thereof, be fined in accordance with the general penalty provisions set out in section 1-121 of this code. Each day the violation is committed shall constitute a separate offense. Reopening a sale on the same day that such sale has been closed by action of 5-503(c) shall constitute a separate offense.

(Code 1984; Code 2003; Code 2010)

**ARTICLE 6.  
TAXICABS**

5-601. DEFINITIONS. As used in this article the words and phrases herein defined shall have the following meaning unless the context otherwise requires:

(a) Person: Shall include individuals, firms, partnerships, corporations, associations, and all other entities.

(b) Taxicab: Shall mean and include any motor vehicle operated within the corporate limits of the city for the purpose of carrying passengers for hire, over the streets of the city, irrespective of whether the operations of such motor vehicle extend beyond the limits of the city and the term shall also include motor vehicles with or without a taximeter and hired or rented where rates are charged on the time basis or otherwise. The term shall not apply to motor buses operated within the city under a franchise from said city over a fixed or definite route, nor shall said term apply to motor buses regularly operated in the city to or from points outside of the incorporated limits of the city;

(c) Street: Shall mean and include the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the

public as a matter of right for purposes of vehicular traffic, whether such way or place is known as a street, alley, avenue, boulevard, drive or highway within the incorporated limits of the city;

(d) Place of Business: Shall mean the terminus or headquarters where taxicabs are operated from and will be stationed and found when not engaged in the business of transporting passengers.

(Code 1971, Sec. 5-301; Code 2003)

5-602. LICENSE REQUIRED. No person shall drive or operate or cause to be driven or operated, any taxicab upon or over any street in the city without having first obtained a license from the governing body under the provisions of this article.

(Code 1971, Sec. 5-302)

5-603. LICENSE FEE. There are hereby established the following license fees as set out in section 17-379. The full amount of the license fees shall be required regardless of the time of the year in which the application is made. The taxicab shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

(Code 1971, Sec. 5-303; Code 2003; Code 2007)

5-604. APPLICATION FOR LICENSES. Any person desiring a license to operate a taxicab or taxicabs within the city shall make an application to the city clerk and accompany the application with the required license fees. The application shall be signed by the person applying therefor, and upon a form setting for the following information:

(a) The name and residence of the applicant and how long he or she has resided within the city;

(b) The address of place of business;

(c) The trade name under which the applicant does or proposes to do business;

(d) The number of vehicles the applicant desires to operate and the type, make, seating capacity, design and color scheme of each proposed taxicab, and the lettering and markings to be used thereon;

(e) The nature and character of the taxi service that the applicant proposes to render and facts showing the demand for such service.

No license shall be issued for the operation of taxicabs to any person under the age of 21 years.

(Code 1971, Sec. 5-304; Code 2003)

5-605. INVESTIGATION. The city clerk shall make or cause to be made such investigations as the clerk may consider necessary as to the qualifications of the applicant to operate a satisfactory taxi service and whether the public convenience and necessity requires the operation of such taxicab or taxicabs, and may consider all other matters pertinent to the application. After review and recommendation by the city clerk, the city clerk shall cause the application to be placed on the agenda for governing body approval and in the event that the governing body determines that a

license should be issued, the governing body shall direct the city clerk to issue such license at such time as the applicant provides to the city clerk proof of liability insurance hereinafter provided. Once issued, such license shall not be transferable.

(Code 1971, Sec. 5-305; Code 2003)

5-606. **LIABILITY INSURANCE.** Before any taxicab license shall be issued hereunder, any person or entity whose license application has been approved by the governing body shall procure a liability insurance policy or policies issued by an insurance company or association authorized to transact business in the state of Kansas, establishing liability coverage for each taxicab to be so licensed of not less than \$25,000 for injury or death of any one person, and \$50,000 for injury or death of any number of persons in any one accident, and with coverage at least \$10,000 for property damage in any one accident, which liability insurance policy shall bind the obligors there under to pay compensation for injuries to persons or damage to property resulting from the operation of taxicabs. Such policy or policies of insurance shall include all other conditions and terms as may be required by all applicable laws.

The insurance policy or policies required by this section shall further provide that no insured may cancel such insurance until it provides at least ten (10) days advance written notice of such cancellation to the city clerk and such advance notice period thereafter expires.

A copy of the policy or policies procured by each insured hereunder shall be delivered to and maintained by the city clerk before any taxicab license issues to such insured.

Any taxicab license issued hereunder shall automatically terminate in the event any policy or policies of insurance required hereunder shall be cancelable or terminate, unless another policy or policies complying with this section shall be procured by the licensee and proof thereof be delivered to the city clerk.

No person or entity licensed by this chapter to operate taxicabs with the city shall permit any person to drive or operate a taxicab who is not the holder of a valid driver's license issued by the state of Kansas and applicable for the operation of such vehicles.

(Ord. 643, Sec. 1; Code 2003)

5-607. **INSPECTION OF TAXICABS.** All operators of taxicabs shall display at all times so as to be visible to any and all passengers, a photograph of such driver or operator which display shall also contain the driver's name, age, address and social security number. The chief of police shall be and is hereby directed to make or cause to be made, inspection of all licensed taxicabs from time to time, and if, upon inspection of any taxicab, it shall be found unsatisfactory or unsafe for operation upon the streets of the city, notice in writing shall be given to the owner of such taxicab service of such fact and such person or service shall not operate said taxicab thereafter until the same has been put in a safe and fit condition and inspected by the police department.

(Ord. 643, Sec. 2)

- 5-608. PENALTY. Any person violating any of the provisions of this article shall, upon conviction thereof, be fined in accordance with the general penalty provisions set out in section 1-121 of this code. Each violation thereof shall be and is hereby declared to be a distinct and separate offense and punishable as such.  
(Code 1971, Sec. 5-308; Code 2003)

**ARTICLE 7.  
ADULT ENTERTAINMENT ESTABLISHMENT  
AND ADULT HOTELS**

- 5-701. DEFINITIONS. For the purpose of this article, the words and phrases used herein shall have the following meaning unless otherwise clearly indicated by the context:
- (a) Adult Entertainment Establishment: Means any commercial establishment which is an adult bookstore, adult motion picture theater, adult hotel, adult motion picture arcade, or escort service as defined herein.
  - (b) Adult Bookstore or Adult Video Store: An establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
    - (1) Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes, or video reproductions, slides, or other visual representations which depict or describe “specific” sexual activities or “specified anatomical areas,” or
    - (2) Instruments, devices, or paraphernalia (as defined below) which are designed for use in connection with “specific sexual activities.” A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specific sexual activities” or “specified anatomical areas” and still be categorized as “adult bookstore” or “adult video store” so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “specified sexual activities” or “specified anatomical areas” (as defined below)
  - (c) Adult Motion Picture Theater: An enclosed building designed for five or more patrons used for presenting any material distinguished or characterized by an emphasis on matters depicting, or relating to “specific sexual activities” or “specified anatomical areas” (as defined below) for observation of patrons therein. The term does not include an adult hotel as defined below.
  - (d) Adult Motion Picture Arcade: Any place at which slug or coin operated, electronically or mechanically controlled, still or motion picture machines, projector or other image producing devices are maintained to show images to five or fewer persons per machine at any time, and which presents material which is distinguished or characterized by an emphasis on depicting or describing “specific sexual activities” or “specified anatomical areas” (as defined below) for observation by patrons therein.

The term does not include an adult hotel as defined below.

(e) Adult Hotel: Means a hotel or motel wherein a substantial or significant portion of the material presented over image-producing devices within individual rooms that are occupied by guests, are distinguished or characterized by an emphasis on matter depicting or describing “specific sexual activities” or “specified anatomical areas” (as defined below).

(f) Employee: Means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult entertainment establishment but shall not include independent contractors indirectly related to such operation such as janitorial services, construction, maintenance, pest control, and trash removal.

(g) Specified Anatomical Areas: Means the following:

(1) Less than completely and opaquely covered:

A. Human genitals, pubic region;

B. Anal cleft or cleavage of the buttocks; and female breasts below a point immediately above the top of the areola;

(2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(h) Specific Sexual Activities: Means the following:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse or sodomy;

(3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts with the intent to arouse or gratify the sexual desires of the entertainer, employer, or customer.

(i) Person: Means any person, partnership or corporation or joint venture.

(j) Operator: Any person operating, conducting or maintaining an adult entertainment establishment.

(k) Morals Charge: Includes those charges involving prostitution, pimping or promoting prostitution, indecent exposure, illegal use, possession or sale of narcotic or nonnarcotic drugs, sodomy, lewd and lascivious behavior, sexual battery, indecent liberties with a child, incest, bigamy, and crimes against nature.

(l) Diversion or Diversion Agreement: Means any formal referral of a defendant in a criminal case to a supervised performance program which upon successful completion results in the dismissal of the charges or complaint which is authorized pursuant to the laws of any city, state, or of the United States.

(m) Adult Entertainment includes any exhibition, performance, interaction, display or dance of any type, including, but not limited to, talking, singing, reading, listening, posing, computer internet activities, computer programs with sex based content, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered on a premises where such action is intended to arouse or excite the sexual desires of the entertainer, other entertainers, or the patron(s), or if the interaction is characterized by an emphasis on the exposure, depiction or description of “specified anatomical areas” of the conduct or simulation of “specified sexual activities.”

(n) Escort is any person who is held out to the public as available for hire and

who, for monetary consideration in the form of a fee, commission or salary, consorts with or accompanies, or who offers for monetary consideration, to consort with or accompany another or others to or about social affairs, places of entertainment or amusement within any place of public resort or within any private quarters.

(o) Escort Service is any person, as defined herein, which for a fee, commission, profit, reward, payment or other monetary consideration furnishes, refers, or offers to furnish or refer escorts, provides or offers to introduce patrons to escorts; or arranges for escorts to accompany patrons to or about social affairs, places of entertainment or amusement, about any place or public resort or within any private quarters.

(p) Escort Service Runner is any person, not an escort, who for a salary, fee, hire, reward or profit, as the agent for either an escort service or a patron, contacts or meets with escort patrons or escort services at any location other than the established open office, as defined hereunder, whether that person is employed by the escort service or any business, or is self-employed.

(Ord. 697; Code 2003, Ord. 903)

5-702. **LICENSE REQUIRED.** (a) No adult entertainment establishment shall be operated or maintained in the city without first obtaining a license to operate issued by the city.

