

CHAPTER V. BUSINESS REGULATIONS AND LICENSES

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ARTICLE 1. REGISTRATION; BUSINESSES, OCCUPATIONS, PROFESSIONS

- 5-101. **BUSINESS REGISTRATION AND PERMIT TO OPERATE REQUIRED.** Every person, firm, entity, association or corporation now or hereafter doing business in the corporate limits of the City of Haysville and/or maintaining an office, retail, wholesale outlet, fixed site where a specific service is located, or business address or location, shall annually register such business in conformance with this Chapter and Chapter 17, including Section 17-312, and shall maintain a valid permit to operate issued by the City of Haysville. An annual registration shall be in force and effect only during the calendar year for which it was purchased, regardless of the date of such purchase.
- (a) It is unlawful for any person, whether as principal, officer, agent, servant, licensee, permit holder, or employee:
- (1) To conduct, pursue, carry on or operate within the corporate limits of the city any calling, trade, profession, business or occupation without having first

determined that such business is appropriately registered with the City and has a current valid permit to operate issued by the City pursuant to this Code;

(2) To fail to comply with all of the regulations provided in this title.

- (b) A Business Registration and Permit to Operate (Permit) is a document issued annually by the City upon initial approval of an application issued pursuant to this Article, and continued annual compliance with this Article.

5-102. FEES ASSOCIATED WITH BUSINESS REGISTRATION. Every person, firm, entity, profession, association or corporation now or hereafter doing business in the corporate limits of the City of Haysville and/or maintaining an office, retail, wholesale outlet, or business address or location, shall pay to the city, a yearly registration fee as set out in the approved schedule of fees. Each business registration and permit to operate shall expire December 31st of each year regardless of when the license was issued. All fees required by this article shall be credited to the general fund of the city and shall be used to defray the expense of administering this article.

5-103. INFORMATION PROVIDED. The application for registration of business and permit to operate shall include furnishing to the City Clerk the following information on an approved form provided by the City Clerk:

- (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) A listing of any and all direct or collateral public health, safety, or welfare concerns which might create a special law enforcement problem, including an unusual increase in the amount of lighting, noise, odor, vehicle traffic, or pedestrian traffic within an area.
- (h) The total number of all non-family employees, and the total number of all employees.
- (i) A certification by restaurant owners/managers that all employees have current food handlers' certifications issued by the Wichita/Sedgwick County Health Department.

5-104. INSPECTION.

- (a) Submission of an application for registration and permit to operate will constitute permission, from applicant or their representatives, for inspection of the premises and/or business site 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 Building Code, National Electrical Code, and all other relevant regulations of the city.
- (b) Upon receiving a written application for registration and permit to operate, the City Clerk shall request the Chief of Police to investigate the background of any

person, partnership, corporation, or employee of any such business. The Chief of Police shall also determine whether any such business or service will have a significant effect upon the City's ability to provide law enforcement services. Any business which the Chief of Police determines will overwhelm the City's law enforcement department, either through the actual operations of such business or collateral effects directly associated with such business, will be denied a permit to operate until such business enters into an agreement with the City to underwrite all reasonable law enforcement costs brought about by the operation of such business. Such agreement will be subject to review and approval of the governing body.

- (c) Upon receiving a written application for registration and permit to operate, the City Clerk shall request the Zoning Administrator review the premises to determine that the applicant has complied with the Zoning Code, Subdivision Code, Sign Code, Historic Preservation Code, including observance of requirements set forth in conditional use permits issued by the City.
- (d) The clerk may request to inspect copies of all employees' food handlers' cards at the time of a restaurant owner/manager's application.

5-105. **REGISTRATION CERTIFICATE.** The city clerk's office shall issue a non-transferable registration and permit to operate certificate to each business upon confirmation from 1) the Director of Public Works or his or her designee that the applicant is in compliance with existing codes and regulations, 2) the Zoning Administrator or his or her designee that the applicant is in compliance with existing codes and regulations, and 3) the Chief of Police or his or her designee that the applicant is in compliance with existing codes and regulations, has no legal background issues that prohibit operation of such business, and such business will not create an extraordinary impact upon law enforcement services. The holder thereof shall display the same in a conspicuous place in the place of business for which the certificate is issued. Certificates issued for business sites that do not maintain a business office within the City, shall maintain such certificate with regular business records for presentation to City inspectors as required. No business shall commence business operations prior to issuance of a permit.

5-106. **TERM OF REGISTRATION.** Any permit 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.

5-107. **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 13 of this Chapter. If the applicant is also subject to the general business registration requirement set forth in this Article, the fee associated with obtaining the door-to-door sales 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 Chapter 17 shall be due and payable at the time the application is submitted to the city clerk.

5-108. APPEALS--LICENSE APPLICATION DENIALS.

Any applicant for a Registration and Permit to Operate Certificate who has been administratively denied the issuance of such permit under the application procedures provided in this Code shall have a right of appeal from the denial to the Governing Body by filing a written request therefore with the city clerk. The notice of appeal must be filed with the city clerk within ten days of the denial of such application for certificate or such denial becomes final.

5-109. REVOCATION.

Any registration and permit to operate certificate issued under the terms and provisions of this title shall be revoked by the City, upon five days' written notice to the person holding any such permit, for any of the following reasons:

- (a) If a permit has fraudulently obtained by giving false information in the application therefor;
- (b) If the permittee has violated any of the provisions of this title or any rule or regulation made by the governing body of the city regulating the conduct of the particular calling, trade, profession, business or occupation covered by such permit;
- (c) If a permittee has become ineligible to obtain a permit under this Article;
- (d) If a permittee has violated the terms of an agreement entered into with the City in order to obtain a permit;
- (e) For the nonpayment of any permit fees payable under this Article;
- (f) For permitting any gambling or any violation either of the intoxicating liquor laws of the state or of this Code;
- (g) For the conviction of the permittee in any court for the violation of any laws of this state or ordinances of the city regulating such calling, trade, profession, business or occupation;
- (h) For conviction of the permittee in any court of any offense against the laws of the state or ordinances of the city involving moral turpitude; provided, expressly, that where any calling, trade, profession, business or occupation permitted under this title is governed by a specific section of this Code containing an express provision for the revocation of such permit, the terms of such specific section of this Code relating to revocation of the permit shall supersede and take precedence over the revocation provisions contained in this Article; provided further, that whenever the term "conviction" is used in any section of this title it shall include being placed on diversion; provided further, that in case a permit is revoked on any of the grounds set out above, no new permit to carry on such calling, trade, profession, business or occupation shall be issued under the provisions of this title to the permittee, for six months from the date that the revocation takes effect.

5-110. EMERGENCY SUSPENSION, APPEAL, REVOCATION OF PERMIT.

- (a). SUSPENSION. When, the Chief of Police can specifically articulate how the operation of any place of business has become an extraordinary detriment to the

public safety, peace, health or welfare, the Chief of Police may summarily suspend any City permit to operate of the business for a temporary period.

(b). APPEAL. Any person may appeal to the City Council the decision of the Chief of Police to temporarily suspend a registration and permit to operate certificate. The appeal must be in writing to the City Council and must be presented within ten days from the date of the suspension.

(c). REVOCATION. It is vested in the City Council the right to permanently revoke any city issued permit of the business when after having a hearing requested by the Chief of Police, it is deemed detrimental to the public safety, peace, health or welfare; and the action of the city council shall be final.

5-111. INSPECTIONS.

All registration and permit to operate certificates issued pursuant to this Article shall be open and subject to inspection at all reasonable times by the proper officers of the city, under its police powers, in order for such officers to ascertain that persons conducting such trades, professions, businesses and occupations are complying with all of the police and health regulations of the city.

5-112. PENALTY FOR NONPAYMENT OF FEES.

All permits not renewed within thirty days after the date of expiration shall pay a penalty as set forth within 17-312 of this Code.

5-113. PENALTY FOR VIOLATION OF THIS ARTICLE.

Any person who shall conduct, pursue or carry on or operate within the corporate limits of the city any calling, trade, profession or occupation for which a registration and permit to operate is required by this title or shall assist directly or indirectly in so doing in any manner or to any extent, either as owner or proprietor or as an officer of any corporation, or as manager, superintendent, agent, servant or employee of any person after such permit was required to have been obtained to conduct, pursue, carry on or operate such calling, trade, profession or occupation shall be deemed to do so unlawfully. Any person in violation of this Article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in any sum not less than fifty dollars nor more than one hundred dollars. Each day's violation shall be a separate offense.

In addition the judge of the municipal court may direct the Chief of Police to post in a conspicuous place upon the property notice that the business is operating without a business permit and is ordered temporarily closed. The business shall be allowed to reopen upon complying with the terms of the judge's orders and obtaining a valid permit.

In addition to the penalty described in this section seek any civil remedy necessary to enforce the provisions of this Article, including permanent closure of the business, and may seek to recover in civil action in any court of competent jurisdiction the amount of the fees associated with the business registration and permit to operate imposed by this

Article, and no property of such debtor shall be exempt from forced sale under any process of the law for such indebtedness except such exemptions as are allowed by the Constitution of this State.

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 31st 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 Chapter 17 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 Chapter 17, 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 Chapter 17, 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 Chapter 17, 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 Chapter 17, 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 (1/8th) 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 Chapter 17.

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. **REVOCATION 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 Chapter 17 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 Chapter 17 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 Chapter 17, 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 Chapter 17. When a deposit, as set out in Chapter 17 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 Chapter 17 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 (residential or commercial), as set out in Chapter 17, 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; Ord. 988, Code 2013)

5-503 TEMPORARY SALE FROM COMMERCIAL PROPERTY.

- (a) A temporary sale from commercial property includes sales of goods not generally related with the associated commercial business/property, such as consignment of goods, flea markets, garage sales and sale of second hand goods. The associated commercial business/property must have a current Business Registration Permit in conformance with Article 1 of this Chapter, to apply for the permit to hold the temporary sale.
- a. Any such sales shall conform with all other provisions of this code, including applicable areas of the zoning code not related to allowable uses. Sales shall not prohibit traffic patterns in and out of the commercial property nor shall they utilize parking stalls that are otherwise required for the commercial business unless such business is not open to the public during the time of the sale.
 - b. No person shall conduct, hold or transact such a sale more than six (6) times within a calendar year and any such sale shall not continue for more than three (3) consecutive calendar days.
 - c. Temporary sales shall include fundraisers carried out by not for profit groups, such as the girl scouts, boy scouts, school groups, and other 501(c)(3) organizations, however, upon proof of non-profit status the fee requirement shall be waived.
- (b) A single day auction of goods may be held at a commercial property once per calendar year after obtaining an auction permit, upon satisfaction by the Chief of Police, or designee, and the Director of Public Works, or designee, that the area is equipped to handle the amount of anticipated increase in traffic associated with such an event.
- (c) 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.
- (d) Sales from storage units by storage unit lessees shall be prohibited. The owner of a storage unit business may apply for an auction permit no more than three times annually, for the purpose of disposing of goods acquired through abandonment or non-payment by storage unit lessees.
- (e) 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; Code 2012; Ord. 988, Code 2013)

- 5-504. PERMIT FEE. A sale from commercial property or auction permit fee (residential or commercial), as set out in Chapter 17, shall be assessed to the permit applicant and collected by the city clerk upon issuance of said permit.

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 Chapter 17. 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 Chapter 17.

(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 31st 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 or 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 31st 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 Chapter 17.

(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 Chapter 17 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 Chapter 17 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);

(iii) Main Street (Seneca); or

(iv) Meridian Avenue

(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; Code 2020)

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. and 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 Chapter 17, and will expire December 31st 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 PLEDGED 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 within the city 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 Chapter 17 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 Chapter 17 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.

(k) The following fireworks shall be prohibited within the City of Haysville: the fireworks commonly referred to as Chinese lanterns.

(Ord. 748, Sec. 2; Ord. 748-A, Ord. 748-B; Code 2003; Code 2012)

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 27th through July 2nd and 8:00 a.m. to midnight July 3rd and July 4th.

(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. Detonation may also occur within time frames approved through the City's Special Event Permit.

(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)

5-1109 PUBLIC DISPLAY OF FIREWORKS; SPECIAL EVENT PERMIT REQUIRED.

(a) It shall be unlawful for any person or entity, other than as sponsored by the City of Haysville for the City as a whole, to give or provide a fireworks display for the public or for organized groups without first obtaining a special event permit from the City of Haysville. The City shall not review an application for a special event permit until the Sedgwick County Fire Marshall, or his designee, has reviewed and approved the application. Said application shall be approved in accordance with the provisions of Chapter 12, Article 3.