(b) A license may be issued only for one (1) adult entertainment establishment located at a fixed certain place. Any person desiring to operate more than one (1) adult entertainment establishment must have a license for each.

(c) No license or interest in a license may be transferred to any other person or entity.

(d) It is unlawful for any employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operating of any unlicensed adult entertainment establishment.

(Ord. 697; Code 2003)

5-703. **APPLICATION FOR LICENSE.** (a) Any person desiring to secure a license shall make application in duplicate to the city clerk's office. The application shall be verified and accompanied by the license fee. Both copies of the application shall be filed with the city clerk's office.

(b) The application for a license shall be on a form provided by the city clerk's office. A partnership application and the application of any officer or director of a corporation and any stockholders holding more than five percent (5%) of the stock of a corporate application shall furnish the following information under oath:

(1) Name and address, including all aliases;

(2) The name of the owner of the premises upon which the adult entertainment establishment is to be located;

(3) The address of the adult entertainment establishment to be operated by the applicant;

(4) A statement by the applicant that he or she is familiar with the provisions of this article and is complying with them.

(Ord. 697; Code 2003)

5-704. LICENSE FEES. For any adult entertainment establishment or adult hotel the annual license fee shall be as set out in section 17-301.  
(Ord. 697-A; Code 2003)

5-705. LICENSE-ELIGIBILITY REQUIREMENTS. To receive a license to operate an adult entertainment establishment, applicants must meet the following standards:

(a) If the applicant is an individual:

(1) The applicant must be at least eighteen (18) years of age;

(2) The applicant shall not have been convicted of or pleaded nolo contendere to or participated in a diversion agreement after having been charged with a felony or any morals charge as defined herein in any jurisdiction within the last five (5) years immediately preceding the date of application.

(b) If the applicant is a partnership, joint venture, corporation or any other type of organization where two (2) or more persons have a financial interest:

(1) All persons having a financial interest in the partnership, joint venture or any other type of organization shall be at least eighteen (18) years of age. Financial interest in a corporation includes any officer or director of the corporation and any stockholder holding more than five percent (5%) of the stock of a corporation.

(2) No person having a financial interest in the partnership, joint venture, corporation or other type of organization shall have been convicted of or pleaded nolo contendere to, or participated in a diversion program after having been charged with a felony or any morals charge within the immediate five (5) years preceding the date of the application.

(Ord. 697; Code 2003)

5-706. EXAMINATION OF APPLICATION BY THE GOVERNING BODY. If an application for a license is in proper form and accompanied by the license fee as provided for in the approved schedule of fees, the governing body shall, after review and recommendation by the city clerk, examine the application. If the applicant is fully qualified pursuant to the guidelines set forth in this article the governing body shall issue a license to the applicant within thirty (30) days of the filing of the application. If the governing body fails to act on the application within thirty (30) days after it is filed, it shall be deemed granted. If the governing body denies the application within thirty (30) days of the filing of the application the application is deemed finally denied and the same application may not be made within one (1) year unless there are changed circumstances. If the governing body denies the application, the applicant may appeal the denial pursuant to the provisions of K.S.A 60-2101(d) and amendments thereto, within thirty (30) days of the denial. If an applicant is denied by the governing body over thirty (30) days after it is filed, the denial shall be of no effect except that this provision is not intended to limit the ability of the governing body to revoke the license for any of the reasons in Sections 5-713 and 5-714 of this article

(Ord. 697; Code 2003)

5-707. **DISPLAY OF LICENSE REQUIRED.** The license shall be displayed in a conspicuous public place within premises licensed as an adult entertainment establishment.

(Ord. 697; Code 2003)

5-708. **RENEWAL OF LICENSE.** Every license issued pursuant to this article shall terminate December 31<sup>st</sup> of each year regardless of when the license was issued, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application for renewal to the city clerk's office. The application for renewal shall be filed in duplicate and dated by the city clerk. An application for renewal license filed after the expiration date of the license shall not be accepted if the premises the renewal license is being sought for does not comply with the distance requirements set forth in Section 5-713. A renewal application shall in all other respects be treated as an application for an initial license.

(Ord. 697; Code 2003)

5-709. **GENERAL REGULATIONS AND PROHIBITED CONDUCT.** Every operator or employee of an adult entertainment establishment shall comply with the following regulations and the failure to comply with the regulations shall be unlawful:

(a) No person under the age of eighteen (18) shall be employed in or around an adult entertainment establishment;

(b) No person under the age of eighteen (18) shall be permitted to enter or remain in an adult entertainment establishment;

(c) No persons shall be knowingly employed in or around an adult entertainment establishment who, within one (1) year prior to employment, was released from probation from a conviction for a crime of, or participated in a diversion agreement after being charged with a morals charge or felony;

(d) Every adult entertainment establishment and every person employed by the establishment in the conduct of his or her business shall admit to any and every part of the premises designated in the license at any time, any law enforcement officer or official of the city of its police department authorized by the chief of police, for inspection of the premises to assure compliance with the regulations of the city; **PROVIDED HOWEVER**, that this provision does not apply to rooms occupied by patrons of an adult hotel during periods of such occupancy.

(e) Every adult entertainment establishment must maintain for inspection a list of all employees providing services directly related to the operation of the establishment including their date of birth, race, sex, and social security number.

(f) Every act or omission by an employee of an adult entertainment establishment constituting a violation of the provisions of this article shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's conduct, and the licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or

caused the omission. The licensee shall be responsible for the conduct of all employees while on the premises and any act or omission of any employee while on the premises constituting a violation of the provisions of this article shall be deemed the act or omission of the licensee for purposes of determining whether the licensee's license shall be revoked, suspended or renewed.

(Ord. 903)

5-709A. ESCORT SERVICES. In addition to the other requirements as set forth regarding the regulation and control of adult businesses, escort services shall comply with the following regulations.

(a) Sexually oriented escort services prohibited. No person, whether as licensee, principal, officer, agent, servant or employee, shall conduct, manage, operate, maintain, or perform any sexual activity as defined by this section within the city, nor shall any such person offer the services of another to perform any sexual activity as defined above.

(b) Business office. An escort service shall maintain a business office which shall be open to the public during business hours.

(c) Business hours. Subject to the requirements of subsection (h) hereof, the escort service shall establish business hours during which escorts are available and shall post such business hours during which escorts are available and shall post such business hours at the entrance to the escort service office.

(d) Accessibility to law enforcement and reviewing departments. The escort service business office shall be accessible to law enforcement officers and employees of reviewing departments at all times during which escorts employed by the escort service are working, either during, prior to or following the established business hours.

(e) Management. The escort service office, during established and posted business hours, shall be managed on-site by the licensee or an adult establishment employee who shall have authority to bind the escort service.

(f) Copies of employee register. The escort service shall, in addition to the employee register required herein, maintain copies of all escorts and escort service runners who are employed by, or are providing services for, the escort service. Said copies shall be open to immediate inspection at the request of any law enforcement officer or employee of a reviewing department.

(g) Record of calls and referrals. The escort service shall maintain at its primary place of business, for a period of one (1) year, all records of escort calls and referrals, stating the name and driver's license number and state of issuance (or other form of photographic identification) of the adult patron. Such records shall include the date and time of referral, name of the escort who accompanied the adult patron, the fee or other consideration received from the adult patron, and a copy of the contract entered into between the escort service or the escort and the adult patron. Said records shall be open to immediate inspection at the request of any law enforcement officer or code enforcement officer employed by the city for such purpose.

(h) Hours of operation. No escort service shall be open at any time between the

hours of 12:00 a.m. and 6:00 a.m.

(Ord. 697; Code 2003, Ord. 903; Code 2007)

5-710. ALCOHOLIC BEVERAGES. No alcohol, liquor or cereal malt beverage shall be sold or consumed on the premises of an adult entertainment establishment except this provision shall not apply to rooms rented and occupied by patrons in an adult hotel.

(Ord. 697; Code 2003)

5-711. PRIVATE ROOMS AND CLOSED BOOTHS PROHIBITED. (a) Every adult motion picture arcade shall be physically arranged in such a manner that the interior portion of all viewing areas are visible from a common area of the premises and shall not be obscured by any curtains, drapes, doors or other enclosure except under the following conditions:

(1) The booth is designed for a single occupant;

(2) The booth has a door or curtains which cannot be locked; which may extend downward not closer than fifteen (15) inches from the floor, and which has an open space at the top so that the top of the door or curtains does not extend upward more than six (6) feet from the floor;

(3) Conspicuous signs state, "only one occupant per booth";

(4) There are no openings between booths; and

(5) It can readily be determined from outside the booth that there is no more than one occupant inside the booth.

(b) No licensee, manager, employee or designee shall permit or allow two (2) or more occupants to occupy any booth which has been designated as a booth designed for a single occupant.

(c) No person shall enter into or remain in a booth which has been designated with a sign stating "only one occupant per booth" while another occupant is in the booth.

(Ord. 697; Code 2003)

5-712. COMPLIANCE WITH OTHER REGULATIONS REQUIRED. No license shall be granted for an adult entertainment establishment unless the licensee fully complies with the health regulations, building codes, zoning ordinances, fire prevention and safety regulations of the city.

(Ord. 697; Code 2003)

5-713. DISTANCE REQUIREMENTS.

(a) No license shall be granted for an adult entertainment establishment or adult hotel which is located within one-thousand (1,000) feet of a residential zoning district, church, public or parochial school, government building, public park or other adult entertainment establishment or adult hotel.

(b) This distance is to be measured from the nearest property line of the residential zoning district, church, public or parochial school, government building, public park or other adult entertainment establishment or adult hotel to the nearest property line of the premises on which the adult entertainment establishment or adult

hotel is proposed to be located or of any parking lot designated to be used by the patrons of such an establishment, PROVIDED HOWEVER, that;

(1) Should a licensed establishment cease to be used for such purpose for a period of ninety (90) days or more, then and in that event, the existing license shall be deemed to expire at twelve p.m., noon, on the 91st calendar day of non-use. In no event shall this provision be construed to extend the term of a license issued under this section.

(Ord. 697; Code 2003, Ord. 903; Code 2007)

5-714.

**SUSPENSION AND REVOCATION OF LICENSE.** (a) The chief of police, after actual service of ten (10) days' written notice to the person or corporation holding or operating under a license for an adult entertainment establishment or adult hotel pursuant to this article shall have the authority to suspend such license for a period not to exceed thirty (30) days, for any violation of the provisions of this article or other ordinances or statutes regulating conduct in adult entertainment establishments or adult hotels; PROVIDED HOWEVER, that the licensee may appeal such order of suspension to the governing body within seven (7) days from the date of such order.