(b) A public display of fireworks may be held upon private property as approved by the Sedgwick County Fire Marshall, or his designee. In such instance those elements of the Special event Application specifically associated with use of public property shall not be applicable. All application fees and the event review process shall be applicable to private property displays, except that the review of the event by the Recreation Director may not be applicable. If the terms of this section are in conflict with, or less restrictive than, Chapter 12, Article 3, the terms of this section shall apply. The review of the proposed event by the Public Works Director and Chief of Police shall be applicable to a private property fireworks display.

(c) No special event permit shall be approved unless the applicant furnishes a certificate of public liability insurance for the display in a minimum amount of \$1,000,000.00 for each occurrence including damage to vehicles, naming the City of Haysville as additional insured and providing for both workers compensation, which is written by an insurance carrier licensed to do business in Kansas. Insurance certificate shall not be cancelled by insured or insurer until written notice is provided to the City Clerk of the City of Haysville. In the event of cancellation of the insurance prior to the display, the special event permit shall automatically be revoked and void. Presenting a fireworks display after insurance has been cancelled shall be a violation of this code, and

may be prosecuted as an unclassified misdemeanor in accordance with this Article. The application for the special event permit shall clearly state:

- (1) The name of the applicant.
 - (2) The group for which the display is planned.
 - (3) The location of the display. Shall include:
 - Address of the grounds upon which the display is to be held;
 - A diagram of the grounds on which the display is to be held. The diagram must indicate distances from the point of discharge of fireworks to:
 - the perimeter of the grounds,
 - to all structures located upon the grounds,
 - all structures on abutting properties within 500 feet of the point of discharge,
 - all abutting streets points of ingress/egress to the grounds, and
 - the area at which the audience will be located.
 - (4) The date, time and duration of the display.
 - (5) The nature or kind of fireworks to be used.
 - (6) The name of the person, firm or corporation that will make the actual discharge of the fireworks.
 - (7) The name of the person, firm or corporation that will discharge the fireworks. Must present a valid firework operators certificate issued by the State of Kansas Fire Marshal's Office.
 - (8) Anticipated need for police, fire or other municipal services.
- (d) No special event permit shall be issued if in the opinion of the Sedgwick County Fire Marshall, or his designee, the location, nature of the fireworks or any other relevant factor creates a hazard, risk of harm, or risk of damage to persons or property.
- (e) Prior to approval of any special event permit application, the Sedgwick County Fire Marshall shall have the power to issue reasonable rules and regulations for the granting of said special event permit. City law enforcement and the Sedgwick County Fire Marshall are authorized to terminate a fireworks display event if the event operator or party responsible for fireworks detonation violate any such rules and regulations.
- (f) The Chief of Police of Haysville, Kansas, shall review the application to determine whether police or security shall be required as a condition of approval of the special event permit. Such review shall include determination of traffic control concerns, and identifying and preventing concerns arising from individuals watching the display in unsafe areas located off the display

grounds. All costs of security or additional policing requirements shall be borne by the event operator.

- (g) Only those persons actually approved as operators by the Fire Marshall, or designee, shall handle or discharge any fireworks at such a special event.
- (h) Fireworks displays shall be completed by midnight on Fridays and Saturdays and 11:00 pm Sunday through Thursday nights.
- (i) No individual, business, or organization shall receive more than one permit for special event of fireworks per calendar year. To limit negative impacts upon abutting properties, a site for a special event of fireworks shall only be authorized for a special event of fireworks once annually.
- (j) A permit authorizing a special event of fireworks shall hereby require that the permittee remove all trash and debris from the property associated with the special event of fireworks, including both trash and debris generated by the display itself as well as by the attendees to the event.

ARTICLE 12. TEMPORARY PORTABLE BUSINESSES

5-1201 **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 article. A portable business shall not include the sale of goods directly from tables, racks, or boxes.

(b) All other items, not specifically defined herein, shall be defined in conformance with the Zoning Code of this City.
(Code 2020)

5-1202 **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 Chapter 17. 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.

(Code 2020)

5-1203 **INFORMATION REQUIRED.** An application for a 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:

- (a) Contact information of the applicant;
- (b) Name and nature of the portable business;
- (c) Proof of Kansas Retail Sales Tax Number;
- (d) Location of the portable business;

- (e) Relationship of the applicant to the property location of the portable business, including lease agreement if such location is leased to Applicant;
- (f) Dates requested for temporary portable permit;
- (g) A drawing which depicts the proposed location of the temporary portable business in relation to the lot and including:
 - (1) Proposed square footage of the area used
 - (2) The number of parking spaces that will remain available for the primary business use
 - (3) The number of parking spaces to be used by the temporary portable business
 - (4) Measurements of the setback from property lines
 - (5) Size and location of any signs used for the purposes of the business

(Code 2020)

5-1204 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.

(Code 2020)

5-1205 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.

(Code 2020)

5-1206 PERMIT REVOCATION. The City Clerk, 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:

(a) If a permit has been fraudulently obtained by giving false information in the application.

(b) Fraud, misrepresentation or false statement made in the course of carrying on the business.

(c) 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.

(d) If there has been any violation of any of the provisions of this Article.

(e) If the applicant has failed to obtain all other necessary permits including but not limited to: electrical; plumbing.

(f) 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.

(g) Unauthorized use of the public right-of-way for sale or display of merchandise.

(h) Violation of a provision of Chapter 16A or Chapter 16B of this Code.

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.

(Code 2020)

5-1207 **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.

(Code 2020)

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.

(Code 2020)

5-1209 **FOOD VENDORS – SPECIAL REGULATIONS.** Before a license shall be issued for vending food, the operation must have the appropriate Food License from the Kansas Department of Agriculture.

(Code 2020)

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.

(Code 2020)

5-1211 **EXEMPTIONS.** This article shall not apply to:

(a) 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.

(b) Ice cream street vendors, as defined and covered in Article 9 of this chapter.

(c) Persons who take orders for merchandise or food when such merchandise or food is to be delivered to the ultimate customer on a day subsequent to the date of the sale.

(d) Sales by mobile food vendors that are regulated by Article 16 of this chapter.

(Code 2020)

5-1212 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.

(Code 2020)

5-1213 APPEALS. Any person aggrieved by the action of the chief of police, city inspector or city clerk in the denial of an application for a permit or license, or revocation of a license 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 license issued hereunder. The decision of the governing body on such appeal shall be final and conclusive.

(Code 2020)

5-1214 ENFORCEMENT. In addition to all law enforcement officers of the City, the City Clerk, and his or her designees, shall have the power to enforce the provisions of this Article.

(Code 2020)

5-1215 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, Code 2020)

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, Exemptions.

- 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 thirty days, six months, or one year following the date of issuance.
- C. All persons engaging in the business of door to door sales, solicitation, canvasser or peddler as used in the article must carry a copy of the approved application on their person at all times while conducting business, and produce it for anyone to see such permit.
- D. The Chief of Police is hereby directed to adopt written regulations regarding identification measures with which door-to-door salespersons shall comply. Identification regulations shall include requirement that all door-to-door salespeople wear an i.d., or uniform identifying such person’s company affiliation, and that a copy of the permit required by this Article be shown by all door-to-door salespeople at the beginning of each sales contact. A copy of the current regulations required by this section will be attached to the approved permit by the City Clerk, or the Clerk’s designee, prior to giving such permit to the applicant.

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 therefore; 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 Chapter 17 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.

This investigation may be waived by the Chief of Police for those vendors, and those employees of such vendors, who have obtained such a background check conducted by the Haysville Police Department within the previous twelve months in association with a previously issued door to door permit issued pursuant to this Article, if neither such vendor, nor any of such vendor's employees, have generated complaints in association with such previously obtained permit. An investigation must be conducted upon all vendors, and applicable employees, pursuant to this Article at least annually.

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 the permit. Such permit shall show the name, address and the kind of goods or services be sold there under, the date of issuance and expiration date, together with the permit number or other identifying description of any vehicle proposed to be used in association with door to door sales carried out pursuant to such permit.

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 therefore, 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 Chief of Police or his or her designee after notice 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 including but not limited to those crimes involving moral turpitude, fraud or misrepresentation;
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, including failure to honor a property owner's desire to be free from solicitation as indicated by the posting of a sign upon any property stating "no solicitation", or any analogous phrase.
6. Violation of any part of this Article by any representative of the permit holder, or by any individual, corporation, partnership, or organization that the permit holder represents.

B Revocation of a permit shall be immediate for any of the above listed reasons, or for any reason deemed to pose a risk to the health, safety, or welfare of the City. Individuals shall be notified verbally by the enforcing officer of the revocation of such permit. A written notification shall be mailed to the address provided on the permit application by registered mail. Failure to accept delivery of such registered letter shall not be a failure of notification.

C. Notice for the revocation or denial of a permit given in writing shall set forth specifically the grounds for the denial or revocation. A request for an administrative hearing to appeal the decision to deny or revoke such application or permit must be made in writing to the City Clerk within five (5) days of receipt of such written notice.

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, or the revocation of a permit shall have the right to appeal to the governing body of the city within ten days after the denial or revocation of the permit, by filing with the City Clerk a written notice of intention to appeal, setting forth fully the grounds for such appeal, and providing all evidence to support 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.

5-1309 Hours of Operation.

No person shall engage in the business of door to door sales, solicitation, canvasser, or peddler between the hours of 8:00 P.M. and 10 A.M. unless permitted to do so under other applicable city ordinance.

5-1310 Exemption.

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

5-1311 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 found guilty of an unclassified misdemeanor, and may be punished by a fine of not more than five hundred dollars, imprisonment for not to exceed thirty days, or by both such fine and imprisonment.

(Code 2010, Ord. 1002)

**ARTICLE 14.
MANUFACTURED HOMES, PARK, AND LICENSING**

5-1401 LICENSE REQUIRED. All persons operating existing parks shall submit an application and obtain a park license, upon the expiration of their existing license, with such new license being issued only after approval by the inspector, approval of zoning and only after payment of the required fee. All persons developing new parks shall submit an application and obtain a park license before occupancy of such park, with such license being issued only after meeting zoning approval, approval of required application by the inspector and only after payment of the required fee. The park license for both existing and new parks shall be renewed annually, with the license expiring December 31st of each year regardless of when the license was issued only after approval by Zoning and the inspector and after the payment of any required fees. No person shall operate a park without a current park license.
(Ord. 632; Code 2003; Code 2010)

5-1402 LICENSE AND PERMIT FEES.

- a. License and permit fees for manufactured home parks shall be as set out in Chapter 17.
- b. An individual manufactured home or mobile home shall pay inspection fees as established by Chapter 17, prior to the installation of the home in a park and shall

be paid to the city from persons requesting inspections, prior to the city conducting such inspections.

- c. Temporary permits may be issued for a manufactured home, or mobile home, to be occupied other than within a park or camp, for a period not to exceed thirty (30) days, upon payment of any temporary permit fee established by Chapter 17. Occupancy shall be considered the use of any manufactured or mobile home by any person for living, sleeping, cooking, or eating purposes for any period of four (4) or more consecutive days. There shall not be more than two (2) such permits issued for the placement of a manufactured home or mobile home on the same property in any twelve (12) month period EXCEPT a church may be issued up to six (6) permits for no more than a 20 day period in any twelve (12) month period not to be consecutive. Prior to occupying a manufactured home, or mobile home, located other than within a park, a permit shall be obtained, with such permit being issued only after approval of the required application by the inspector and after payment of the required fee as set out in the approved schedule of fees.
(Ord. 632; Ord. 914; Code 2003; Code 2008; Code 2010)

5-1403 **PARK LOCATION.** All parks shall be located on a well-drained site properly graded to insure adequate drainage and freedom from stagnant pools of water. Plans and specifications for the drainage and grading system, including roadways, storm sewers and appurtenances, and general drainage and grading shall be prepared by a licensed professional engineer.
(Ord. 635; Code 2003)

5-1404 **MANUFACTURED HOMES, MOBILE HOMES LOCATION.** Unless provided otherwise by this article it shall be unlawful for any person to occupy a manufactured home/mobile home in the city unless such manufactured home/mobile home is located in a park.

- a. A manufactured home/mobile home may be occupied at a construction site by a watchman when approved by the inspector when deemed necessary for security purposes. Such permission may be canceled by the inspector upon three (3) days written notice, when in his or her opinion the intent of this section is being violated;
- b. A manufactured home/mobile home may be occupied other than within a park for a period not to exceed thirty (30) days when a permit is secured in accordance with sections (license/permit fees C.) of this article. A temporary permit fee shall be charged in accordance with Chapter 17 of this code.
- c. A manufactured home/mobile home shall not be permanently attached to the ground or placed on a concrete or masonry foundation unless it is otherwise converted to a building complying in all respects to the provisions of the code of the city for a permanent structure.

5-1405 GENERAL REQUIREMENTS. Every manufactured home/mobile home regulated by this article shall conform with the Department of Housing and Urban Development Model Manufactured Home Installation Standards and any additions or updates (effective October 20, 2008).