(b) The governing body, after actual service of ten (10) days' written notice to the person or corporation holding or operating under a license for an adult entertainment establishment or adult hotel, may cause to be suspended for a period of not more than thirty (30) days or may permanently revoke such license for the following reasons:

(1) If the licensee has fraudulently obtained the license by giving false information in the application therefore;

(2) If the licensee, manager, operator, or employee has violated any of the provisions of this article;

(3) If the licensee has become ineligible to obtain a license under this article;

(4) The nonpayment of any license fees payable hereunder;

(5) For knowingly employing a person who has been, within one (1) year prior to the date of employment, or who during the period of employment is adjudged guilty of or participated in a diversion agreement after being charged with a felony or a morals charge, or within one (1) year prior to employment has been released from probation from a felony or a morals charge.

Provided, that if any of the grounds for revocation herein enumerated are violated by an employee, a manager, or designee, then in the absence of proof of knowledge by the licensee, there shall be no revocation except as herein provided, but there may be a suspension of not more than thirty (30) days; it being further provided that in the event any licensee is subjected to more than two (2) such suspensions in any twelve (12) month period, his or her license may be revoked on the third such violation.

Upon appeal taken from an order of suspension or revocation the court may stay the order of suspension or revocation upon a showing by the appellant and a finding by the court that a substantial likelihood exists that the movant will eventually prevail on the merits and that the movant will suffer irreparable injury unless the stay is granted. If there is no stay by the court, the order of suspension or revocation shall

not be suspended during the pendency of any such appeal. In case of the revocation of a license of any licensee, no new license shall be issued to such person or to any person acting for or on his or her behalf, for a period of six (6) months after the revocation becomes effective.

(Ord. 697; Code 2003)

5-715. PENALTY. Any person who violates any provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five-hundred dollars (\$500.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

(Ord. 697; Code 2003)

5-716. INJUNCTIONS. The city attorney may bring an action in the District Court of the Eighteenth Judicial District or any other court having jurisdiction to enjoin any violation of this article.

(Ord. 697; Code 2003)

5-717. INVALIDITY OF PART. Should any court declare any section, clause or provision of this article to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other section, clause or provision of this article.

(Ord. 697; Code 2003)

5-718. NUISANCE DECLARED. Any adult establishment established, operated, or maintained in violation of any of the provisions or requirements of either this adult entertainment code or any adult establishment license, shall be declared to be unlawful and a public nuisance, and may be prosecuted as such in the municipal court of this city. The city may, in addition to or in lieu of any other remedies set forth herein, commence and action to enjoin, remove, or abate such nuisance in the manner provided by the nuisance abatement procedure of this city or any other applicable law, and shall take such other steps and apply to such court or courts as may have jurisdiction to grant an abatement or to remove such public nuisance, restrain and enjoin any person from establishing, operating, or maintaining an adult establishment contrary to the provisions of this code.

(Ord. 903; Code 2007)

## **ARTICLE 8. EROTIC DANCE STUDIOS**

5-801. DEFINITIONS. The following words, as used in this article shall for the purpose of this article have the meanings respectively ascribed to them in this section:

(a) Entertainment: As used in this article, means any live exhibition,

performance, display or dance of any type, removal of articles of clothing or appearing unclothed, pantomime, modeling or other personal service offered for amusement where one or more entertainers seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons. Entertainment as used in this article does not include portions of performances on theater, concert hall, music hall or auditorium stages wherein such displays are an integral part of a dramatic or comedic presentation.

(b) Erotic Dance Studio: Means any place of business, or “pop shop” open to the public, whether or not a cover charge is assessed, which emphasizes and presents live nude entertainment. Live entertainment includes but is not limited to, nude dancing and topless dancing.

(c) Moral Turpitude: Means those charges involving prostitution, procuring any person, soliciting of a child under eighteen (18) years of age for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines, barbiturates or controlled substances; sodomy; lewd and lascivious conduct.

(d) Nude: Means any state of undress in which the human genitals, pubic region, buttock or female breast at a point below the top of the areola, is less than completely and opaquely covered.

(e) Pop Shop: Means an erotic dance studio where soft drinks and nonalcoholic beverages are served and/or consumed.

(Ord. 709; Code 2003)

5-802. LICENSE REQUIRED. It is unlawful for any person, whether as principal, officer, designee, servant or employee:

(a) To conduct business in or operate an erotic dance studio without having first obtained a license.

(b) To fail to comply with all regulations provided in this article.

(c) Any license issued pursuant to this section shall be issued for one particular premises which shall be stated in the application and on the license and shall be issued for the remainder of the calendar year and will expire December 31<sup>st</sup> of each year regardless of when the license was issued.

(Ord. 709; Code 2003)

5-803. LICENSE FEES. (a) For any erotic dance studio the annual license fee shall be as set out in section 17-335.

(b) Application for a license renewal must be made no later than thirty (30) days prior to the date of expiration of the license.

(Ord. 709; Code 2003)

5-804. LICENSE APPLICATION. Any person desiring to secure a license under the provisions of this article shall make a verified application, which shall be filed with the city clerk. Such application shall contain:

(a) The name and residence of the applicant and how long he or she has resided within the state;

(b) The particular place for which a license is desired:

(c) The name of the owner of the premises upon which the erotic dance studio is located;

(d) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired. Such application shall be accompanied by the license fee provided for in the approved schedule of fees.

One copy of the application shall be immediately transmitted by the city clerk to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this article. The chief of police shall report to the city clerk no later than ten (10) working days upon the completion of the investigation. The city clerk shall schedule the application for consideration by the governing body at the earliest meeting consistent with current notification requirements.

(Ord. 709; Code 2003)

5-805. PHOTOGRAPHS OF APPLICANT ACCOMPANYING APPLICATION FOR LICENSE. No application for the issuance of an erotic dance studio license shall be granted unless the applicant submits to being photographed by the police department and a photograph received therefrom shall be attached to the application.

(Ord. 709; Code 2003)

5-806. EXAMINATION OF APPLICANT BY GOVERNING BODY ISSUANCE OR DENIAL OF LICENSE. If the application for a license is in proper form and accompanied by the license fee as set out in the approved schedule of fees the governing body shall examine the application and, after examination of the application, the governing body, if they find that the applicant meets all of the qualifications set forth in this article, shall issue a license to the applicant; provided, that no license shall be issued to:

(a) A person who, within one (1) year immediately preceding the date of making application, has been convicted of a crime involving moral turpitude, or within one (1) year prior to the date of application has been released from probation from a conviction for a crime of moral turpitude. Provided that the terms "conviction" and "adjudged guilty" shall include being placed on diversion;

(b) A copartnership, unless one of the copartners is a resident of the city or county in which the premises covered by the license is located, and unless all members of such copartnership shall otherwise be qualified to obtain a license;

(c) A corporation, if any officer or director thereof, and/or any stockholder owning in the aggregate of more than twenty-five percent (25%) of the stock of such corporation would be ineligible to receive a license hereunder for any reason other than the citizenship or residency requirements.

(d) A person whose place of business is conducted by a manager or designee, unless such manager or designee possesses the same qualifications required of the licensee.

(Ord. 709; Code 2003)

5-807. SUSPENSION AND REVOCATION OF LICENSE. (a) The chief of police, upon five (5) days' written notice to the person holding an erotic dance studio license, shall have the authority to suspend such license for a period not to exceed thirty (30) days, for any violation of the provisions of this article or other ordinances or statutes regulating conduct or performances in erotic dance studios, which violation does not in his or her judgment justify a recommendation of revocation; provided, however, that the licensee may appeal such order of suspension to the governing body within seven (7) days from the date of such order.

(b) The governing body upon five (5) days written notice to the person holding an erotic dance studio license may permanently revoke or cause to be suspended for a period of not more than thirty (30) days such license for the following reasons:

(1) If the licensee has fraudulently obtained the license by giving false information in the application therefor;

(2) If the licensee, manager or employee has violated any of the provisions of this article or any rule or regulation made by the governing body;

(3) If the licensee has become ineligible to obtain a license under this article;

(4) The nonpayment of any license fees payable hereunder;

(5) For knowingly employing a person who has been within one (1) year prior adjudged guilty of an offense involving moral turpitude or within one (1) year prior to employment has been released from probation from a conviction for a crime of moral turpitude. Provided that the term "adjudged guilty" shall include being placed on diversion.

(6) For promoting sexual performance of a child or minor in violation of K.S.A. 21-3516. Provided, that if any grounds for revocation enumerated in this article are violated by an employee or a manager, then in the absence of proof of knowledge by the licensee, there shall be no revocation, except as herein provided, but there may be a suspension of not more than thirty (30) days; it being further provided, that in the event any licensee is subjected to more than two (2) such suspensions in any twelve (12) month period, his or her license may be revoked on the third such violation.

Any appeal taken from an order of revocation shall not suspend the order of revocation during the pendency of any such appeal. In case of the revocation of a license of any licensee, no new license shall be issued to such person or to any person acting for or on his or her behalf, for a period of six (6) months after the revocation becomes effective.

(Ord. 709; Code 2003)

5-808. TRANSFERABILITY OF LICENSE. No license issued under the provisions of this article shall be transferable, except, upon the death of a licensee, the surviving spouse, executor or administrator, if otherwise qualified, shall be entitled to the use of said license during the remainder of the license year.

(Ord. 709; Code 2003)

5-809. POSTING OF LICENSE. The license so issued to an erotic dance studio shall be

posted in a conspicuous place in the erotic dance studio.  
(Ord. 709; Code 2003)

5-810. SECURITY PROVISIONS. At the discretion of the chief of police, security may be provided as deemed adequate by the chief of police.  
(Ord. 709; Code 2003)

5-811. COMPLIANCE WITH OTHER REGULATIONS REQUIRED. No license shall be granted for an erotic dance studio until the sanitary, building code, zoning ordinance, fire prevention and safety regulations of the city are fully complied with, and it is unlawful and a violation of the article to maintain or conduct an erotic dance studio without at all times complying with any sanitary, building code, zoning ordinance, fire prevention annual inspection and safety regulations of the city. Further, no license shall be granted for an erotic dance studio which is located within five hundred (500) feet of any church, public or parochial school, government building, public park or residential zoning district.

The distance is to be measured from the nearest property line of the residential zoning district, church, public or parochial school, government building, or public park to the nearest property line of the premises on which the establishment is located or of any parking lot designated to be used by the patrons of such establishment.  
(Ord. 709; Code 2003)

5-812. VENTILATION, LIGHTING, SANITATION REQUIREMENTS. It is unlawful to maintain or conduct an erotic dance studio unless the same shall be kept clean, well ventilated and brightly lighted at all times when open for use. All stairways, halls, passageways and rooms adjacent to such erotic dance studio shall likewise be kept well-lighted at all times when the erotic dance studio is in use. Separate dressing rooms for men and women, and separate toilet facilities for men and women, shall at all times be maintained and kept in a sanitary condition, convenient and adjacent to any erotic dance studio while the erotic dance studio is in operation.  
(Ord. 709; Code 2003)

5-813. PRIVATE ROOMS AND CLOSED BOOTHS PROHIBITED. Every erotic dance studio shall be physically arranged in such manner that the entire interior portion of the booths, cubicles, rooms or stalls wherein entertainment is provided is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever.  
(Ord. 709; Code 2003)

5-814. EROTIC DANCE STUDIO CAPACITY. It shall be the duty of the fire chief and the city inspector to determine the number of persons who can safely be accommodated at any one time in any building, premises or location where any erotic dance studio is located, which owner shall be required to post such certificate near the main exit in the building. Such owner, operator or licensee is required by this article, to limit the attendance at such erotic dance studio to such capacity as has been

determined by the fire chief and city inspector.  
(Ord. 709; Code 2003)

5-815. HOURS OF OPERATION. No erotic dance studio may be open or in use between the hours of 12:00 a.m. and 6:00 a.m.  
(Ord. 709; Code 2003)

5-816. OBSERVANCE OF REGULATIONS REQUIRED. The following conduct by a licensee under this article, a licensee's manager, employee or designee; or any person under the direction and/or control of the licensee, occurring on the licensed premises shall be deemed contrary to the public welfare and is prohibited:

(a) The employment of any person in or around an erotic dance studio who is less than eighteen (18) years of age.

(b) The employment of any person as a dancer or entertainer in an erotic dance studio who has not obtained a special entertainer's license to perform in an erotic dance studio.

(c) Permitting any person under the age of eighteen (18) years to enter or remain at an erotic dance studio.

(d) Permitting any alcoholic liquor or cereal malt beverage to be sold or consumed on the premises of an erotic dance studio.

(e) Permitting any person to enter or remain at any erotic dance studio who is intoxicated.

(f) Performing or permitting others to perform as dancers in an erotic dance studio unless such performance occurs on a platform intended for the purpose.

(g) Performing or allowing entertainers to perform a dance closer than five (5) feet to any patron.

(h) Fondling or permitting others to fondle or caress any patron.

(i) Permitting patrons to fondle or caress any dancer.

(j) Allowing a patron to directly pay or directly give any gratuity to any dancer.

(k) Soliciting any pay or gratuity from any person.

(l) Encourage any person on the premises to touch, caress or fondle the breasts, buttocks or genitals of any other person.

(Ord. 709; Code 2003)

5-817. PERFORMERS - LICENSE REQUIRED. (a) License Required. No person shall be employed as a dancer or entertainer at any erotic dance studio who does not possess a current special entertainer's license to perform at an erotic dance studio.  
(Ord. 709; Code 2003)

5-818. APPLICATION. Any person desiring a special entertainer's license shall make a written application for such license to the city clerk. Such application shall provide the following information:

(a) Name and address of the applicant;

(b) Proof of the applicant's true age;

(c) Each applicant shall be photographed by the police department and such

photograph shall be attached to the application. A copy of the application and photograph shall be sent to the chief of police for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified under the provisions of this article. The chief of police shall report to the city clerk no later than ten (10) working days upon the completion of the investigation. The city clerk shall issue or deny the license to perform in an erotic dance studio based upon the results of the police investigation.

(d) Every license issued pursuant to this article will expire at the end of the calendar year regardless of when the license was issued and must be renewed before performing in an erotic dance studio is allowed in the following year. Application for renewal must be made to the license collector no later than thirty (30) days prior to the date of expiration of the license. The permit fee provided in section 17-335 of the approved schedule of fees shall apply to permit renewals.

(Ord. 709; Code 2003; Code 2007)

5-819. PERSONS TO WHOM PERMIT SHALL NOT BE ISSUED. No permit to perform in an erotic dance studio shall be issued to:

(a) Any person who has not attained eighteen (18) years of age;

(b) Any person who, within one (1) year immediately preceding the date of making application, has been convicted of any crime involving moral turpitude, or within one (1) year has been released from probation for conviction of a crime of moral turpitude. Provided, that the terms "conviction" and "adjudged guilty" shall include being placed on diversion.

(Ord. 709; Code 2003)

5-820. SUSPENSION AND REVOCATION OF PERMIT TO PERFORM. (a)The chief of police, upon five (5) days' written notice to the person holding a special entertainer's license, shall have the authority to suspend such license for a period not to exceed thirty (30) days, for any of the following reasons:

(1) False information or data was given or material facts were omitted from the application;

(2) The holder becomes ineligible to obtain a license;

(3) The holder is adjudged to have violated the regulations of Section 5-806 for conduct in an erotic dance studio.

Provided, however, that the holder of a license may appeal such order of suspension to the governing body within seven (7) days from the date of such order.

(b) The governing body, upon five (5) days' written notice to the person holding a license may permanently revoke or cause to be suspended for a period of not more than thirty (30) days such license for any of the above reasons.

Any appeal taken from an order of revocation shall not suspend the order of revocation of a special entertainer's license; no new license shall be issued to such person for a period of six (6) months after the revocation becomes effective.

(Ord. 709; Code 2003)

5-821. PENALTY. Any person who violates any provisions of this article is guilty of a

misdemeanor and, upon conviction thereof, shall be punished by a fine of not to exceed five hundred dollars (\$500.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

(Ord. 709; Code 2003)

5-822.       INVALIDITY OF PART. Should any court declare any section, clause or provision of this article to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other section, clause or provision of this article.

(Ord. 709; Code 2003)

## **ARTICLE 9. MOBILE ICE CREAM VENDORS**

5-901.       STATEMENT OF PURPOSE: It is deemed necessary and proper by the governing body of the city of Haysville, Kansas, in order to provide for the general health, safety and welfare of its citizens to regulate the vending of ice cream by mobile conveyances within the city.

(Ord. 537, Sec. 1; Code 2003)

5-902.       ICE CREAM STREET VENDORS - COMPLIANCE. It is unlawful for any person, firm, partnership or corporation to conduct, hold, carry on, pursue or operate a business of vending, huckstering, peddling or similar enterprise, for selling ice cream products of any kind upon or within any public right-of-way, public street, alley, avenue, boulevard or sidewalk within the corporate boundaries of the city, unless the regulations set forth and contained in the sections of this article are complied with and followed.

(Ord. 537, Sec. 2; Code 2003)

5-903.       DEFINITIONS. The following words and phrases when used in this article shall, for the purpose of this article, have the meanings respectively ascribed to them in this section except when the context otherwise requires:

(a) Ice Cream Street Vendor: Means any person, firm, partnership, company, corporation or other entity who travels by any type of vehicle from house to house, or place to place, selling or offering for sale any ice cream food stuffs within the corporate limits of the City of Haysville; provided, however, that no person, firm, partnership, company, corporation or other entity shall be considered an ice cream street vendor when orders are taken for ice cream food stuffs to be delivered to the ultimate consumer on a prearranged day subsequent to the date of sale.

(b) Mobile Operations – Exception: For the purpose of this article, a “mobile vehicle operator” is one conducted from a truck, trailer or any other vehicle that travels from place to place and from which ice cream food products of any nature whatsoever are sold or distributed, except that this article does not apply to the mobile

operations conducted by any milk delivery person.

(c) Motor Vehicle: Means every vehicle which is self propelled, but shall not include a motorcycle, a motor-driven cycle, or a motorized bicycle.

(d) Vehicle: Means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway except devices used exclusively upon stationary rails or tracks.

(Ord. 537, Sec. 3; Code 2003)

5-904. LICENSE PERMIT PROCEDURE AND VEHICLE INSPECTION. (a) No ice cream street vendor shall engage in retail mobile operations unless a license has been issued by the city clerk.

(b) In order to secure such license, an ice cream vendor shall file with the city clerk an application on such form and containing such information as the city clerk may require, including but not limited to the following:

(1) The name of the applicant, or if a firm, partnership, association, corporation, company or organization of any kind, the names and addresses of persons owning twenty percent (20%) or more of a financial interest therein, and the number and type of vehicles proposed to be operated by the applicant;

(2) The name, social security number, driver's license number, permanent address and telephone number of any individual representing or employed by the applicant within the city;

(3) The make, model, and license number of any vehicles to be used by applicant;

(4) A statement as to whether or not the applicant or any individual representing or employed by the applicant within the city has been convicted, pled guilty or pled nolo contendere to any crime or any ordinance violation involving moral turpitude within the preceding five (5) years and the place and nature thereof. All statements made by the applicant upon the application or in connection therewith shall be under oath.

(c) A license issued under the provisions of this article is not assignable or transferable, and shall run to the exclusive benefit of the licensee.

(d) Vehicle Safety Inspection. The police department shall inspect the vehicles designated in the application and shall certify approval to the city clerk that such vehicles are suitable from the standpoint of safety for the conduct of an ice cream street vending business and that all state laws and local ordinances relating to safety have been complied with. The police department, after the issuance of a license hereunder, shall inspect the vehicle operated by the licensee once each year to determine that said vehicle is suitable from the standpoint of safety for the conduct of an ice cream street vending business and that all state laws and local ordinances relating to safety are being complied with.

(e) Vehicle Health Inspection.

(1) The director of the Sedgwick County Health Department is authorized to enforce the rules and regulations of said department and to conduct periodic inspections, in addition to those inspections conducted by the police department, of all vehicles and equipment used in the sale or distribution of any ice cream

food products of any nature whatsoever, for the purpose of enforcing said rules and regulations.

(2) Before a license shall be issued for vending any ice cream food products of any nature whatsoever, it must also be approved by the Sedgwick County Health Department and such approval shall not be given unless the health department determines that the vehicle being used is clean and sanitary; that all food stuffs have been prepared in a licensed facility if required; that they are properly labeled, packaged or wrapped; and that they are maintained at suitable temperatures according to recognized standards.