- a. Alterations and Additions. No additions of any kind shall be built onto or become part of any manufactured home/mobile home, except for required skirting.
- b. Identification of Roadways and Spaces – All park roadways or private streets, and manufactured home/mobile home spaces shall be clearly identified with letters or numerals of a light reflecting material. Such letters or numerals are to be a minimum of two (2) inches in height. Identification of manufactured home/mobile home spaces shall be in addition to and not in place of any identification found on the manufactured home/mobile home.
- c. Patios and Storage Lockers. Each occupied manufactured home/mobile home space located in a park shall be provided with a paved patio of at least two-hundred (200) square feet. A storage locker of at least two-hundred fifty (250) cubic feet shall be provided for each manufactured home/mobile home lot. Storage lockers may be grouped in locker compounds at a distance not to exceed one-hundred (100) feet from manufactured homes/mobile homes they serve. The lockers shall be designed in a manner that will enhance the park and shall be constructed of suitable weather resistant materials.
- d. Lighting – Adequate lighting shall be provided for public safety. A lighting plan shall be submitted in accordance with the Developer’s Letter of Intent.
- e. Skirting – All manufactured homes/mobile homes located in a park is required to have skirting, of a material designed to be used as manufactured home/mobile home skirting that does not have a flame spread rating in excess of twenty-five. Vinyl skirting shall be a minimum of 30 gauge thickness. Skirting shall not permanently attach the manufactured home/mobile home to the ground, nor shall it provide a harborage for rodents or create a fire hazard. Violations shall be subject to the nuisance procedure found in Chapter 7 – Health and Welfare.
- f. Water Supply. A water supply system for each lot in the proposed park or subdivision shall be required in conformity with the requirements of the City Engineer. In addition thereto and where feasible, such water supply system shall be connected to the size of the city water main at such point and expected demand of the proposed park or subdivision.
- g. Sewage Disposal. A sanitary sewer system for each lot meeting all specifications of the City Engineer. Such sanitary sewer system shall be connected to the sanitary sewer system of the city at such point or points as the City Engineer shall determine, based upon the location and size of the sanitary system of the proposed

park or subdivision. Sewer connections shall be provided for each manufactured home/mobile home in accordance with all regulations and ordinances of the city and with the approval of the city engineer and the inspector.

- h. Electricity. A weatherproof outlet supplying at least 110 volts, 30-amp service shall be provided for each manufactured home/mobile home space. All electrical wiring shall comply with applicable provisions of the electrical code of the city. No power line shall be permitted to lie on the ground or to be suspended less than fifteen (15) feet above the ground or any roadway, parking or service area.
- i. Fuel Gas. Liquefied petroleum gas service, connections and usage shall be as provided by the fire code adopted by this city. Natural gas service, connections and usage in parks and camps shall be as provided by the plumbing and gasfitting and fire prevention codes as adopted by this code.

5-1406 **COMPLIANCE WITH OTHER REGULATIONS REQUIRED.** No license shall be granted unless the licensee fully complies with all health regulations, building codes, zoning ordinances, fire prevention, and safety regulations adopted by the city.

5-1407 **PENALTY.** Any person who shall violate any provisions of this article shall be deemed guilty of a violation of this code and upon conviction be subject to the penalties set out in Chapter 1. Each day the violation is committed or continued shall constitute a separate offense.
(Ord. 374, Sec. 18; Code 2003; Code 2010; Code 2012)

ARTICLE 15. RECREATIONAL VEHICLES, CAMPS

5-1501 **DEFINITIONS.**

- (a) Recreational Vehicle: Shall mean a unit designed as temporary living quarters for recreational, camping or travel use that has a body width not exceeding eight (8) feet and a body length not exceeding forty (40) feet. Units may have their own power, or be designed to be drawn or mounted on an automotive vehicle. Recreational vehicle shall include motor homes, travel trailers, truck campers, camping trailers, converted busses, house boats or other similar units as determined by the inspector. A recreational vehicle may or may not include individual toilet and bath.
- (b) Recreational Vehicle Campground (Camp): Shall mean the use of a parcel or tract of land, which provides space for transient occupancy, and which is used or intended to be used for the parking of two (2) or more recreational vehicles, tents, or similar type temporary living facilities. The term recreational vehicle campground does not include a parcel or tract of land on which unoccupied recreational vehicles, whether new or used, are parked for the purpose of storage, inspection or sale.

- (c) Service Building: Shall mean a building housing all of the following: Separate toilet facilities for men and women, laundry facilities and separate bath and/or shower accommodations. Such building may also include other associated uses such as an office and recreational facilities for the camp or park.

(Ord. 632.; Code 2003, Code 2010)

5-1502 LOCATION; RECREATIONAL VEHICLES. Unless provided otherwise by this article it shall be unlawful for any person to occupy a recreational vehicle unless such recreational vehicle is located in a camp.

5-1503 LICENSE AND PERMIT FEES. License and permit fees for recreational vehicle camps shall be as set out in Chapter 17.

- a. Temporary permits may be issued for a recreational vehicle, to be occupied other than within a manufactured home park or recreational vehicle camp, for a period not to exceed fourteen (14) days, upon payment of any temporary permit fee established by Chapter 17. Occupancy shall be considered the use of any manufactured or mobile home by any person for living, sleeping, cooking, or eating purposes for any period of four (4) or more consecutive days. There shall not be more than four (4) such permits issued for the placement of a recreational vehicle on the same property in any twelve (12) month period not to be consecutive EXCEPT a church may be issued up to six (6) permits for no more than a 20 day period in any twelve (12) month period not to be consecutive. Prior to occupying a recreational vehicle, located other than within a park or camp, a permit shall be obtained, with such permit being issued only after approval of the required application by the inspector and after payment of the required fee as set out in the approved schedule of fees.
- b. A recreational vehicle may occupy a manufactured home space in a park for a period not to exceed thirty (30) days: PROVIDED that a service building as required for a camp is within five-hundred (500) feet of the space so occupied. Under no circumstances shall the number of manufactured home spaces within a park be occupied by recreational vehicles in excess of five percent (5%) of the total number of manufactured home spaces provided, or a total of three (3), whichever is larger.

(Code 2020)

5-1504 CAMP LICENSE. No person shall operate a camp without having first obtained a license therefore and only after said camp has been approved by the inspector and zoning administrator and any required fees have been paid to the city. All camp licenses shall expire on December 31st of each year regardless of the date of its issuance. All persons developing new camps shall obtain a camp license before occupancy of such camp and no such license shall be issued until the applicant for said license has complied with all provisions of this article.