(f) Liability Insurance. There shall be filed with the city clerk a certificate of insurance covering all motorized vehicles operated hereunder in such form as the city clerk may deem proper, issued by an insurance company approved by the Insurance Commissioner of the State of Kansas, and authorized to do business in the state of Kansas, insuring the public against injury, loss or damage resulting to persons or property from the use, maintenance and operation of any motorized vehicle operated hereunder for which such permit is granted in an amount of not less than fifty thousand dollars (\$50,000) for injury to any one person; and an amount of not less than one hundred thousand dollars (\$100,000) for injury to all persons injured in any one occurrence; and property damage not less than twenty-five thousand dollars (\$25,000) per each occurrence.

(g) License Fee. The applicant shall pay a fee as set out in section 17-344 for each vehicle to be operated within the city prior to the issuance of a license to conduct retail mobile operations.

(Ord. 537, Sec. 4; Code 2003)

5-905. UNLAWFUL STOPPING, STANDING OR PARKING. It shall be unlawful for an ice cream street vendor to stop, stand or park a vehicle:

(a) In any manner contrary to any ordinance relating to parking when attempting a sale or when making a sale; or

(b) In any street, alley, avenue, boulevard or sidewalk or other public right-of-way for the purpose of dispensing its products to customers, so as to obstruct the free flow of traffic in the street; provided, that an operator may stop, stand or park such vehicle at the curb side of the street, but that no vehicle will remain standing in any one location for a period exceeding ten (10) minutes.

(Ord. 537, Sec. 5; Code 2003)

5-906. PLACES WHERE SALES PROHIBITED. (a) Whenever any vehicle is used for the sale or dispensing of ice cream food products of any nature whatsoever upon a public street, alley, avenue, boulevard, sidewalk or other public right-of-way, said transaction shall occur on the side of the vehicle which is next to the curb of the street.

(b) It shall be unlawful for an ice cream vendor to sell, offer for sale or dispense ice cream products: (1) to any person who is standing in the street; (2) while operating on (i) Broadway (U.S. 81), (ii) Grand Avenue (71st Street South); or (iii) Main Street (Seneca); (3) within fifty (50) feet of any street intersection; or (4) in any

public park, or any public parking lot without the express consent of the governing body.

(Ord. 537, Sec. 6; Code 2003)

5-907. **TIME WHEN SALES UNLAWFUL.** It shall be unlawful for an ice cream vendor to sell, offer for sale or dispense ice cream products:

(a) within two (2) blocks from the boundaries of any public or private school property for a period commencing thirty (30) minutes before the regular school day of any such school and continuing until thirty (30) minutes after the adjournment of the regular school day of any such school; or

(b) between 8:30 p.m. or sunset of each day, whichever is earlier, and continuing until 10:00 a.m. on the following day.

(Ord. 537, Sec. 7; Code 2003)

5-908. **SOUND DEVICES - REGULATION - TIME OF USE.** No sound device or bell shall be allowed or used by any vehicle dispensing ice cream food products of any kind whatsoever, with the exception that amplified music or chimes are permitted; provided that such are not audible any distance greater than three hundred (300) feet and that they be turned off when the vehicle is stationary for the purpose of making sale or otherwise; and provided, that the use of amplified music or chimes is prohibited before 10:00 a.m. and after 8:30 p.m. or sunset of each day whichever is earlier.

(Ord. 537, Sec. 8; Code 2003)

5-909. **REQUIRED VEHICLE EQUIPMENT.** It is unlawful for any ice cream street vendor to operate a vehicle upon any street, alley, avenue or other public right-of-way for the purpose of selling, offering for sale or dispensing ice cream products:

(a) Unless there is a clearly marked sign visible from both front and rear with the wording "CAUTION - CHILDREN" marked upon the vehicle; and

(b) If the vehicle is a motor vehicle, such vehicle is equipped with an automatic backup warning device which is audible for a distance of not less than thirty (30) feet.

(Ord. 537, Sec. 9; Code 2003)

5-910. **U-TURNS, DRIVING BACKWARDS PROHIBITED.** It is unlawful for an ice cream street vendor operating a vehicle to:

(a) Make a U-turn on any block; or

(b) Drive backwards to make or attempt to make any sale.

(Ord. 537, Sec. 10; Code 2003)

5-911. **ROUTES.** It is unlawful for any ice cream street vendor to sell or attempt to sell along any particular route more than three (3) times during a twenty-four (24) hour period.

(Ord. 537, Sec. 11; Code 2003)

5-912. **UNAUTHORIZED PASSENGERS.** No person other than the authorized

operator of a vehicle and other persons expressly authorized by the owner or lessee of a vehicle shall be in or upon said vehicle.

(Ord. 537, Sec. 12; Code 2003)

5-913. PENALTY. Any person, firm, company, corporation or other entity who shall be found guilty in violation of this article shall be subject to a fine in accordance with the general penalty provisions set out in Section 1-121 of the code. Each day the violation is committed shall constitute a separate violation.

(Ord. 537, Sec. 13; Code 2003)

5-914. SEVERABILITY. Should any court declare any section, clause or provision of this article to be unconstitutional or otherwise void, such decision shall affect only such section, clause or provision and shall not affect any other section, clause or provision of this article.

(Ord. 537, Sec. 14; Code 2003)

## **ARTICLE 10. PAWNBROKERS AND PRECIOUS METAL DEALERS**

5-1001. DEFINITION. As used in this article, the following definitions shall apply:

(a) (1) Pawnbroker means any person who loans money on deposit or pledge of personal property or other valuable thing, other than intangible personal property or who deals in the purchase of personal property on the condition of selling the same back again at a stipulated price.

(2) Pawnbroker does not include any person operating under the supervision of the state banking commissioner, credit union administrator or the consumer credit commissioner of this state.

(b) Person means any individual, firm, company, partnership, corporation or association or other entity.

(c) Precious Metal means gold, silver or platinum group metals or any used articles or other used personal property containing such metals, but shall not include coins purchased for their numismatic value rather than their metal content or ingots or other industrial residue or by-products composed of such metals purchased from manufacturing firms.

(d) Precious Metal Dealer means any person who engages in the business of purchasing precious metal for the purpose of reselling such metal in any form.

(Ord. 604, Sec. 1; Code 2003)

5-1002. LICENSURE; APPLICATION; FEE. (a) No person shall engage or continue in business as a pawnbroker or precious metal dealer without first obtaining a license therefor. If the person's place of business is inside the corporate limits of the city, the person shall obtain such license from the clerk.

(b) Application for a license shall be in writing and shall state the full name and

place of the residence of the applicant. If the applicant is a partnership, the application shall contain the name and place of residence of each member thereof or, if a corporation or association, of each officer, shareholder or member thereof. The application shall include the address of the places where the business is to be conducted, the hours and days of the week during which the applicant proposes to engage in the business of pawnbroking or dealing in precious metals at each such place, and such other information as may be deemed necessary to determine the applicant's qualifications for a license in accordance with the provisions of this article. Each applicant also shall submit with the application:

(1) A statement that the applicant is the holder of a valid registration certificate issued by the director of revenue pursuant to K.S.A. 79-3608 for each place of business for which application for a license is made; and

(2) A detailed inventory and description of all goods, wares, merchandise, precious metals or other property held in pledge for sale at the time of the application at each place of business stated therein, indicating whether the same was received in pledge, purchased as secondhand merchandise or precious metal purchased for resale.

(c) The license application shall be in a form approved by the attorney general. Each application shall be accompanied by a fee as set out in section 17-357, and will expire December 31<sup>st</sup> of each year regardless of when the license was issued. All such fees received by the city clerk shall be deposited in the city general fund.

(Ord 604, Sec. 2; Code 2003)

5-1003. SAME; QUALIFICATIONS. No license or any renewal thereof shall be granted to:

(a) Any person who is not a citizen of the United States;

(b) Any person who has not been an actual resident of the state of Kansas for at least two (2) years immediately preceding the date of application;

(c) Any person who has been convicted of or has pleaded guilty to a felony under the laws of this state, or any other state, or of the United States, or shall have forfeited that person's bond to appear in court to answer charges for any such offense within the ten (10) years immediately prior to such person's application for a license;

(d) Any person who has had his license revoked for cause under the provisions of this article;

(e) Any person who is not at least twenty-one (21) years of age;

(f) Any person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

(g) Any person who does not own the premises for which a license is sought, unless that person has a written lease therefor for at least three-fourths ( $\frac{3}{4}$ ) of the period for which the license is to be issued;

(h) Any person whose spouse would be ineligible to receive a license hereunder for any reason other than the age, citizenship and residence requirements;

(i) Any partnership, unless all of the partners shall be eligible to receive a license as an individual; and

(j) A corporation, if any officer, manager, director or stockholder would be

ineligible to receive a license as an individual.  
(Ord 604, Sec. 3; Code 2003)

5-1004.       **TRANSFER OF STOCK BY STOCKHOLDER OF CORPORATE LICENSEE; EFFECT.** It shall be unlawful for any shareholder of a corporate licensee to transfer any stock in said corporation to any person who would be ineligible to receive a license as an individual, any such transfer shall be null and void: provided, that if any such stockholder of a corporate licensee shall become deceased, and that person's heirs or devisees to whom said stock descends by descent and distribution or by will shall be ineligible to receive a license hereunder, then the legal representatives of said deceased stockholder's estate, that person's heirs and devisees shall have fourteen (14) months from the date of the death of said stockholder within which to sell said stock to a person eligible to receive a license hereunder, with such sale to be made in accordance with the provisions of the probate code and any amendments thereto. If said legal representatives, heirs and devisees shall fail, refuse or neglect to so convey said stock within the time hereinbefore prescribed, then said stock shall revert to and become the property of the corporation, for which the corporation shall pay to said legal representatives, heirs or devisees the book value of such stock. If the stock in any corporation shall be the subject of any trust heretofore or hereafter created, the trustee or trustees and the beneficiaries of each trustee and beneficiary of said trust who is twenty-one (21) years of age or older must be a person who would be eligible to receive a license, or the trustee shall be and that person is hereby authorized and required, within fourteen (14) months after the effective date of the trust, to sell said stock to a person eligible to receive a license under this article, and that person shall hold and disburse the proceeds thereof in accordance with the terms of the trust, or the license of the corporation shall be forfeited.

During the fourteen-month (14) periods hereinbefore mentioned, a corporation shall not be denied a license or have its license revoked if it meets all of the other requirements necessary to have a license as provided in this article.  
(Ord. 604, Sec. 4; Code 2003)

5-1005.       **LICENSE; CONTENTS; DISPLAY; LICENSE FOR EACH PLACE OF BUSINESS.** The document or other instrument evidencing the license of a pawnbroker or precious metal dealer shall state the address at which the business is to be conducted and shall state fully the name of the licensee. If the licensee is a partnership, the license shall state the names of the members thereof and, if a corporation, the date and place of its incorporation and the names of all shareholders thereof. Such license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable. Not more than one place of business shall be maintained under the same license, but more than one license may be issued to the same licensee upon compliance with all provisions of this article governing the issuance of an initial license.  
(Ord. 604, Sec. 5; Code 2003)

5-1006.       **CHANGE IN LOCATION OF PLACE OF BUSINESS; NOTICE; DUPLICATE**

LICENSE; RESTRICTIONS. Whenever a licensee shall change that person's place of business to another location within the same political subdivision by which that person is licensed, that person immediately shall give written notice thereof to the clerk of such subdivision who then shall issue a duplicate license which shall show, in addition to all of the information appearing on the old license, a record of the change of location and the date thereof, which new license shall be authority for the operation of such business under such license at such location. The licensee shall return the old license to the appropriate clerk as soon as the new license has been received and the change in location has taken place. No change in the place of business of a licensee to a location outside of the licensing subdivision shall be permitted under the same license.

(Ord. 604, Sec. 6; Code 2003)

- 5-1007. EXAMINATION OF BOOKS, ACCOUNTS, RECORDS. Each licensee shall keep and use in the licensee's business such books, accounts and records as will enable the city or county issuing the licensee's license to determine whether such licensee is complying with the provisions of this article. Any such city or county may examine or cause to be examined the books, accounts, records and files used by any licensee or by any other person engaged in the business of pawnbroking or dealing in precious metals, irrespective of whether such person acts or claims to act as principal, designee or broker, or under or without authority of this article.

(Ord. 604, Sec. 7; Code 2003)

- 5-1008. SUSPENSION OR REVOCATION OF LICENSE; NOTICE AND HEARING. Any license issued under this article may be suspended or revoked, after due notice and public hearing, if the licensee:

- (a) Has failed to pay the annual license fee;
- (b) Has violated any provision of this article; or
- (c) Has been convicted of or has pleaded guilty to a felony under the laws of this state, or any other state, or of the United States, or shall have forfeited that person's bond to appear in court to answer charges for any such offense, if such conviction or plea occurred subsequent to or within ten (10) years immediately prior to the date of the licensee's application for the license.

Any license issued under this article shall be revoked, after due notice and hearing thereon, if it shall be proved at the hearing that the licensee sold any handgun to a minor.

Said hearing herein provided shall be held within thirty (30) days after notice thereof, and the alleged violation determined by written order of the city issuing the license within sixty (60) days after such hearing is concluded; but no revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

(Ord. 604, Sec. 8; Code 2003)

- 5-1009. LOANS SECURED BY PLEDGED GOODS; WRITTEN CONTRACT REQUIRED, CONTENTS; RETENTION, DISPOSITION AND REDEMPTION OF

PLEGGED ARTICLES. Every loan made by a pawnbroker for which goods are received in pledge as security shall be evidenced by a written contract, in ink, a copy of which shall be furnished to the borrower. The loan contract shall set forth the loan period, which shall be one (1) month, the date on which the loan is due and payable and the charges, and it shall clearly inform the borrower of his/her right to redeem the pledge during the redemption period of two (2) months after due date. Except as otherwise provided herein, the holder of any such contract shall be presumed to be the person entitled to redeem the pledge, and the pawnbroker shall deliver the pledge to the person presenting the contract, upon payment of the principal and charges.

Every pawnbroker shall retain in that person's possession, after the date on which the loan became due and payable, every article pledged to him for a redemption period of two (2) months. During such period, the borrower may redeem the pledged articles, upon payment of the principal and charges. It shall be unlawful for any pawnbroker to sell or transfer title or possession of any pledged property until the expiration of such period of redemption.

If any pledged article is not redeemed within such redemption period, the pawnbroker shall become vested with all right, title and interest of the pledgor, and that person assigns, to such pledged article, to hold and dispose of as that person's own property. Any other provision of law relating to the foreclosure and sale of pledges shall not be applicable to any pledge, the title to which is transferred in accordance with this section.

(Ord. 604, Sec. 9; Code 2003)

5-1010. REPORT OF PROPERTY PLEDGED OR PURCHASED; REQUIRED HOLDING PERIOD FOR PRECIOUS METAL PURCHASED; REPORT NOT OPEN TO PUBLIC INSPECTION. On or before Tuesday of each week, or at more frequent intervals if required by city ordinance, every pawnbroker or precious metal dealer shall report the description of all property received in pledge or purchased as a pawnbroker or precious metal dealer during the preceding calendar week, in whatever quantity received. Such report shall include all property purchased as secondhand merchandise at wholesale, secondhand merchandise taken in for sale or possessed on consignment for sale and secondhand merchandise taken in trade. No such report need be made concerning property or merchandise acquired from another pawnbroker or precious metal dealer licensed in this state in transaction involving the purchase or other acquisition from the other pawnbroker or precious metal dealer of the other pawnbroker's or dealer's stock in trade, or a substantial part thereof in bulk, where the other pawnbroker has made the reports required by this section with respect to such property or merchandise.

(b) If a transaction required to be reported under this section takes place within the territorial limits of the city, the report shall be submitted to the chief of police.

(c) All reports made pursuant to this section shall comply with and be submitted in accordance with the terms of any applicable city ordinances or requiring such reporting.

(d) Every precious metal dealer shall retain in the dealer's possession for a period of ten (10) days all precious metal purchased as a precious metal dealer, and

such metal shall remain in the condition in which it was purchased. The ten-day period shall commence on the date that the appropriate police chief receives the report of its acquisition in compliance with this section. If the police chief has probable cause to believe that any precious metal reported by a dealer has been stolen, the police chief may give written notice to the dealer to retain such metal for an additional period of fifteen (15) days. Upon such notice, the dealer shall retain such metal in an unaltered condition for the additional fifteen (15) day period unless the police chief notifies the dealer in writing the waiting period is terminated at an earlier time.

(e) Reports made pursuant to this section shall be available for inspection only by law enforcement officers and city and district attorneys and their employees, for law enforcement purposes.

(Ord. 604, Sec. 10; Code 2003)

5-1011. **RECORD OF TRANSACTIONS.** (a) At the time of making a loan, a pawnbroker shall enter in a book kept for that purpose:

(1) The date, duration, amount and charges of every loan made by the pawnbroker;

(2) A full and accurate description of the property pledged; and

(3) The name, age, residence and driver's license or other personal identification number of the pledgor.

(b) At the time of purchasing precious metal, a precious metal dealer shall enter in a book kept for that purpose:

(1) The date of the purchase;

(2) A full and accurate description of each item purchased, including any identifying letters, numbers or marks on an item; and

(3) The name, age, residence and driver's license or other personal identification number of the seller.

(c) The record required by this section shall be maintained by the pawnbroker or precious metal dealer at the pawnbroker's or dealer's place of business for not less than one year following the date of transaction.

(Ord. 604, Sec. 11; Code 2003)

5-1012. **MINORS; PROHIBITED TRANSACTIONS.** (a) No pawnbroker shall receive in pledge, or as security for any loan, transfer, service, undertaking or advantage, anything of value from any person under the age of eighteen (18) years.

(b) No precious metal dealer shall purchase any precious metal from any person under the age of eighteen (18) years.

(Ord. 604, Sec. 12; Code 2003)

5-1013. **PERIODIC INSPECTIONS TO DETERMINE COMPLIANCE WITH ARTICLE.** Law enforcement officers of the city have access during regular business hours to the place of business of any pawnbroker or precious metal dealer conducting business in the city. Access shall be for the purpose of periodically inspecting property pledged or purchased in the transaction of the business of the pawnbroker or

precious metal dealer, and records relating to those transactions, to determine if the pawnbroker or dealer is complying with the provisions of this article.

(Ord. 604, Sec. 13; Code 2003)

5-1014. INTEREST AND CHARGES ON PAWNBROKER TRANSACTIONS; APPLICABILITY OF OTHER LAWS; MAXIMUM CHARGES; TERM OF LOANS. (a) On and after July 1, 1972, no pawnbroker shall contract for, charge, or receive directly or indirectly on or in connection with any pawnbroker transaction any charges, whether for interest, storage, insurance, service fee, handling, compensation, consideration or expense which in the aggregate are greater than the charges provided and authorized by this article. Any other provisions of law relating to interest, storage and such charges shall not be applicable to any pawnbroker transaction made in accordance with this article.

(b) Whenever any loan is made by a pawnbroker for which goods are received in pledge, the following maximum amounts may be charged:

(1) On any amount a charge may be added in an amount not to exceed ten percent (10%) per month or one hundred twenty percent (120%) per annum of the amount advanced to the borrower; and

(2) The maximum amount of a loan authorized by this article shall not exceed \$300 per transaction.

(c) The term of any loan made under the provisions of this article shall be one (1) month. Loans may be extended or renewed by the payment of the charges herein provided monthly. The charges authorized herein shall be deemed to be earned at the time the loan is made and shall not be subject to refund. On loans under this article, no insurance charges or any other charges of any nature whatsoever shall be permitted.

(Ord. 604, Sec. 14; Code 2003)

5-1015. TRANSACTIONS IN PRECIOUS METALS, REQUIREMENTS; REFUSAL TO REDELIVER STOLEN PROPERTY TO OWNER, EFFECT. (a) A precious metal dealer shall require every person from whom the dealer purchases precious metal for resale:

(1) Proof of identification; and

(2) A signed statement saying that the seller is the legal owner of the precious metal or is a designee of the legal owner who is authorized to sell such metal and stating when, where and in what manner such metal was acquired by the seller.

(b) When converted or stolen property has been pawned or sold to a precious metal dealer and the pawnbroker or dealer refuses to redeliver such property to the rightful owner upon demand and presentation of a bill of sale or other proper evidence of ownership by the owner, and legal action by the rightful owner to recover the property becomes necessary, the court may assess the pawnbroker or dealer for reasonable attorney's fees incurred by the rightful owner if the court finds that the pawnbroker or dealer wrongfully withheld the converted or stolen property.