- 5-1505 **CAMP LOCATION.** All camps shall be located on a well-drained site properly graded to insure adequate drainage and freedom from stagnant pools of water. Plans and specifications for the drainage and grading system, including roadways, storm sewers and appurtenances, and general drainage and grading shall be prepared by a licensed professional engineer.
(Code 2010)
- 5-1506 **ALTERATIONS AND ADDITIONS.** Provisions relating to alterations or additions to recreational vehicle camps and facilities shall be as follows:
- a. Alterations and additions to recreational vehicles or camps that are affected by provisions herein, within or to a camp and facilities, shall be made only after application to the inspector and in conformity with this code.
 - b. A recreational vehicle shall not be permanently attached to the ground or placed on a concrete or masonry foundation unless it is otherwise converted to a building complying in all respects to the provisions of the Code of the city for a permanent structure.
- 5-1507 **COMPLIANCE WITH OTHER REGULATIONS REQUIRED.** No license shall be granted unless the licensee fully complies with all health regulations, building codes, zoning ordinances, fire prevention, and safety regulations adopted by the city.
- 5-1508 **PENALTY.** Any person who shall violate any provisions of this article shall be deemed guilty of a violation of this code and upon conviction be subject to the penalties set out in section 1-121. Each day the violation is committed or continued shall constitute a separate offense.
(Ord. 374, Sec. 18; Code 2003; Code 2010; Code 2012)

ARTICLE 16

MOBILE FOOD VENDORS

- 5-1601 **DEFINITIONS.** The words and phrases listed below when used in this Article shall have the following meanings:
- (a) City means the City of Haysville, Kansas.
 - (b) City Approved Event means any event sponsored by the City or any community event sanctioned by a permit issued by the City pursuant City Code.
 - (c) Food and/or Beverage means articles used for food or drink for humans or animals, chewing gum, and/or articles used for components of any such article, in accordance with the definition of food within K.S.A. 65-656 and amendments thereto.
 - (d) Mobile Food Vending means to conduct, hold, carry on, pursue or operate a business of vending, peddling, hawking and/or selling any food and/or beverage from a Mobile Food Unit.
 - (e) Mobile Food Vendor means any person, corporation, association, or other entity, however organized, that offers any food or beverage for sale from a Mobile Food Unit, subject to the exceptions set forth in Section 5-1603.

(f) Mobile Food Unit or Unit means any self-contained vehicle, trailer, cart, wagon, or other type of conveyance from which any food and/or beverage is offered for sale.

(g) Person means an individual, corporation, partnership, company, agency, institution, or any other entity.

(h) Public property means any property publicly owned, including but not limited to streets, sidewalks, alleys, parks, parking lots, easements, improved or unimproved land, or any buildings or physical structures owned or managed by the City of Haysville or other governmental agency.

(i) Public right-of-way means the entire width of the area from property line to property line including all area intended, designed or used for vehicular or pedestrian traffic and the area between the roadway and the abutting private property line.

(j) Restaurant means an establishment where the principal business is the sale of food and beverages in a ready-to-consume state, but shall not include a Tavern or Drinking Establishment, as those terms are defined in this Code.

(Code 2020)

5-1602 **MOBILE FOOD VENDING—LICENSE REQUIRED.** It is unlawful for any person to engage in Mobile Food Vending within the corporate limits of the City of Haysville, Kansas, without obtaining a license in accordance with this Article.
(Code 2020)

5-1603 **EXCEPTIONS.**

(a) The provisions of this Article shall not apply to the following activities:

(1) Persons providing catering services to a private event and not open for the sale of food and/or beverage to the general public;

(2) Ice cream trucks licensed and operating pursuant to this Chapter, however an ice cream truck selling food other than ice cream food stuffs must obtain the license set forth in this article and must comply with all provisions herein when selling food other than ice cream food stuffs;

(3) Temporary Portable Businesses licensed and operating pursuant to city code;
or

(4) Door to door sales or delivery of prepared food not intended for immediate consumption.

(b) The provisions of this Article shall apply to the sale of agricultural, farm, garden or aquacultural products or fruits grown within the State of Kansas by producers or growers and their agents. Persons engaging in such sales that also fall within the definition of a Mobile Food Vendor must obtain the license required by this Article, however, no fee as set forth in Chapter 17 shall be charged for such license.

(Code 2020)

5-1604 **LICENSE APPLICATION.** Any person desiring to obtain the license required by this Article shall complete and submit a written license application on a form provided by

the City Clerk for each individual Mobile Food Unit. The application shall require the following information:

(a) The full legal name, date of birth, permanent address, business mailing address, email address and telephone number of the applicant and the contact person for the business, if different from the applicant;

(b) The name under which the Mobile Food Unit does business ("dba" name) and, if applicable, the registered name of the legal entity owning the Mobile Food Unit (corporation, limited liability company, partnership, limited partnership association, firm or other name);

(c) The name of the owner and the type, make and vehicle identification number or other identifying number of the vehicle from which the applicant proposes to conduct business;

(d) The applicant's valid Kansas sales tax number;

(e) A brief description of the nature of the business and the food and/or beverage to be offered for sale;

(f) A statement as to whether the applicant has ever had a mobile vending license or other similar license, permit or registration revoked or suspended under the Code of the City of Haysville or any similar laws of any other city or state;

(g) A statement that the applicant understands and agrees that the license issued pursuant to this Article will not be used or represented in any way as an endorsement of the applicant by the City of Haysville or by any department, officer, or elected or appointed official of the City;

(h) Proof of a valid Kansas driver's license for operation of the class of vehicle or vehicles identified in the application to be used in the business for the applicant and any agents or employees of the applicant who will be involved in driving the identified vehicle or vehicles;

(i) Proof that the applicant has procured a policy of general liability insurance covering the mobile vending operation and vehicle or vehicles written by an insurance carrier licensed to do business in Kansas, with minimum limits of \$500,000 combined, single limit for bodily and property damage per occurrence and \$1,000,000 in the general aggregate; and evidence of compliance with these insurance requirements shall be in the form of a certificate of insurance that shall be submitted with the application;

(j) The application shall contain a statement certifying that all of the information provided in the application is true and correct and must be signed personally and acknowledged by an individual applicant, by a partner for a partnership applicant, by an officer legally authorized to sign for a corporate application or by a member of a limited liability company legally authorized to sign company documents;

(k) The application shall also contain a statement that no person whose duties include working upon the premises of the Mobile Food Unit is a registered sex offender, and that applicant has, subject to audit, performed the necessary background check of all such persons to ensure that the statement is correct;

(l) The application shall also contain a statement by the applicant that when the Mobile Food Unit associated with the license application herein is not in use, it will be stored or parked in compliance with all ordinances and regulations of the City of

Haysville and that failure by the applicant to legally store the Mobile Food Unit may result in the suspension or revocation of the applicant's license; and

(m) The application shall also contain a statement by the applicant or partner, officer or member that he or she is familiar with the provisions of this Article and is complying and will comply with all requirements set forth within.

(Code 2020)

5-1605 FEE. An application for a Mobile Food Vending license shall be accompanied by a non-refundable fee for each vehicle from which the applicant intends to conduct business according to the fees set out in Chapter 17 and shall be valid and effective only for the dates as set out therein.

(Code 2020)

5-1606 STANDARDS FOR ISSUANCE OF LICENSE.

(a) To receive a license to operate as a Mobile Food Vendor issued by the City Clerk's office, an applicant must meet the following standards:

(1) The required fees must be paid;

(2) The application must be complete and provide all information required by Section 5-1604;

(3) The applicant must not have knowingly made a false or misleading statement of a material fact in the application;

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

(5) The applicant has certified, subject to audit, that he/she has performed the necessary background check to ensure that no person whose duties include working upon the premises of the mobile food unit is a registered sex offender;

(6) The applicant has provided a statement that the Mobile Food Unit associated with the license application will be stored or parked in compliance with all ordinances and regulation of the City of Haysville; and

(7) The applicant must not have had a similar type of license in any jurisdiction previously suspended or revoked for good cause within two (2) years immediately preceding the date of the filing of the application.

(b) If a license is denied for providing false information or making any false statement on an application, the applicant, any partnership, corporation, limited liability company or other business entity of which the applicant is an officer or member thereof shall be ineligible to reapply for a license under this Article for one (1) calendar year from the date of the license denial.

(c) The issuance of a license shall not constitute approval of the business or activity or otherwise prohibit enforcement of this Article or any other applicable ordinances, laws, rules or regulations.

(Code 2020)

5-1607 OPERATING CONDITIONS. All Mobile Food Vendors operating within the city limits of the City of Haysville shall comply with the following conditions:

(a) Location. Mobile Food Vendors may vend on property within the City as permitted by the Zoning Code and subject to the following:

(1) Mobile Food Vendors may not be parked or operate on public or private property where the Unit, signage, a line of customers or any other aspect of the Unit's operation would:

(i) hinder the flow of traffic on any street;

(ii) hinder the flow of bicycles within any bike lane or route;

(iii) hinder the flow of pedestrians along any sidewalks;

(iv) block or reduce to less than five (5) feet in width any accessible route to persons with disabilities; or

(v) block or obstruct access to any driveway or access point to any property.

Provided, however, this provision shall not apply when a Mobile Food Unit is operating on a street that is closed in association with city approved event.

(2) For fire safety purposes, a Mobile Food Unit that is utilizing flammable liquids or gases shall maintain a minimum separation distance of ten (10) feet from any other Unit and a minimum separation distance of twenty (20) feet from any building openings such as doors and windows. The distance from building openings may be reduced to ten (10) feet if written consent is obtained from the building property owner.

(3) No Mobile Food Vendor shall vend on public property within 150 feet as measured from the front door of any restaurant which is open for business unless authorized in writing by the owner or manager of any such restaurant. Such written authority to operate within 150 feet of a restaurant or restaurants shall be maintained on the premises of the Mobile Food Unit at all times it is operating pursuant thereto and produced upon request by the Chief of Police or designee or other public officer authorized to enforce the provisions of this Article.

(4) No Mobile Food Vendor shall vend on public property within 500 feet of the location for which a community event permit has been issued during the hours of the event as specified in the event permit, unless authorized in writing by the event promoter. Distance shall be measured from the boundary of the event footprint nearest to the location proposed to be used for mobile food vending. Any written authority to operate within 500 feet of a community event shall be maintained on the premises of the Mobile Food Unit at all times it is operating pursuant thereto and produced upon request by the Chief of Police or designee or other public officer authorized to enforce the provisions of this Article.

(5) Every Unit shall be stationary while vending.

(6) Whenever any vehicle is used for mobile food vending upon a street, alley, sidewalk or other public right-of-way within the City, such vehicle must be legally parked and no mobile food vendor shall sell any food to any person standing in the street. Provided, however, this provision shall not apply when a Mobile Food Unit is operating on a street that is closed in association with a city approved event.

(7) No Mobile Food Vendor shall vend on Park property. Provided, however, this provision shall not apply when a Mobile Food Unit is operating on a street that is closed in association with a city approved event.

(b) Written Permission of Property Owner. All Mobile Food Vendors operating on private property or on public property other than public right-of-way shall acquire the written permission of the property owner, manager, tenant or other person in charge of the property allowing the use and location of the Mobile Food Unit on said property. For public property owned by the City of Haysville, written permission shall be obtained from the City Administrator or designee. Any written permission required by this subsection shall be kept on the premises of the Mobile Food Unit and produced upon request by the Chief of Police or designee or other public officer authorized to enforce the provisions of this Article.

(c) Hours of Operation. Mobile Food Vendors are prohibited from operating during the hours of 12:00 a.m. to 5:00 a.m.

(d) Fire Safety. All Mobile Food Units are subject to annual fire safety inspections and shall comply with the following requirements:

(1) Propane shall be limited to a maximum quantity of one hundred (100) pounds. Propane cylinders must be secured from tipping over and must be protected from impact dangers.

(2) Mobile Food Units which produce grease laden vapors shall have a Type I hood system for commercial cooking operation with a fire suppression system in the hood. Mobile Food Units which use other warming apparatus or produce steam shall have a Type II hood system. No hood system is required for those Mobile Food Units which do not perform cooking or use heat producing devices. Mobile Food Units shall be in compliance with this requirement no later than twelve (12) months from the date of adoption of this ordinance.

(3) The hood system grease collection must be cleaned frequently to minimize grease build up. Type I hood systems shall be serviced every six (6) months.

(4) One minimum size 2A-10BC class fire extinguisher is required for each Mobile Food Unit and shall be serviced annually.

(e) Prohibited Sales. Mobile Food Vendors are prohibited at all times from selling or offering for sale alcoholic beverages, cereal malt beverages, or tobacco products without first being properly licensed pursuant to any applicable federal, state or local laws.

(f) Lights. No flashing lights are permitted on the Mobile Food Unit. No direct light from a Mobile Food Unit may be shined on adjacent property or cause a glare or distraction for vehicles, bicycles, or pedestrians.