(Ord. 604, Sec. 15; Code 2003)

- 5-1016. PROSECUTION OF VIOLATIONS. Whenever that person has reason to believe a violation of this article has occurred, the city attorney or any of that person's deputies shall prosecute every case to final judgment in the city wherein the alleged offense was committed.  
(Ord. 604, Sec. 16; Code 2003)

**ARTICLE 11.  
FIREWORKS; SALE AND DISCHARGE**

- 5-1101. FIREWORKS. Except as hereinafter provided, it shall be unlawful for any person to sell or discharge fireworks as defined by the regulations of the fire marshall of the state of Kansas within the city.  
(Ord. 748; Code 2003)
- 5-1102. SALE OF FIREWORKS. Upon application to the city clerk, a permit to sell fireworks shall be granted upon the following conditions.
- (a) All applications for a permit to sell fireworks shall be submitted to the city clerk at least ten (10) days prior to the granting of such permit. No permits shall be granted prior to June 24th of the year in which fireworks will be sold pursuant to such permit.
- (b) Approval of the location upon which fireworks are to be stored and/or sold, provided, however, that no such location shall be within one-hundred fifty (150) feet of another permit location, measured structure to structure. If a tent is used for the construction of the fireworks stand, the material must be of a flame-retardant type. Each such location upon which fireworks are to be sold shall provide for the public not less than one (1) off-street parking stall per one-hundred (100) square feet of sales structure floor area and adequate ingress and egress aisles. Fireworks shall not be stored or sold within fifty (50) feet of any source of flame, sparks, or flammable or volatile liquids in excess of one (1) gallon, except in stores where cleaners, paints, and oils are handled in sealed containers only. A description of each location referred to herein shall be provided to and approved by the public works director or his/her designee of the city prior to the issuance of a permit to sell fireworks. Each vendor shall furnish without cost to the city such flagperson and attendants as are necessary to insure the orderly parking of vehicles around each sale site, and shall in no way interfere with the normal flow of traffic on public roads. No vendor shall allow parking on public right-of-way around any sale site.
- (c) Prior to issuance of the permit, an inspection will be made of the applicant's facility to determine the square footage of the stand/tent/building and other pertinent laws and no permit shall be issued for any premises not in compliance with such laws. The sale of fireworks will be allowed in areas zoned D, E, F and G in the city. No sales of fireworks shall occur at any location, building, structure, tent or other similarly describable enclosure in conjunction with the retail sales of non-fireworks

related items except as allowed by staff at the written request of the vendor. Any items sold under this exception must be approved by city staff prior to any sale taking place.

(d) Approval of all safety precautions and equipment at each sales site by the public works director or his/her designee; such precautions to include fire extinguishers and such other equipment as required by applicable state and city laws and regulations.

(e) Each vendor shall obtain a policy of general comprehensive liability insurance for a minimum coverage of \$500,000 per occurrence, with the city of Haysville named as an additional insured, and shall provide the city with a copy of the certificate of such insurance. Such policy or policies shall not be cancelable by the vendor upon less than thirty (30) days notice.

(f) Each vendor shall obtain a policy of product liability insurance for a minimum coverage of \$500,000 per occurrence for products sold and/or stored within the city by the vendor, and shall provide the city with a copy of the certificate of such insurance. Such policy or policies shall not be cancelable by the vendor upon less than thirty (30) days notice.

(g) Each vendor shall at all times indemnify the City of Haysville, Kansas, its officials, representatives, designees and employees, and shall defend, save and hold them harmless, from and against any and all claims, actions, damages, liability and expense, including but not limited to attorneys and other professional fees, in connection with loss of life, personal injury and/or damage to property arising from or out of the storage, sale, discharge and/or transportation of fireworks by such vendor and vendor's customers, representatives, employees, contractors and designees.

(h) Permit fees shall be collected for each sale location based on square feet of the structure. The square footage shall be determined by the interior dimension measurements of the physical structure of the stand/tent/building. Permit fees as established by section 17-341 shall be collected for each sale location and shall be based on the square footage of the structure or location.

(i) Permit fees as established by section 17-341 shall be collected for each sale location and shall be based on the square footage of the structure or location. Each permit so issued shall be valid for forty-five (45) calendar days and then shall expire.

(j) No permit shall be issued or renewed to a holder who has failed to demonstrate financial responsibility. In this regard and by way of illustration, evidence that the holder of a permit has failed to pay the cost of merchandise when due, failed to pay costs associated with leased land or facilities when due, or failed to pay wages of employees when due in connection with sales of fireworks in prior years, may constitute sufficient grounds for the rejection of an application for a permit.

(Ord. 748, Sec. 2; Ord. 748-A, Ord. 748-B; Code 2003)

5-1103. DESIGNATED SALE TIMES. Fireworks permitted under this article shall be sold only during the following times; 8:00 a.m. to 10:30 p.m., June 27<sup>th</sup> through July 2<sup>nd</sup> and 8:00 a.m. to midnight July 3<sup>rd</sup> and July 4<sup>th</sup>.

(Ord. 748, Sec. 3; Code 2003)

- 5-1104.        **DESIGNATED TIMES FOR FIREWORKS DETONATION.** Fireworks, which may be displayed, detonated, discharged, and/or ignited within the city limits shall only be those devices commonly known as fireworks legal for sale within the state of Kansas. Residents of the city and their guests may detonate fireworks permitted under this article on their private property during authorized shooting hours as set forth in this article. The detonation of fireworks within the city shall be permitted only between 8:00 a.m. and 10:30 p.m. June 27th through July 2nd. On July 3rd and July 4th detonation of fireworks will be permitted between the hours of 8:00 a.m. to midnight. On December 31st detonation of fireworks will be permitted between the hours of 6:00 p.m. to 1:00 a.m. January 1st.  
                  (Ord. 748, Sec. 4; Code 2003)
- 5-1105.        **DISCHARGE OF FIREWORKS: EMERGENCY CONDITIONS.** Upon the determination of the mayor and based upon recommendations of the city staff, the discharge of fireworks may be limited, suspended or prohibited within the city limits of the city even during those times generally permitted by this article. Such determination shall be made if it appears to the mayor that the discharge of fireworks constitutes an immediate hazard to the safety of property or persons within the city. Such limitation, suspension or prohibition shall be by emergency proclamation, signed by the mayor, which shall be publicized and posted at the City Hall. If thereafter, circumstances occur which minimize or eliminate the hazardous condition resulting in such proclamation, the proclamation may be rescinded or modified by subsequent proclamation with similar posting. In the absence of the mayor, the then serving president of the council shall be empowered to issue such proclamation.  
                  (Ord. 748, Sec. 5; Code 2003)
- 5-1106.        **PROCEEDS FROM FIREWORKS PERMIT SALES.** Proceeds from the sale of fireworks permits shall be used to fund capital improvements for the Haysville Park System and/or the July 4th public fireworks display.  
                  (Ord. 748, Sec. 6; Code 2003)
- 5-1107.        **PENALTY CONNECTED WITH THE SALE OF FIREWORKS.** The violation of any provision shall be punishable by a fine of \$2,500.00 and/or imprisonment for not more than one (1) year and/or revocation of any permit to sell fireworks. Any permit holder violating any provisions shall first be issued a warning by the police department, and on any second or subsequent violation of this article, the police department shall revoke the permit for sale and terminate the sale of fireworks by the violator. Any permit holder whose permit is revoked hereunder may appeal to the governing body by notice served upon the city clerk, and a hearing shall be called and held not less than twenty-four (24) hours from the date of the filing of such notice of appeal.  
                  (Ord. 748, Sec. 7; Code 2003)
- 5-1108.        **PENALTY FOR UNLAWFUL DETONATION OF FIREWORKS.** The

violation of any provision contained in section 5-1104 of this article shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00) and forfeiture of any and all fireworks that were then in the possession of the alleged offender.

(Ord. 748, Sec. 8; Code 2003)

**ARTICLE 12.**  
**TEMPORARY PORTABLE BUSINESS PERMIT CODE**

5-1201 TITLE. This Article shall be known as the Temporary Portable Business Permit Code.

5-1202. DEFINITIONS.

- a) Portable business shall mean and include any person authorized to sell food, flowers, or non-alcoholic beverages or offer for sale goods, wares, merchandise or services which is carried on from a cart, trailer or stand temporarily located on property as authorized by this Code.
- b) All other items, not specifically defined herein, shall be defined in conformance with the Zoning Code of this City.

5-1203. REGISTRATION AND FEE. Every person, firm, entity, association or corporation now or hereafter doing business in the corporate limits of the City of Haysville and maintaining a portable business, is required to hold a permit allowing such portable business to operate in the City of Haysville and shall pay a fee as set out in section 17-380.1. All fees required by this article shall be credited to the general fund of the city in the same manner as business registration fees imposed upon permanent businesses.

5-1204. INFORMATION REQUIRED. An application for temporary portable business permit shall be developed by the City Clerk, which shall require the following information, as well as other information the City deems pertinent to issuing such permit:

- (1) Contact information of the applicant;
- (2) Name and nature of the portable business;
- (3) Proof of Kansas Retail Sales Tax Number;
- (4) Location of the portable business;
- (5) Relationship of the applicant to the property location of the portable business, including lease agreement if such location is leased to Applicant;
- (6) Dates requested for temporary portable permit;
- (7) A drawing which depicts the proposed location of the temporary portable business in relation to the lot and including:

- (a) Proposed square footage of the area used
- (b) The number of parking spaces that will remain available for the primary business use
- (c) The number of parking spaces to be used by the temporary portable business
- (d) Measurements of the setback from property lines
- (e) Size and location of any signs used for the purposes of the business

5-1205. **RESTRICTION ON LOCATION.** No portable business shall be permitted on a public right-of-way or public easement. Nor shall such business be located in any sight triangle, as determined by the Public Works Director, or his or her designee. The business shall be located on an all weather surface.

The business or activities of a portable business must be upon property that is accessory to an existing primary use. No portable business shall be allowed to operate if such business would be in violation of the Haysville Zoning Regulations. No person shall conduct activities pursuant to this Article on unimproved surfaces, or on aisleway area. If an actual conflict arises between the language of Chapter 16A or 16B of the Haysville Code, and this Article, the more restrictive regulations shall prevail.

5-1206. **PERMIT IS NON-TRANSFERABLE.** A permit is not transferable to any other person, firm, or corporation and cannot be used for any activity or at a location other than those listed on the application and approved for the temporary permit. Either moving the business to a new location, or transferring the business to a new owner/operator will require applying for a new permit.

5-1207. **SIGNS.** No more than two (2) temporary signs shall be permitted if in compliance with the regulations of Chapter 16B Article 2 (Sign Code). Signs shall be of a nature which directs attention to the business conducted or to a commodity or service sold, provided that such sign(s) is limited to a combined square footage of six (6) feet of sign face. Temporary signs can be in the form of a banner, pennant, valance, or advertising display constructed of fabric, card board, wallboard or other light weight materials, with or without a frame, intended for temporary display for not more than 30 days, three times per calendar year. A site plan and application shall be submitted for such temporary signs. There shall be no fee for temporary signs associated with a temporarily permitted business.

5-1208. **INSPECTION.** Application for temporary portable business permit will constitute permission, from applicant, for inspection by the Public Works Director, or his or her designee, for the purpose of determining that the applicant has complied with applicable electrical code, zoning laws, and all other relevant regulations of the article and the code of the city.

5-1209. **PERMIT.** The City Clerk, upon confirmation from the Public Works Director, or his or her designee, that the applicant is in compliance of existing codes and regulations, and is operating a lawful business, shall issue a temporary portable business permit.

Every permit issued pursuant to this article shall expire thirty (30) days from the issuance date, unless sooner revoked. Prior to expiration the permit holder desiring to renew a permit shall make application for renewal to the city clerk's office. A renewal application shall in all respects be treated as an application for an initial permit. There shall be no more than three (3) permits issued for a portable business on the same property in any twelve (12) month period based on the calendar year.

5-1210.       DISTURBANCES. No portable business, nor any person acting on behalf of such business, shall shout, make an outcry, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound amplifying system for the purpose of attracting attention to such business or any goods, wares or merchandise for sale/sold by such business.

5-1211.       PERMIT REVOCATION.

- a) The Public Works Director, or his or her designee, upon five (5) days written notice to the applicant holding any permit regulated by this article shall revoke such permit for any one of the following reasons:
  - (1) If a permit has been fraudulently obtained by giving false information in the application.
  - (2) Fraud, misrepresentation or false statement made in the course of carrying on the business.
  - (3) Conducting the business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the City.
  - (4) If there has been any violation of any of the provisions of this Article.
  - (5) If the applicant has failed to obtain all other necessary permits including but not limited to: electrical; plumbing.
  - (6) If any portion of the portable business is deemed an immediate safety hazard as determined by the Public Works Director, or his or her designee.
  - (7) Unauthorized use of the public right-of-way for sale or display of merchandise.
  - (8) Violation of a provision of Chapter 16A or Chapter 16B of this Code.
  
- b) Notice of the revocation of a permit shall notify the permit holder of the revocation of his or her permit in writing, setting forth the grounds for revocation, which shall be hand delivered to the permit holder or mailed to the permit holder's permanent address appearing on the permit application. Such notification shall be sent as soon as practicable but in no case beyond 24 hours from the time such permit is revoked. Any person aggrieved by the action of revocation of a permit as provided in this Article, shall have the right to appeal to the Governing Body. Such appeal shall be taken by filing with the City Clerk within ten (10) business days after notice of revocation of the permit has been mailed to such applicant's address as provided in the application setting for the grounds for appeal. The Governing Body shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided herein for notice of hearing on denial of license.

5-1212. EXEMPTIONS. Vendors participating in designated community events, as established by the Governing Body of the City, including but not limited to the Hometown Market, Fourth of July Celebration, Fall Festival, City Wide Garage Sale, and Community Expo, shall be exempt from the requirements of this Article, but may be required to receive a permit to participate in any such event by the organizers of such community event.

5-1213. PENALTY. Any person, firm or corporation, company, partnership or other entity who shall be found guilty of violation of this article shall be subject to a fine of not less than fifty dollars (\$50) or more than one-thousand dollars (\$1000); or imprisonment for not more than one hundred eighty (180) days; or both such fine and imprisonment. Each day the violation is committed shall constitute a separate offense.

5-1214. APPEALS.

- a) Any applicant who is denied issuance of a permit may seek a review and hearing on the denial before the Director of Public Works. Such an appeal must be filed in writing with the City Clerk within ten calendar days of the denial stating the specific reasons why the denial is being appealed. Upon receipt of the appeal, a hearing shall be scheduled within five business days. Within five business days following the hearing, the hearing officer shall issue his or her decision in writing. It is the responsibility of the person filing the appeal to provide sufficient information to the City Clerk so that such person may be notified consistent with the schedule herein stated. Otherwise, all notices will be sent to the permanent address appearing on the application.
- b) An applicant or licensee may appeal the decision of the City Inspector which either denies an application for a license, or revokes a license as provided in this Article. Such appeal shall be to the Governing Body, and must be filed in writing with the City Clerk within ten days after the notice of denial or revocation has been mailed or hand delivered to an applicant or licensee. The Governing Body shall set a hearing on any appeal at the next regularly scheduled City Council meeting.
- c) The decision and order of the Governing Body on such appeal shall be final and conclusive.

5-1215. ENFORCEMENT. In addition to all law enforcement officers of the City, the Director of Public Works, and his or her designees, shall have the power to enforce the provisions of this Article.

5-1216. COMPLIANCE WITH STATE STATUTE. Nothing in this chapter shall be interpreted to authorize any person licensed hereunder to transact business in violation of any state statute governing the conduct of transient merchants or portable businesses, nor shall compliance with the provisions of this chapter relieve any person from compliance

with the state statutes requiring the licensing of transient merchants or portable businesses.

(Code 2010)

### **ARTICLE 13. DOOR TO DOOR SALES**

5-1301        **DEFINITIONS.**

“Door-to-door salesperson,” “solicitor,” “canvasser,” and “peddler,” as used in this Article, mean any individual whose business is mainly or principally carried on by traveling either by foot, automobile or any other type of conveyance from place to place, from house to house or from street to street, taking or attempting to take orders for the sale of goods, wares, merchandise or personal property of any kind whatsoever, for present or future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments or not; and also includes any person who, without traveling from place to place, sells or offers any such goods for sale from any automobile or other type of conveyance; provided, however, that this definition does not include persons selling only to retailers, nor any person representing any tax-exempt charitable, educational, fraternal, dependent upon charitable gifts, or community service organization, persons with a regular newspaper delivery route or regular milk or food delivery route that do not generally solicit new business by door to door sales.

5-1302        **Permit required.**

- A. It is unlawful for any person to engage in the business of door-to-door sales, solicitation, canvasser or peddler, as defined in this Article, within the City without first obtaining a permit as provided in this Article.
- B. Permits issued pursuant to this Article shall be valid for a period of one year following the date of issuance.

5-1303        **Application.**

Any person desiring to apply for a permit under the provisions of this Article shall file with the city clerk a sworn application in writing, in duplicate, on a form to be furnished by the city clerk, including the following:

- A. The name and description of the applicant;
- B. The permanent home address and local address of the applicant;
- C. A brief description of the nature of the business to be carried on or the goods or services to be sold, and the length of time such applicant has been engaged in such business;
- D. If employed, the name and address of the employer, together with credentials establishing such relationship; if the applicant is intending to use employees to

carry out this business, the name of each such employee who will be working in the City and such identifying information as required by the Clerk;

E. The length of time for which the permit is desired;

F. If a vehicle(s) is/are to be used, a description of the same, together with the permit number or other means of identification;

G. The names of at least two reliable persons who will certify as to the applicant's good character and business responsibility to enable an investigator to properly evaluate such character and business responsibility;

H. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, giving the nature of the offense and the punishment or penalty assessed therefor; and

I. A suitable release, authorizing the city's police department to conduct such background investigation of the applicant as the police chief may deem appropriate.

5-1304 Fee.

The application shall be accompanied by a fee as set out in section 17-325 which shall be due and payable at the time the application is received. Such fee shall be set by the governing body in an amount appropriate to cover the cost of investigation of the applicant's background.

5-1305 Investigation--Authority.

Upon receipt of any such application, the original thereof shall be referred to the chief of police, who shall cause such investigation to be made of the facts stated in the application and of the applicant's business and moral character as he or she deems necessary for the protection of the public good, and shall report the results thereof to the city clerk within ten days after receipt of the application.

5-1306 Issuance of OR denial of permit.

A. If the character and business responsibility of the applicant are found to be good and the facts stated in the application are found to be true, the chief of police shall endorse his recommendation for approval upon the application and return the same to the city clerk who shall deliver to the applicant his permit and issue a permit. Such permit shall show the name, address and the kind of goods or services be sold thereunder, the date of issuance and expiration date, together with the permit number or other identifying description of any vehicle proposed to be used by the permittee.

B. If the applicant's character or business responsibility is found to be unsatisfactory or the facts stated in the application are found to be untrue, the chief of police shall endorse his recommendation for disapproval upon the application, and the reasons therefor, and return the application to the city clerk, who shall notify the applicant that his application is disapproved and that no permit will be issued.

5-1307 Revocation.

A. Permits issued under the provisions of this Article may be revoked by the governing body of the city after notice and hearing for any of the following causes:

1. Fraud, misrepresentation or a false statement contained in the application for a permit;

2. Fraud, misrepresentation or a false statement made in the course of carrying on the business provided for in the permit;

3. Any violation of the provisions of this Article;

4. Conviction of any crime or misdemeanor involving moral turpitude;

5. Conducting the business of the permit in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

B. Notice for the hearing for revocation of a permit shall be given in writing setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permittee at his last known address as shown upon his permit or application for permit at least five days prior to the date set for hearing.

5-1308 Appeal--Hearing.

Any person aggrieved by the action of the chief of police or city clerk in the denial of an application for a permit or permit shall have the right to appeal to the governing body of the city within ten days after the denial of the application by filing with the city clerk a written notice of intention to appeal, setting forth fully the grounds for such appeal. The governing body shall, at its next meeting after the filing of such appeal, fix a time and place for a hearing thereon. Notice of such hearing shall be given to the applicant in the manner provided for notice of hearing on revocation of a permit issued hereunder. The decision of the governing body on such appeal shall be final and conclusive.

5-1308 Exemption.

The provisions of this Article do not apply to any person required by city ordinance to obtain a mobile ice cream vending permit.

5-1309 Penalty for violation.

Any person who canvasses or solicits in the city contrary to the provisions of this Article or refuses to surrender his permit after the same has expired or has been suspended, revoked or canceled, or who otherwise violates any of the provisions of Article shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars, imprisonment for not to exceed thirty days, or by both such fine and imprisonment.

(Code 2010)