(g) Signs. Signage mounted on the side of a Mobile Food Unit shall not exceed the dimensions of the Unit by more than one (1) foot in any direction.

(h) Sound devices. The production of amplified music or chimes from a Mobile Food Unit is allowed between the hours of 10:00 AM and 8:30 PM provided that the sound from the amplified music or chimes is inaudible at any distance greater than three hundred (300) feet from the vehicle.

(i) Trash and Site Cleanup. All Mobile Food Vendors shall ensure that a trash receptacle shall be provided with each Mobile Food Unit. Such receptacle must be attached to the Unit or located within fifteen (15) feet of the Unit and cannot interfere with vehicle access, pedestrian movement or accessible routes to and around the Unit. Immediately upon the cessation of vending, the Mobile Food Vendor shall remove and properly dispose of all trash and litter accumulated at the vending site.

(j) Seating. No seating and/or tables shall be permitted that hinder the flow of traffic on any street, hinders the flow of bicycles within any bike lane or route, hinders the flow of pedestrians along any sidewalks, blocks or reduces to less than five (5) feet in width any accessible route or blocks or obstructs access to any driveway or access point to any property.

(k) Licenses and Permits. All Mobile Food Vendors and employees thereof shall acquire and maintain all required licenses, permits and inspections applicable to the use and operation of Mobile Food Units from all applicable jurisdictions. Evidence of such licenses, permits and/or inspections applicable to any vehicle, equipment, operator or employee shall be kept in the Unit and produced upon request by the Chief of Police or designee or other public officer authorized to enforce the provisions of this Article.

(l) Food Handling. No Mobile Food Vendor or any employee, agent, or representative thereof shall vend food and/or beverages without meeting the conditions set forth by the Kansas Department of Health and Environment.

(m) Wastewater Disposal. No wastewater resulting from the Mobile Food Vending operation shall be disposed of on the ground or in a stormwater drain. All wastewater must be disposed of in accordance with Chapter 15 of this Code and specifically in compliance with Section 15-803 of this Code and amendments thereto.
(Code 2020)

5-1608 **RIGHT TO CLOSE OR RELOCATE A MOBILE FOOD VENDOR.** Any law enforcement officer has the right to close down or request a Mobile Food Unit to relocate, where, in the opinion of such officer, the Mobile Food Unit is causing or contributing to an imminent public safety hazard. Such hazards shall include, but not be limited to, situations where the operation of a Mobile Food Vending Unit is causing a traffic hazard, a fire hazard, is impeding free or uninterrupted passage of vehicles and/or pedestrians upon public streets, sidewalks or alleyways, selling food or beverages that are not safe for human consumption or operating a Mobile Food Unit without the license required by this Article.
(Code 2020)

5-1609 **LICENSE DENIAL, REVOCATION, AND APPEAL.**

(a) If a license is not issued, the City Clerk or designee shall indicate in writing the reason(s) for denial and inform the applicant of the applicant's right to an appeal of the denial in accordance with the provisions of this Article.

(b) A license may be suspended for up to 30 days or revoked by the Chief of Police or designee or other city personnel authorized to enforce the provisions of this Article for any of the following reasons:

- (1) The licensee fails to provide true and correct information on the application;
- (2) The licensee fails to continuously maintain insurance upon the Mobile Food Unit in accordance with requirements of this Article;
- (3) The licensee allows a registered sex offender to work upon the premises of the Mobile Food Unit;
- (4) The licensee or any employee or agent thereof commits a violation of any provision of this Article or any federal, state, or local law, rule or regulation applicable or related to mobile food vending; or
- (5) The licensee becomes otherwise ineligible to hold a Mobile Food Vending license.

Notice of such suspension or revocation shall be shall be mailed by the City Clerk or designee to the licensee's address as shown on the license application form and/or personally served upon the licensee. Such notice shall be in writing and shall set forth the reason(s) for revocation and the licensee's right to an appeal in accordance with the provisions of this Section, provided, however, any appeal of a license suspension or revocation shall not suspend or revoke the license during the pendency of the appeal.

(c) Appeal process.

(1) Upon the denial of an application for, or suspension or revocation of a mobile food vending license, the applicant or licensee shall have the right to appeal such action within ten (10) business days of the notice of denial, suspension or revocation being mailed to the applicant's address as shown on the license application form, and/or personal service upon the applicant or licensee. Such an appeal must be in writing and filed with the City Clerk, setting forth the grounds for the appeal. Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than thirty (30) days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay a suspension or revocation of the license or permit until the matter is heard by the City Council.

(2) The City Council may approve the denial, suspension or revocation, overrule the denial, suspension, or revocation or modify the decision to deny, suspend or revoke a license made by any city personnel authorized to enforce the provisions of this Article.

(3) In any hearing before the City Council pursuant to this section, a certified copy of a conviction from any local, state, or federal court for any violation, is prima facie evidence of such violation.

(4) The City Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101 and any amendments thereto. Any such appeal to the District Court shall not stay the denial, suspension or revocation of the license, or any modification imposed thereupon by the City Council.

(5) If a license is revoked for any reason, the applicant, any partnership or any business entity of which the applicant is an officer or member thereof shall be ineligible to reapply for a license under this Article for two (2) calendar years from the date of the license revocation.

(Code 2020)

5-1610 TERM AND TRANSFERABILITY. Licenses issued under this Article are available for periods of one (1) month, six (6) months or one (1) year. A license must be obtained for each individual vehicle being used in a mobile food vending operation. Licenses may not be transferred between persons or vehicles.
(Code 2020)

5-1611 POSTING. Any person licensed under this Article must keep their license posted in a conspicuous place inside the vehicle used for mobile food vending. Such license must be current and may be used only by the licensee.
(Code 2020)

15-1612 ENFORCEMENT—PERSONNEL AUTHORIZED. In addition to all law enforcement officers, the following personnel employed by the City shall have the power to enforce the provisions of this Article:
(a) The Director of Public Works or designee;
(b) The Zoning Administrator or designee; and
(c) The City Clerk or designee.
(Code 2020)

15-1613 PENALTY FOR VIOLATION. Any person convicted of a violation of this Article shall be guilty of a misdemeanor and shall be punished by a fine as established in Chapter 17 of the Haysville Municipal Code. Each day that any violation of this Article occurs, shall constitute a separate offense and shall be punishable as a separate offense.
(Code 2020)

15-1614 SEVERABILITY. Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.
(Code 2020)